



The Honorable Jan Lyn Owen
Commissioner of Business Oversight
Department of Business Oversight, Legal Division
1515 K Street, Suite 200
Sacramento, CA 95814-4052

June 8, 2018

**RE: Response to Second Invitation for Comments on Proposed Rulemaking
Implementation of AB 1284 Licensure of PACE Program Administrators Under the
California Financing Law [PRO 02/17 (PACE)]**

Dear Commissioner Owen:

The California Solar & Storage Association (CALSSA) appreciates the opportunity to provide comments on the proposed rules for the residential Property Assessed Clean Energy (PACE) industry. CALSSA is a trade association of 500 businesses involved in the local solar and storage industry in California, including installers, manufacturers, financiers, consultants, and others. We represent companies on policy matters and assist with common business development opportunities. I am writing to express our concerns with the proposed regulations. Unfortunately, the rules as currently envisioned would disadvantage contractors who may use PACE as a financing option by placing duplicative, and in some instances, unduly burdensome requirements that do not work in the solar and storage installation marketplace.

The state of California and cities across the Golden State from Eureka to Chula Vista are committing to ambitious clean energy targets, and PACE has proven to be a powerful driver to help meet those goals. A [study conducted by Lawrence Berkeley National Laboratory](#) released earlier this year found that residential PACE programs were “uniquely successful” among energy-efficiency and solar photovoltaic (PV) financing programs in terms of increasing the deployment of solar PV systems in California. The analysis found that the majority of solar PV deployment financed by through residential PACE (R-PACE) programs would likely not have occurred in their absence. Indeed, according to the study, R-PACE expanded the residential solar market by 12% in large California cities between 2010-2015.

The solar PV and other energy-saving upgrades financed through PACE are helping homeowners lower their utility bills and reduce carbon emissions. For example, one PACE provider, Renovate America estimates that homeowners can save nearly \$4.5 billion off their utility bills while reducing 17.9 billion kWh of energy and eliminating 4.76 million tons of greenhouse gas emissions as a result of home energy and efficiency improvements financed by their PACE option.

PACE is also helping to create jobs in the clean energy economy that cannot be offshored or automated. According to the Solar Foundation, the majority of California’s 86,400 solar industry jobs in 2017 involved installing solar systems. PACE financing helps drive residential solar PV installation and supports jobs in the solar sector.

CALSSA strongly supports AB 1284 and its consumer protection provisions. However, we are concerned that the draft regulations issued by the Department of Business Oversight (DBO) would go beyond the intent of AB 1284 and, if implemented as currently drafted, would have an immediate and dramatic adverse impact on the use of PACE in California. Our organization works to streamline processes to simultaneously achieve safe and reliable installations, while also making it faster, easier and cheaper for consumers to install solar and storage technologies. Unfortunately, the draft regulations will impose duplicative and burdensome measures, which in some cases are unprecedented in the regulation of the contractor industry in California. For instance, the DBO has proposed a requirement that all PACE providers implement procedures to ensure that contractors are not present for the confirmation of terms call with the property owner. To the best of our knowledge, no other form of point-of-sale home improvement financing carries a requirement that the contractor not be present for the finalizing of the financing contract.

Specifically, we have identified several proposed regulations that would create strong disincentives and potentially major barriers for solar contractors to participate in PACE.

- **1620.03(d)**
This proposed regulation requires contractors to leave the premises and creates an odd and forced waiting period for busy contractors. This creates a strong disincentive for a contractor to offer PACE compared to other forms of financing available that do not create this forced separation in the sales process, nor add significant time to the sales transaction.
- **1620.09(c)**
This proposed regulation would refuse final payments for any solar installation pending the final confirmation of the permission to operate from a local utility. While much of this process is handled by the installer, the times vary for permission to be processed (even though they are not refused) and this, again, creates a financial penalty for a solar installer working with PACE financing. We disagree with adding a new requirement for payments for a solar system solely because the installer chose to offer PACE financing to the consumer.
- **1620.11(b)(3) and (4)**
This proposed regulation would require the PACE *solicitor*, not the Program Administrator, to create a prescriptive complaints process. This would be unique to PACE that is not found under the Contractors State Licensing Board (CSLB) or any other government efficiency program in which solar contractors participate.
- **1620.11(b)(4)(B)(i), 1620.03(f) and 1620.07(b)(8) and (9)**
This proposed rules would require the installation -- at substantial cost -- of a system to track and monitor output of the solar installation in order to keep a record of actual energy savings. This proposed rule, in and of itself, it will deter solar contractors from utilizing PACE financing. The treatment of how to present energy savings from a solar energy system to a consumer will be addressed through the implementation of AB 1070 at the CSLB, and we believe that is the appropriate venue for matters related to the installation of a solar system.
- **1620.05(a)(7)**
This proposed regulation does not match existing practices for advertising solar systems, as it is typical for advertisements for solar to prominently mention its energy savings. If there

are energy savings, then there would be savings in the utility bill, resulting in economic savings for the consumer. A prohibition on even suggesting that economic savings will result from solar during a conversation with a property owner or in an advertisement if PACE is also mentioned would, effectively, result in no advertising for PACE altogether. This proposed provision would directly conflict with provisions in AB 1070. Indeed, AB 1070 established Public Utilities Code Section 2854.6 that requires the California Public Utility Commission to:

develop standardized inputs and assumptions to be used in the calculation and presentation of electric utility bill savings to a consumer that can be expected by using a solar energy system....

Last year, the State enacted AB 1070, which established that consumer protections for solar installations in California would be implemented through the CSLB, in collaboration with the CPUC, including a clear cover-sheet for where to submit complaints for solar installations. In addition, the CSLB is already charged with receiving and reviewing complaints regarding solar installations. Having to report to two agencies regarding the same complaint – solar installation, not the financing component – will be burdensome and confusing to solar installers, resulting in the dramatic decrease in the use of a form of financing that has contributed to the development of solar in California.

We believe it is critical to draw a bright line between issues of installation, warranty and workmanship, which are elements of the home improvement contract governed by the CSLB, and the financing contract, which properly resides within the jurisdiction of DBO. Without that bright line distinction in jurisdiction, solar contractors will be heavily deterred from utilizing a PACE program that penalizes the contractor through duplicative or additional regulations. Therefore, we respectfully request that the DBO regulations only cover the PACE financing portion of the transaction, and no other aspect of a solar installation.

PACE and solar have a proud and successful partnership in deploying one of California's most important climate-change fighting tools. To continue the success of this important financing option, and for the reasons outlined above, we respectfully urge you to reconsider the proposed regulations listed above. We also encourage DBO to organize meetings with stakeholders in the PACE contractor channel, including CALSSA and our solar and PACE contractors, to further this conversation about how local solar and storage contractors utilize PACE and its relationship to the home improvement contract. We look forward to working in partnership with you and your staff to ensure that the state objectives of consumer protection and responding to climate change continue to be met through PACE. Thank you for the opportunity to provide comments on these proposed regulations.

Sincerely,



Kelly Knutsen, Ph.D.

Director of Technology Advancement