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VIA ELECTRONIC MAIL

June 8, 2018

Department of Business Oversight
1515 K Street, Suite 200
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The Honorable Jan Lynn Owen, Commissioner
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RE: PRO 02/17 (PACE)

Dear Commissioner Owen, et al.:

Thank you for the opportunity to comment on the proposed rulemaking implementing Assembly Bill 1284 ("AB 1284"). Ygrene Energy Fund ("Ygrene") appreciates that the Department of Business Oversight ("Department") has engaged in a thoughtful approach to implementing AB 1284 and has been willing to engage in a constructive dialogue regarding the implementation of AB 1284. In that spirit, Ygrene submits these comments to the Department's draft rules implementing AB 1284.

Ygrene strongly supports AB 1284's goals of bringing uniformity and certainty to the market for Property-Assessed Clean Energy ("PACE") financing across California. To that end, AB 1284 furthers the public policy behind California's PACE program – making sustainable, energy efficient improvements accessible and affordable for all Californians, including moderate- to low-income homeowners, by providing a novel financing mechanism for those improvements.

However, certain of the Department's proposed regulations would inadvertently undermine that public policy by raising the costs, burdens, and complexity of PACE financing, with little or no benefits to consumers. As a result, PACE will become a less competitive and less viable alternative to other financing methods that historically have been used for similar projects – methods that are less regulated and have fewer consumer protections. The California legislature implemented the PACE program by statute, and thus determined that PACE implements an important public policy of offering California homeowners a valuable opportunity to fund efficiency improvements to their properties. But the effect of certain of the Department's proposed regulations will be to discourage investment in energy efficient projects. Accordingly, Ygrene requests that the Department strike, revise, or clarify certain of the proposed regulations.

Ygrene notes at the outset that this letter is not intended to be an exhaustive review of their comments on the proposed Regulations. This letter addresses a small subset of the proposed regulations that we believe are particularly harmful to California's PACE program. Many of the comments apply equally to other aspects of the proposed regulations, and Ygrene reserves the right to comment further at a later time.

A. Advertising Standards in Section 1620.05(a)(1), (5), and (7) Contravene Public Policy and, as Drafted, Constitute an Improper Prior Restraint of Protected Commercial Speech.

Section 1620.05(a)(7) Should be Stricken or Revised

First, Ygrene requests that Section 1620.05(a)(7) be stricken (in part or in whole) from the regulations because that section would prohibit program administrators from telling homeowners basic facts about the cost savings of PACE-financed improvements – facts that are both true and central to the public policy behind PACE. Specifically, subsection (a)(7) would prohibit program administrators from explaining that "an efficiency improvement will result in economic savings," that "the savings will offset [the] cost of the improvement," or that "the efficiency improvement will pay for the PACE assessment." *See* 1620.05(a)(7). However, such a prohibition runs contrary to the purpose of PACE – encouraging homeowners to make solar and other energy efficient improvements by highlighting the cost savings that will likely result from those improvements.

Indeed, in announcing its support for PACE programs around the country, the Obama administration heralded exactly those cost savings, stating that PACE-financed improvements would "***result in lower energy bills***, more empowered consumers, and cleaner communities." *See* The White House, FACT SHEET: Obama Administration Announces Clean Energy Savings for All Americans Initiative (July 19, 2016) (emphasis added). Thus subsection (a)(7) would have the unjustifiable effect of preventing program administrators from promoting PACE in the exact same way the government has. From an Obama administration brief:

> The PACE initiatives announced today will unlock alternative sources of capital for low- and moderate-income Americans and veterans to scale up solar, promote energy and water efficiency retrofits, and create more resilient homes, ***leading to reduced energy bills***, more empowered consumers, and cleaner communities.

Id. In a video explaining the benefits of PACE, President Obama himself promoted the cost savings: "Here's how it works. If you make the switch to solar, you can now install solar panels or retrofit your home to make it more energy efficient at no upfront costs, ***all by paying for them through the future savings on your energy bills***." *Obama Endorses PACE – Solar Earth,* YouTube (Jul. 29, 2016), https://www.youtube.com/watch?v=MnWwKrZtd1I (emphasis added).[1]

The state and local governments in California have followed suit. Los Angeles County promotes PACE financing as "lower[ing] homeowners' energy bills" while also "reduc[ing] greenhouse gas emissions." *See* http://pace.lacounty.gov/residential/index.html. The California Statewide Communities Development Authority said the same in a PACE Program Report published earlier this year: "Property owners can help to achieve greenhouse gas reductions and reduce water use ***and, at the same time, save money*** by investing in distributed generation renewable energy sources, energy efficiency, and/or water efficient improvements." *See* Open PACE Program Report (Mar. 15, 2018) *avail. at* http://cscda.org/Open-PACE/Documents/CSCDA_Open_PACE_Report.aspx. Subsection (a)(7) would thus turn public policy on its head and prevent program administrators from promoting the PACE program in the exact same way the government does.[2]

Moreover, it would prohibit statements that are true. PACE-financed improvements do in fact lead to cost savings. California law itself requires program administrators to report facts about these cost savings to the government, and requires the government to make those facts public. *See* Cal. St. & Hwy Code §§ 5954(a)(8), (a)(10), (c) (2017) (requiring reporting of the "estimated total dollar" amount of energy and water savings resulting from PACE-financed improvements, and requiring government to "make [this] data publicly available"). There is no basis to require program administrators to report to the state information about cost savings, yet prevent program administrators from using that same information with its own customers.

Note that Ygrene is not objecting to several parts of Section 1620.05(a) that address statements that – at least as described in the draft regulations – would appear to be deceptive. *See* Section 1620.05(a)(2)-(4), (9). But the need to curtail potentially deceptive advertising should not preclude program administrators and PACE solicitors from engaging in truthful, non-deceptive advertising.[3] Rather, program administrators should be able to explain to customers,

[1] The initial Policy Framework for PACE Financing Programs published by the Obama administration in 2009 makes clear the hope and the expectation that the cost of PACE improvements could be offset by savings on energy bills: "If appropriately designed and implemented, extension of this finance model to energy improvements may allow property owners to pay for efficient enhancements with expected monthly payments that are less than expected utility bill savings." *See* Policy Framework for PACE Financing Programs (Oct. 18, 2009) *avail. at* https://obamawhitehouse.archives.gov/sites/default/files/PACE_Principles.pdf.

[2] Not to mention the California Energy Commission ("CEC") recently made similar statements when it announced its new 2019 Building Efficiency Standards, which requires solar panels in all new homes starting in 2020. Specifically, the CEC stated: "[u]nder these new standards, buildings will . . . . cost less to operate . . . . [and f]or residential homeowners, based on a 30-year mortgage, the Energy Commission estimates that the standards will add about $40 to an average monthly payment, but save consumers $80 on monthly, heating, cooling and lighting bills." *See* "Energy Commission Adopts Standards Requiring Solar Systems for New Homes, First in Nation" (May 9, 2018), *avail. at* http://www.energy.ca.gov/releases/2018_releases/2018-05-09_building_standards_adopted_nr.html.

[3] Commercial speech is still entitled to certain protections under the First Amendment to the U.S. and California Constitutions, and the State has no legitimate interest in prior restraint of truthful, non-deceptive speech about the PACE program. *See e.g.*, *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n*, 447 U.S. 557, 566 (1980).

using appropriate qualifications, that efficiency improvements have in the past resulted in economic savings, which would still require striking the first clause in subsection (a)(7).

Many property owners decide to make energy efficient improvements to their properties because of economic factors, including the potential cost savings. Subsection (a)(7) would thereby undermine a primary feature of the PACE program – if there are no potential economic benefits, there would be many fewer customers. Not to mention that the Department could still protect consumers under California's false advertising laws. To the extent program administrators misrepresent facts regarding the potential cost savings from energy efficient improvements, those administrators could face civil liability and administrative penalties under California's substantial and well-developed body of law regarding deceptive advertising. *See, e.g.*, Cal. Bus. and Prof. Code §§ 17200, 17500. Moreover, the Legislature codified enhanced disclosures through AB 2693 and SB 242, for instance by requiring a confirmation of terms call, during which program administrators must explain that any potential utility savings "are not guaranteed." *See* Cal. Streets & Highways Code § 5913(a)(2)(K). These enhanced disclosures, which Ygrene supports, are additional protections against deceptive advertising practices.

Section 1620.05(a)(1) Should be Stricken

For many of the same reasons, Ygrene also requests that 1620.05(a)(1) be stricken from or revised in the proposed regulations. This subsection would prohibit program administrators from advertising that the PACE program "provides a tax benefit." However, the IRS itself has proposed that there may be a tax benefit – that, similar to mortgage interest, the interest portion of a PACE payment may be treated as a deduction to personal income taxes. *See* Internal Revenue Service Topic No. 503 – Deductible Taxes, *avail. at* https://www.irs.gov/taxtopics/tc503.

Thus, under 1620.05(a)(1), program administrators would again be prevented from repeating to property owners the government's own statements about PACE – an unjustifiable outcome, and one that could not have been intended by the Department. Moreover, 1620.05(a)(1) directly contradicts current California law – Senate Bill 242 states that program administrators can make representations about tax deductibility to the extent the "representation is consistent with representations" of the IRS. *See* SB 242 § 5924. At the very least, program administrators should be able to suggest to property owners that the PACE program "may" provide a tax benefit, with a recommendation that the property owner consult further with a tax professional, so long as that representation is consistent with state law. The Department's proposed regulations prohibit that.

Section 1620.05(a)(5) Should be Stricken

Ygrene also requests that 1620.05(a)(5) be stricken or revised. This subsection would prevent PACE administrators, solicitors, and solicitor agents from advertising "property improvements" that are, and are not, "efficiency improvements in the same advertisement." Such a prohibition unduly burdens PACE administrators, solicitors, and solicitor agents to run two different advertising lines when they offer both efficiency and standard home improvements. Many PACE solicitors are general home improvement contractors with a suite of products, some energy efficient and some not. Forcing them to separate advertisements makes it more likely that they will not take on PACE-financed projects at all.

Moreover, other responsibilities of PACE administrators set by AB 1284 and by other subsections of the Department's proposed regulations would reasonably ensure that homeowners are not deceived as to the type of improvement at issue. For instance, program administrators are required while processing and approving applications to determine whether a proposed improvement is eligible for PACE financing, and are required to verbally confirm key terms with the property owner when the PACE solicitor or agent is not present. *See* Sec. 1620.03(d). The proposed regulations also make it an unfair practice to represent that ineligible measures are eligible for PACE financing. *See* Sec. 1620.10(a)(8). Moreover, as with subsection (a)(7), California's robust civil liability framework for addressing false advertising would fully protect consumers, and subsection (a)(5) would do nothing more than raise operating costs for PACE administrators and solicitors. At the very least, the Department could address concerns that combined advertisements are misleading by requiring specific labeling on the advertisements; an outright prohibition on combined advertisements would be overbroad and an undue prior-restraint on free speech.

B. <u>The Ability-to-Pay Requirements in Section 1620.22 are Unduly Burdensome and Will Unnecessarily Impair California's Policy of Expanding Financing Options for Energy Efficient Home Improvements Through PACE Programs.</u>

In its previous comment letters, Ygrene has noted that in determining what, if any, parameters to set regarding assessing a property owner's ability to pay, the Department should not do so in a way that defeats the primary policy goals of PACE programs of providing viable financing options to increase the number of renewable generation, water and energy efficiency, and seismic retrofit upgrades throughout California, including for homeowners who might not qualify for conventional forms of financing, such as home equity loans. Ygrene noted that the environmental policy goals cannot be achieved if energy efficient upgrades are available only to the state's most economically privileged residents. Ygrene also asked that the Department refrain from imposing substantively or procedurally burdensome requirements on property owners or unduly restraining the statutory discretion and flexibility that the Legislature expressly conferred on program administrators to make ability to pay determinations.

In this context, Ygrene asks that Section 1620.22(c)(2)-(4) be withdrawn or revised. Alternatively, Ygrene asks that the Department clarify that these subsections provide guidance only and will not be enforced as part of the examination and enforcement process.

<u>The Regulations Will Decrease the Number of PACE-Financed Improvements</u>

The ultimate effect of Section 1620.22(c)(2)-(4) will be to reduce the number of PACE-financed improvements. Subsections (c)(2)-(3) unreasonably limit the program administrator's statutory discretion to determine ability to pay by requiring a finding that the property owner has a "stable and reliable flow of income" and by requiring program administrators to "request records that reflect two years of income."[4] Subsection (c)(4), which mandates that sources of income "expected to end within three years" be excluded from the income calculation, is also unreasonably limiting. There is often no way for the property owner herself, let alone for the program administrator, to know which sources of income will end within three years.[5]

The natural effect of these requirements is to curtail the pool of eligible property owners who will receive PACE financing either because property owners are unable or unwilling to provide the information necessary to complete the underwriting process. Applicants rarely have two years of income records at the time they apply for financing, and any delay in the approval beyond the point of sale makes a successful transaction much less likely. Moreover, the volume of completed applications will decrease, because applicants will choose to forgo PACE financing in light of the added burden of producing years of income records.

The new underwriting requirements set by AB 1284 have themselves led to a decline in PACE applications and approved projects, and the additional requirements proposed in 1620.22(c)(2)-(4) would only exacerbate and accelerate this decline. For example, PACE financing applications in California received by Ygrene declined 51% over the last year (with Florida now overtaking California as the state with the most PACE-financed projects, despite the fact that only one-third as many residents have access to PACE in Florida as compared to California). The percentage of applications approved by Ygrene also dropped sharply, arguably because of the strict underwriting requirements in AB 1284. Ygrene has had to turn down many creditworthy applicants – applicants who would likely have no higher rates of delinquency than the applicants Ygrene approves.[6] Instead, property owners have moved to less-regulated financing sources, including contractor financing, even when they would otherwise be eligible for PACE financing.[7] Notably, many of those other financing sources charge higher interest rates with shorter payment terms than PACE financing, but do not require income and cash flow records. Restraint in rulemaking is thus advisable given the significant impact AB 1284 has already had on the industry (and given that the legislation itself is still the subject of ongoing clarification in the Legislature).

Moreover, while Ygrene supports sound underwriting criteria, there is no evidence that PACE consumers would benefit from the proposed new underwriting requirements in 1620.22(c)(2)-(4). As discussed below, these proposed criteria go far beyond AB-1284. Ygrene has relied on a combination of data relating to the property and the loan to value, as well as the consumer's bankruptcy, mortgage and tax payment histories to approve applications for PACE financing since the inception of PACE programs. With this combination, Ygrene has

[4] Although 1620.22(3)(A) contains a caveat that allows program administrators to make "a reasonable good faith determination" as to a property owner's ability to pay without two years of income records, it still limits the caveat to those circumstances in which "other records" establish "a stable and reliable flow of income," and so keeps intact the primary burden of the rule.

[5] The Administrators do not object to excluding sources from the income calculation to the extent it is clear that they would terminate within three years, such as child support payments subject to a court order of limited duration.

[6] Specifically, Ygrene determined that applicants from 2015 and 2016 who would no longer qualify under AB 1284 had a <1% delinquency rate.

[7] Specifically, contractor financing has grown its share of the market for PACE-eligible projects by 54% from Q3 2017 to Q1 2018.

experienced extraordinarily low delinquency rates – around 2% – rates that are consistently below the overall property tax delinquency rates for all homeowners. DBRS, an independent, global statistical rating agency, recently came to similar conclusions when it analyzed the performance of PACE assessments to date. Specifically, DBRS found that delinquency rates for residential PACE assessments in California are "very low," and consistently below the overall property tax delinquency rates for all homeowners.[8]

To the contrary, consumers would be harmed by these underwriting requirements, because they will make PACE a less competitive alternative to contractor financing and other less-regulated financing sources. The PACE program was meant to benefit all California homeowners, including moderate- and low-income homeowners, by offering financing with fixed interest rates and long payment terms to those who might not qualify for traditional secured credit, financing options. It is widely recognized that California will make no meaningful progress in reducing greenhouse gases if only a small number of homeowners made energy efficient improvements to their homes, and the proposed regulations might lead to such an outcome.

The Regulations Are Inconsistent with the Prescriptive Language in AB 1284

The requirements of Section 1620.22(c)(2)-(4), and the resulting impairment of California's PACE policy, might be warranted if the Legislature intended that result or specifically imposed these requirements as part of a program administrator's determination of whether the property owner has a reasonable ability to pay. However, the statute itself evidences that the Legislature did not intend or impose that result.

The requirements set out in subsections (c)(2)-(4) appear nowhere in the statute. Instead, these requirements only appear in various forms in the mortgage underwriting guidelines for several federal agencies.[9] Had the Legislature wanted to impose these particular mortgage underwriting guidelines on PACE financing, it would have done so directly. There are valid reasons why it did not. In fact, the Legislature chose to regulate PACE differently, by creating an entirely new statutory framework, instead of including PACE in existing CFL provisions governing traditional forms of consumer and mortgage credit.

The Department has proposed to apply a set of standards to PACE financing that were designed for a specific subset of the mortgage market. Specifically, the Department has proposed to require PACE financing to adhere to standards used for mortgage loans that are originated for sale to government-sponsored entities Fannie Mae and Freddie Mac ("the GSEs"). While such loans are currently the largest share of the mortgage market, even the Consumer Financial Protection Bureau ("CFPB"), recognized that a "one size fits all" approach did not work for the mortgage market, for example, in its ability to repay rule ("ATR").

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[8] *See* DBRS Press Release, "DBRS Publishes Commentary on Residential PACE Delinquency Trends" (Feb. 22, 2018), *avail. at* https://www.dbrs.com/research/323286/dbrs-publishes-commentary-on-residential-pace-delinquency-trends.

[9] See Fannie Mae, Selling Guide, Sec. B3-3.1 (Apr. 3, 2018); Freddie Mac, Single-Family Seller/Servicer Guide, Ch. 5305 (Mar. 9, 2016); FHA Single Family Housing Policy Handbook, Sec. II.A.4 (Dec. 30, 2016); VA Pamphlet 26-7 (Lenders Handbook), Chapter 4, Sec. 2 (Apr. 10, 2009).

Accordingly, the CFPB designed its ATR regulations with some flexibility, allowing mortgage lenders to make loans according to the requirements set by different investors or government agencies—such the Federal Housing Administration ("FHA") and Veterans Administration ("VA"))—or the lender's own requirements if the loan will be held in portfolio.[10]

Moreover, like the California Legislature, Congress recognized the need to tailor regulations to PACE when it directed the CFPB to craft ATR standards for PACE that account for "the unique nature" of PACE financing rather than simply applying the pre-existing standards for mortgages.[11] The Department should do the same by withdrawing the ATR provisions of its proposed rule and consider working in coordination with the CFPB so that there is one national standard and California borrowers will not be denied access to PACE financing that is available to consumers in other states. Alternatively, the Department should adopt a standard that, like the CFPB standard for mortgage loans, establishes a flexible rule that allows PACE financing to be offered consistent with the standards set by the responsible government entity. Similar to the GSEs, FHA and VA for mortgages, this would allow municipalities and joint powers authorities to set standards that meet their individual priorities for credit availability and credit risk.

AB 1284 already imposes substantial and detailed underwriting requirements on PACE program administrators. It prescribes at length the specific information program administrators must review regarding the monthly income and expenses of a homeowner before providing PACE financing. *See* AB 1284 § 22687. Yet even that extensive statutory framework does not impose a "stable and reliable flow of income" test, does not require collections of two years of income records, and does not require that income sources lasting less than three years be excluded from the calculation. Instead the statutory framework preserves flexibility for program administrators and applicants, and allows program administrators to verify income through a variety of sources.

Moreover, in contrast to several other provision of AB 1284, the Legislature does not expressly authorize rulemaking with respect to Section 22687. There is thus no basis for the Department to impose 1620.22(c)(2)-(4) and upset the Legislative choice to retain the more flexible statutory framework for PACE ability to pay determinations.

Nor is adherence to these requirements indispensable to a proper ability to pay determination by program administrators. We know this because, as discussed above, the CFPB did not impose these requirements in its ability to repay rule. See 12 CFR 1026.43. Indeed, the CFPB's Staff Interpretation makes clear that a creditor could make a reasonable, good faith ability to repay determination for purposes of the federal Truth in Lending Act without meeting the requirements that subsection (c)(2)-(4) would impose on PACE program administrators and

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[10] Among other things, the Department's standards for income deviate from established mortgage underwriting guidelines by requiring verification of two years of income in all cases. Cal. Code Regs. tit. 10, § 1620.22(c)(3). Accepted underwriting standards in Appendix Q—the standards adopted by the CFPB for determining debt and income for purposes of the Qualified Mortgage rule—as well as the GSEs provide significantly more flexibility in regard to income verification, recognizing that a rigid two-year time period significantly restricts access to credit for many borrowers who are not significant credit risks.

[11] *See* The Economic Growth, Regulatory Relief, and Consumer Protection Act § 307, 15 U.S.C. § 1639c(b)(3)(C)(ii).

their California property owners. *See* 10 CFR 1026.43(c) Supp I ("A creditor may, but is not required to look to guidance issued by entities such as Federal Housing Administration, U.S. Department of Veterans Administration, Fannie Mae or Freddie Mac.").

To the extent, the Department wishes to clarify that these subsections merely provide guidance and constitute, in effect, a safe harbor, and will not be enforced in the examination or enforcement process, Ygrene has no objection. Indeed, the CFPB followed a similar course in setting federal mortgage underwriting guidelines – it created a safe harbor rather than mandatory requirements, and allowed the underwriting guidelines previously set by GSEs to remain in place as separate safe harbors. Moreover, the CFPB has been tasked with crafting a national ability to pay standard for PACE financing, which is another reason to exercise restraint in setting mandatory standards at this time. *See* 15 U.S.C. § 1639c(b)(3)(C)(ii) (directing CFPB to write regulations as to PACE). To the extent the requirements in 1620.22 remain mandatory, they lack support in the statutory text or legislative delegation to the Department, and represent an inappropriate impairment of California public policy on PACE. [12]

C. Completion of Work Requirements in Section 1620.09 Are Unduly Burdensome and Duplicate Responsibilities Imposed on Others under Existing Law

Ygrene also requests that Sections 1620.09(b) and (c) be stricken from the regulations. These sections impose new and substantial burdens on program administrators to confirm, before funding an improvement project, that homeowners and contractors have obtained all permits and approvals necessary for that project. *See* Sec. 1620.09 (requiring program administrator to "obtain evidence from the PACE solicitor that every building permit required for the efficiency improvements under the home improvement contract has received final approval and been signed by a building inspector, as required by the local jurisdiction" and to confirm that "the property owner is able to obtain the necessary permission" from the utility company for operating solar projects).

At present, Ygrene already undertakes reasonable efforts to confirm permits, by asking property owners to provide a signed certification that applicable permits have been obtained, so that Ygrene can confirm the project is indeed eligible for PACE financing. But Section 1620.09(b) proposes to go further and require Ygrene to "obtain evidence from the PACE solicitor" that every applicable permit has been obtained "as required by the local jurisdiction." This would impose an extraordinary burden in requiring program administrators to pursue contractors for paperwork relating to every single applicable permit. It would also require program administrators to become expert in the permitting rules of every town, city, and county in which they fund PACE projects. To impose such a burden on PACE financing, would put PACE at a severe competitive disadvantage to most other types of financing. In effect, through

[12] For similar reasons, 1620.24 overreaches the statutory framework. This subsection requires that program administrators consider certain expenses – "child care payments, medical expenses, and caregiving expenses" – in determining an applicant's monthly debt obligations. But these specific expenses are not set forth in the detailed list of expenses in AB 1284, and there is no basis for the implementing regulations to exceed the statutory requirements.

these regulations, the Department would be discriminating against PACE financing to the benefit of nearly all of its competitors.

Forcing program administrators to obtain evidence from contractors on each and every permit would also be duplicative of, and potentially conflict with, California's extensive regulatory framework to address permitting responsibilities. Each local jurisdiction has its own Building Department – there are hundreds in California alone – and each one imposes responsibility on property owners or contractors to obtain necessary permits and approvals.[13] Moreover, a separate state agency – the Contractors State License Board ("CSLB") – has ultimate oversight of contractors. For program administrators to also have quasi-oversight responsibilities would potentially interfere with the CSLB's mandate, and would needlessly sow confusion.

Not to mention that 1620.09(b) will dissuade contractors from servicing PACE projects, because they would not have to provide documentary evidence of each applicable permit for projects financed in any other way. And because contractors could not get paid until after every permit was obtained, they would be at the mercy of inspectors and agents of permitting authorities, which vary widely in terms of the speed with which they inspect improvements. This will encourage contractors to favor work financed outside of PACE where they will not be dependent on inspection schedules for their livelihoods.

In light of this, Ygrene respectfully suggests that the consumer protection goals of the Department can be better served by relying on the numerous other provisions of AB 1284 and the Departments other proposed regulations that assure project completion rather than establish rules that will limit consumer options to less regulated forms of financing. Because these regulations would impose extraordinary costs on program administrators and solicitors and discourage use of PACE, without any added benefit to consumers, Ygrene respectfully requests that 1620.09(b) and (c) be stricken from the regulations.

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[13] *See, e.g.*, Cal. Dept. of Consumer Affairs Contractors State License Board website providing links to permitting requirements by city, county, and town, *avail. at* http://www.cslb.ca.gov/Consumers/Hire_A_Contractor/Building_Permit_Requirements.aspx#County.

There is tremendous public and government support for PACE programs because PACE offers an innovative way to bring the environmental and health benefits of energy-efficient improvements to property owners. However, aspects of the Department's implementing regulations as set forth above would severely impair the policy goals of PACE. As such, Ygrene respectfully requests that the Department withdraw or revise subsections 5, 9 and 22 as set forth in this letter. As always, Ygrene remains committed to continuing constructive dialogue on implementation of AB 1284.

Sincerely,

Michael Lemyre
Senior Vice President
Ygrene Energy Fund