



Power Purchase Agreements and Third Party Arrangements

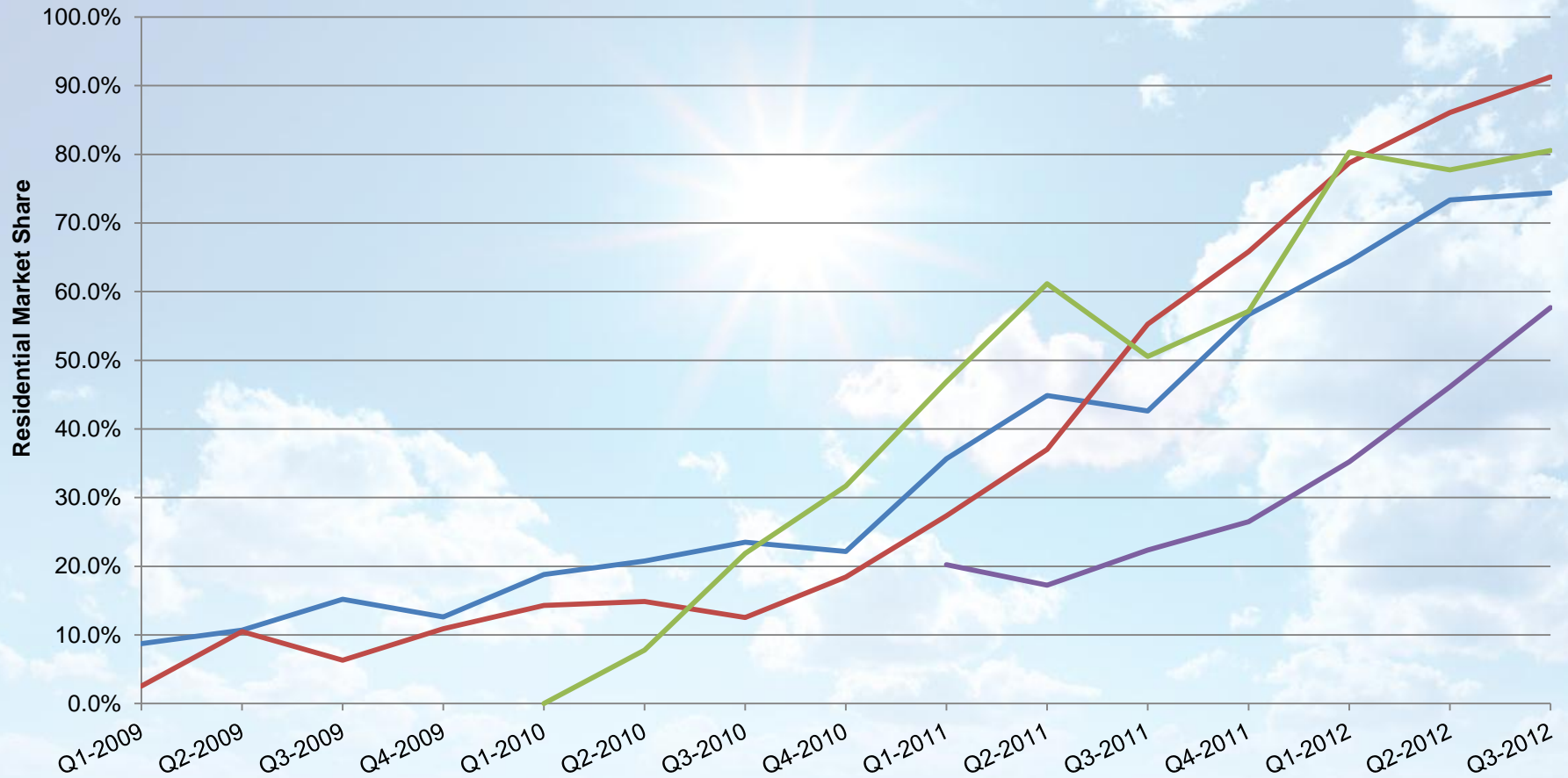
February 14, 2013

About SEIA

- Founded in 1974
- U.S. National Trade Association for Solar Energy
 - 1,000 member companies from around the world
 - Members from across 50 states
 - Largest companies in the world as well as small installers
- Our Mission: Build a strong solar industry to power America
- Our Goal: 10 gigawatts (GW) of annual installed solar capacity in the U.S. by 2015

Third-Party Ownership, Net Metering Driving Distributed-Generation Growth

Third-Party Residential Market Share in CA, AZ, CO & MA, 2009-Q3 2012



Introduction/Agenda

- Agenda
 - Introduction of the Topic
 - Defining Leases and PPAs, Evan Dube SunRun
 - PPAs
 - Important Commercial Issues, William Newton
 - Important Regulatory Issues, Noelle Coates
 - Tax Considerations, Laura Jones
 - Current Legislative Activity in the Southeast, Lee Peterson

Solar PPA vs. Lease

PPA

- Customers pay a fixed rate for the electricity the panels produce.
- Customers only pay for the electricity produced each month.

Lease

- Customers pay a **fixed amount** every month for solar panels.
- Customers pay the same each month, regardless of how much energy is produced.

Regulatory Implications

- In some states, the PPA model faces regulatory and legislative challenges that would regulate developers as electric utilities.
- In certain instances existing regulations do not contemplate on-site generation where the equipment is not owned or leased by the customer.

PPAs – Important Commercial Issues

William L. Newton

Counsel

Options for end-users who want to use solar power:

- *Install their own (EPC option)*
- *Power Purchase Agreement (PPA)*
- *Equipment Lease Agreement*

Nuts and Bolts

- The parties
- Other interested parties – the utility, the EPC provider, the bank, the solar insurer, tax investors
- The transaction

Important commercial issues in the PPA:

- *Must be a long-term commitment*
- *Must be “bankable”*
- *Requires net metering*
- *Requires interconnection to the grid*

Important commercial issues in the PPA:

- *Time is money, and delays are a significant risk to Developer*
- *RECs sold separately, and must be accounted for*
- *Many other commercial issues—*
 - COD, EoD, FME, Indemnity, tax allocation, etc.

Important Regulatory Issues

Noelle Coates

Associate

Before you put pen to paper on the PPA, check:

- *The Law*
- *The Regulations and the Utility Rules*
- *The Political Winds*

**If not, your best and only customers
could be the off-the-gridders.**



Check the Law

The definition of public utility varies from state to state, but often includes owners/operators of facilities that generate electricity to sell to customers at retail.

Why does it matter?

- Your business might be locked out of the state.
- You might have to go with a lease instead of a PPA
- (Also, nobody really wants to be regulated as a public utility.)

DSIRESOLAR™

Database of State Incentives for Renewables & Efficiency

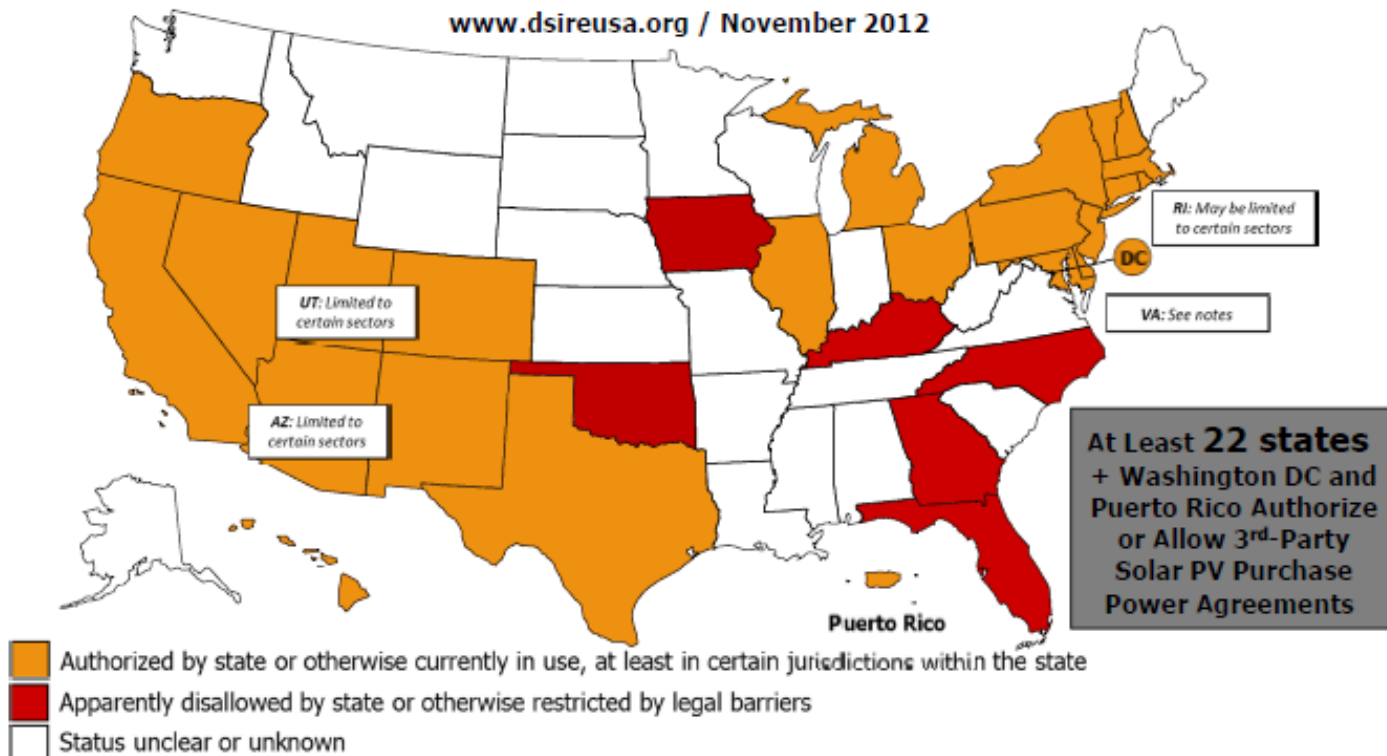
U.S. DEPARTMENT OF ENERGY

Energy Efficiency & Renewable Energy



3rd-Party Solar PV Power Purchase Agreements (PPAs)

www.dsireusa.org / November 2012



Note: This map is intended to serve as an unofficial guide; it does not constitute legal advice. Seek qualified legal expertise before making binding financial decisions related to a 3rd-party PPA. See following slides for additional important information and authority references.

Check the Regulations and the Utility Rules

Some states require utilities to provide net metering to customers who do not own/operate the generating facilities. Some do not.

And not all public utilities [Coops and Munis] are subject to the same level of regulation as IOUs

Why does it matter?

- The viability of your business plan
- (and avoiding potentially onerous rules)

Check the Political Winds

Consumer advocates in certain jurisdictions have begun to push back against net metering, arguing it harms lower income customers.

Why does it matter?

- Might eliminate your future business in that jurisdiction

PPA Tax Considerations

Laura Jones

Partner

PPA Tax Considerations:

- *Length of Term*
- *Electricity Price*
- *Purchase Options*
 - When?
 - How many?
 - How much?

PPA Tax Considerations, continued

- *Tax Ownership*
- *Service Contract Rules*
- *ITC Basis*

2013 Legislative Activity in the Southeast

- South Carolina, H3425
- Georgia, SB51
- Florida, HB 779 and SB1106
- Kentucky, HB167 (PPA TBD)
- North Carolina, see 2012 SB 694 and HB 906
- Texas 981 (effective 9/1/2011) but has limitations

Additional PPA Resources from SEIA

- SEIA Finance and Tax Seminar:
 - SESSION: **PPA Best Practices**
 - February 27-28 in New York
 - <http://www.seia.org/fin>
- PPA Template (Members Only!)
 - SEIA provides a sample Power Purchase Agreement template for all members in the Small Business Resource Center
 - <http://www.seia.org/member-benefits/small-business-resource-center/professional-legal-materials>



Questions and More Resources

- DSIRE
- SEIA PPA Fact Sheet on SEIA website
- SEIA State Affairs Team

Questions?

Contact webinars@seia.org
with any additional questions
and we'll pass them along!

