SHEARMAN & STERLING LLP

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Recent Trends in Clean Energy

Confidence in the future of the clean energy sector can be seen through several trends that have evidenced themselves repeatedly over the first half of 2012. Financial institutions remain bullish on investment in the clean energy sector and continue to make substantial commitments to investments in the development of both clean technology and renewable energy. Increasingly common corporate sustainability initiatives show that companies are committed to reducing their carbon emissions throughout their operations. And states and municipalities continue to develop local incentives toward the development of renewable energy sources. Contained herein are highlights of six key trends in the clean energy sector we have identified as prevalent themes during the first half of 2012.

Banks and Developers See Big Profits Ahead with Investments in Clean Energy

Whether or not the government acts to incentivize the development of clean energy, industry experts like McKinsey predict a significant increase in investment and cost competitiveness compared with other energy sources. Indeed, financial institutions are extremely bullish on the prospects of investing in the clean energy sector, which, as Goldman Sachs has noted, "is at a momentous point in terms of the expansion of technologies that will help diversify energy sources and improve the environment." Major investment banks like Bank of America, Goldman Sachs and Wells Fargo have announced their commitment to invest substantial capital into clean technology, renewable energy and other efforts aimed at environmental sustainability – $50 billion, $40 billion and $30 billion, respectively – and many others are expected to follow.

Corporate Sustainability Initiatives Prove More than Just a Way to Generate Positive PR, Providing Significant Benefits across Sectors

Corporate sustainability initiatives are on the rise. High profile firms like Apple and Ford are eager to highlight their efforts in this area: Apple now plans to build the nation's largest private solar array in order to power a new data center in North Carolina, while Ford aims to reduce CO2 emissions and water consumption both from its own manufacturing process and that of its suppliers. Though some companies began counting their carbon footprint simply to raise their public profile, many are coming to the conclusion that such investments yield considerable dividends. Sustainability can generate goodwill among suppliers, customers, and shareholders; ensure that supply chains remain undisturbed from climate change and resource exhaustion; and be a means to achieve efficiency within operations.

States and Municipalities Have Forged Ahead on Carbon Reduction Strategies in the Face of Continued Uncertainty of Federal Programs

Gridlock in Congress has led to uncertainty regarding the future of federal renewable energy programs in the United States, such as the production tax credit and the recently expired cash grant program. But states and municipalities are increasingly developing new incentive programs of their own. Renewable energy portfolio standards at the state and local level remain a key driver for renewable energy investment. The Tri-State area stands as a prominent example of this trend as it is now poised to become a national and global leader on the utilization of solar power. New York's Sun Initiative aims to grow solar energy across the state to 3,000 MW by 2021. Meanwhile, the New Jersey Senate is considering similar solar legislation to complement its recently enacted Offshore Wind Economic Development Act.

Trade Conflict Over Solar Panel Manufacturing Between the World's Two Largest Energy Consumers Will Continue to Create Uncertainty in the Market

Government programs that support a burgeoning solar power industry have become more common on both sides of the Pacific as the US and China plan for an aggressive expansion of renewable energy generation. Those subsidies, however, have been the focus of a recent trade dispute between the two countries. On May 17, 2012, the US Department of Commerce made a preliminary ruling that Chinese manufacturers were engaged in dumping in US markets and levied a countervailing duty of 31% on all Chinese solar cell imports. In response, China has alleged that certain US subsidies to domestic renewable energy projects violate WTO fair trade rules. What effect this trade dispute will have on the market for solar cells and manufacturers remains to be seen, but the continued uncertainty this trade conflict creates in the solar manufacturing section creates some cause for concern.

The Popularity of Solar Energy Continues to Rise, Especially Distributed Generation Capabilities for Residential and Commercial Developments

The market for distributed solar generation remains a bright spot in the renewable energy sector. Distributed solar, which consists of the installation of small-scale solar arrays on residential and commercial projects, allows customers to realize benefits where high retail electricity prices rule and local utilities offer incentives toward installation, such as rebates or tax breaks. Innovative financing options have also contributed to the rapid growth of the solar industry. Solar companies now offer their customers the choice of leasing the panels, which eliminates the potential barrier to installation of high upfront costs. In addition there is an increasing focus on funding these types of projects through the securitization markets.

Renewables Aren't Just for Wealthier Countries Any More as Developing Countries Increase Their Investment in Emissions Free Energy

Developing countries across the globe have seized upon renewable energy as a means to fight climate change, conserve natural resources and raise their international profile. In 2011, India ranked behind only China and the US in terms of new installations of renewable generation, marking an increase of 52% in investment over the previous year. Its recently concluded five-year energy plan demonstrated the country's commitment to renewables as it blew past its 12.4 GW goal to record 14.2 GW of newly installed renewable capacity. That trend is set to continue this year with impressive new investments in wind and solar. In Latin America, Mexico passed a landmark climate change bill in April that aims to reduce national carbon emissions by 30% by 2020, in part by requiring that 35% of all electricity come from renewable sources. And in anticipation of the 2014 World Cup, Brazil has begun construction on a series of twelve sustainably designed stadiums. All of these stadiums will be LEED certified and most will provide for their own power through rooftop solar arrays.

Looking Forward

The clean energy sector is poised for strong growth in the coming years. In the second half of 2012, we expect to see states and municipalities continue to push forward with incentive programs to spur the development of renewable energy sources and the commercialization of new clean technologies as well as continued investment in developing countries. We are also hopeful that we may see new sources of capital deployed in the clean technology and renewable energy section in the forms of MLPs and REITs. What remains to be seen is whether the current gridlock in Congress will be resolved and what effect that will have on private investment in the renewable power sector for the United States.

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