Third-party Financing

Third-party financing is a well-established financing solution utilized across the United States, and is now one of the most popular methods to finance large solar or other renewable energy installations. Third-party financing can occur via one of two models, leasing or power purchase agreements (PPAs). According to the EPA, "In the lease model, a customer signs a contract with an installer/developer and pays for the use of a solar system over a specified period of time, rather than paying for the power generated. In the PPA model, the solar energy system offsets the customer's electric utility bill, and the developer sells the power generated to the customer at a fixed rate, typically lower than the local utility." We focus on the leasing model because Montana state law does not presently permit PPAs.

Third-party financed systems, though less common for residential installations, are becoming increasingly popular for commercial applications. According to Solar Energy Industries Association (SEIA) in a 2017 nationwide analysis, 57% of all installed non-residential capacity was third-party owned and in Colorado, 95% of non-residential systems installed in the last quarter of 2017 were third-party owned.

In this model, municipalities, schools, nonprofit organizations or other entities that do not have a tax liability partner with a qualified private developer/investor to finance clean energy projects. This allows for the utilization of innovative financing via a contract with a private entity who would own the system components and would be able to utilize federal renewable energy investment incentives such as tax credits (namely the investment tax credit and production tax credit) and accelerated asset depreciation (Modified Accelerated Cost Recovery System - MACRS). The total cost of the system would be reduced accordingly, and the contractual agreement would allow the company to earn a desired rate of return. These long-term contracts offer an additional benefit as they replace the volatility and inflation of electricity prices with a predictable locked in electricity rate for the length of the contract also providing a buyout option at the end of the contract term.

Our research, based on case law and consultation, finds that in Montana third party leasing of renewable energy systems is not expressly prohibited and has been used. Their most obvious application is for systems supporting large facilities where the electricity would not be exported (i.e., the system would not be net-metered onto the electrical grid).