

FEDERAL UTILITY PARTNERSHIP WORKING GROUP - Utility Interconnection Panel



M. Renee Jewell, Program/Energy Manager, & Contracting Officer, Forest Service (reneejewell@fs.fed.us)



Sustainable Operations

Creating Habits Today, Conserving Resources for Tomorrow

SCENARIO: Fed Agencies had Solar PV Projects To Connect with Utility in California

- United States (US) Forest Service (FS)
 - -1 small Solar Photovoltaic (PV) project; and
 - 1 small Renewable project (Solar PV) exporting energy to grid.
- U.S. National Park Service (NPS)
 - 24 Small Solar Photovoltaic projects.
- U.S. Dept. of Veterans Affairs (VA)
 - 6 Renewable generation projects of different sizes.



FS Region 5 (California) -Solar Photovoltaic Installations





SITUATION – Utility Wanted Feds to Sign Its Agreement(s), But There Were A Few Issues...

- Sovereign Immunity;
- Fed Law vs. State Law;
- State Taxes;
- Regulations;
- Length of Agreement;
- Indemnity, Liability, & Insurance Clauses;
- Media; and
- Congress.





ISSUES - First Hurdle — Fed Govt is a Sovereignty



 The Fed Govt has Sovereign Immunity. This doctrine exempts the Govt from lawsuits—unless waived by the Govt, for, example, claims based on contracts. Fed Govt may specify the conditions under which a Waiver of Immunity will be effective such as Court of Claims, and only IAW the U.S. Constitution.



- Governing Law Provisions -
 - Investor Owned Utilities regulated by the State in which they operate. Fed Govt follows Federal Law.

• State Taxes -

 Utility Agreement provided for State Taxes. Fed Govt and its Agencies and Property are **immune** from State and Local taxation, under the "Supremacy" Clause of the Constitution.



- Regulations -
 - Calif Utilities have "Rule 21;" Fed Govt has
 FAR—including FAR 41 "Acquisition of Utility Services."
- Length of Agreements/Contracts -
 - Utility Agreement had 25-year term. Fed Govt cannot exceed 10 years due to FAR 41.205(d).
- Indemnity, Liability, and Insurance Clauses -
 - Fed Govt cannot indemnify Utility without Act of Congress; No Insurance limits possible because of Anti-Deficiency Act.



- Media Exposure One Example -
 - 9 Jan 2012 LA Times Article reported FS and NPS could not secure Interconnection Agreement.





- Congress
 - Senator Dianne Feinstein (D-Calif) and Senator Barbara L. Boxer (D-Calif) sent inquiries to the Forest Service (FS).
 - Rep. Edward J. Markey (D-Mass) &
 Committee on Natural Resources sent
 Letter to FS & Department of Interior
 (DOI) with copies to DOE, VA, and GSA.



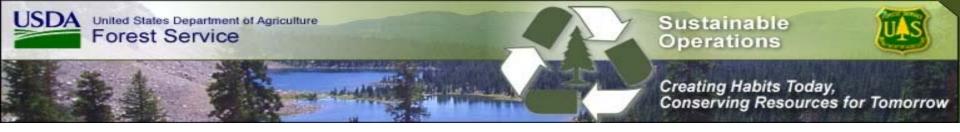
RESOLUTION - "Big Meeting"

- 18 Jan 2012 Meeting Attending were:
 - A Representative from Senator Boxer;
 - Senior Advisor to the Calif Governor, Renewable Energy Facilities (the Host);
 - Calif Public Utilities Commission (CPUC);
 - Southern California Edison (SCE); and
 - Fed Agencies: GSA, FS, NPS, & VA.
 - Senator Feinstein's Office told outcome.
 - Majority of attendees was engaged and committed to finding solutions.



RESOLUTION – Negotiations

- GSA Negotiated a new Exhibit D to their Areawide Agreement with Utility, specifically for Fed Govt Interconnection Agreements.
- FS & Utility Negotiated and **Deviations to its Tariffs** for the Govt only, was filed with CPUC:
 - Identified **10-year term** of the Agreement;
 - Modified Liability, Deleted Indemnification, & Removed Insurance in recognition of Anti-Deficiency Act, 31 U.S.C. 1341; and
 - Revised Governing Law language that worked for both Fed and State.



RESULTS – Savings!

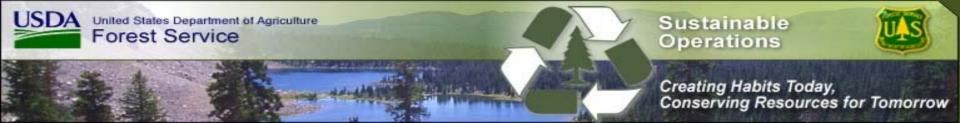
- Based on Nameplate Rating, the following is an estimate regarding production of the facilities:
 - -USFS 473,000 kWh/annually;
 - -NPS 528,000 kWh/annually; &
 - -VA 2,996,000 kWh/annually.
 - Money\$ and Energy Will Be Saved.



RESULTS – My Lessons Learned...

- Be <u>Very</u> Patient/Work as a Team;
- Difference between "wholesale" and "retail" sides of a Utility;
- Contracting Vehicle Can Make a Difference (UESC, ESPC, GSA);
- RECs- To Give or Not to Give;
- Other Contract Issues with Delay in Utility Agreement—more Costs to Prime contractor and subs, Perform & Pay Bonds, etc.





Questions?

