

Philip Santiago, Association of Climate Change Officers

Key Considerations For Renewable Energy Contracting

*Purchasing utility-scale renewable energy can be a very complicated business. While deciding on the right project type and site are certainly critical pieces of the puzzle, negotiating with developers, navigating the contracting process, and coordinating all parties involved are just as important, and projects often sink or swim based on how these are handled. ACCO spoke with **Rick Coulon (Interim Associate Vice Chancellor, Administrative & Business Services at University of California, Irvine)** who shared some great information on the intricacies of contracting for PPAs at a large academic organization, including process, negotiation, timeframes, guarantees and assurances, and potential stumbling blocks.*

Phil Santiago: Rick, can you tell me a bit about the renewables project you recently completed at the University of California, Irvine?

Rick Coulon: We've just installed 3.2 MW of solar on three existing parking structure rooftops. One of the neat things about this project is that we didn't take over any ground that could be utilized for something else. It was basically unused space on top of these parking structures. 3.2 MW is not a huge portion of our energy consumption but it is certainly a step in the right direction, and we'll go from there.

PS: Why did you decide to do a Power Purchase Agreement (PPA) rather than owning onsite systems outright?

RC: Our thought was that first of all you don't have the upfront investment, so we were able to do this without significant cost. We don't have any maintenance or warranty obligations and don't have to manage the construction or operation of the facility. We're basically a host that allows this other entity to operate, and through the PPA we purchase the power. To us that makes sense because we don't have to become experts and gear up for an entirely new way of doing things. So it meets our needs, and if we're assured a set price and set escalation, we know what our cost of power is going to be and that helps us with our long-term planning.

PS: So then the main attraction was the energy price stability and locking in a lower-than-utility price?

RC: Correct in part. Obviously you have to look at the anticipated escalation rate for utility pricing, and nobody has a crystal ball, but we feel very confident that our project will save us quite a bit of money. We want our projects to stand on their own; we don't want something that we're subsidizing just so that we can say, "Hey, we've got solar power."

Another reason we really wanted to look at these projects was not primarily a money-saving issue though. The UC System has committed to carbon neutrality by 2025, and in order for us to do that we need to have more of these types of carbon neutral ways of creating energy. These projects fit right in with the climate goals set by UC President Janet Napolitano.

I'm in charge of procurement and contracts, so I really look at this more from the contracting rather than the energy management perspective.

At least in California, as a public entity, normally on a project over \$100K you have to do a Request for Proposals (RFP) and bid it out. That's often difficult with these kinds of energy projects because they morph and change over time. You'll have discussion over whether it's going to be this building or that building, what size etc., and it has to be an ongoing dialogue.

PS: So you don't know all of the details at the point where you would have to write the RFP?

RC: Exactly – especially if you're trying to do a larger project. If you have a very specific project– say you want nine solar panels on the top of this building– that works pretty well with an RFP. But if you're really trying to get creative, and have someone come in and look at alternative areas and find the best possible site, that requires more of a discussion. We do have a provision in our contract code that allows us to have that negotiation, and as long as we're bringing in a contract that provides the energy at a price lower than we otherwise would have been paying, we can utilize that. So that's the way we went forward with this project.

More recently they have changed some of our rules to allow us to use more of a “best value” approach. So that can also be very helpful rather than trying to figure out all the little details upfront.

PS: As long as the end price is cheaper than what you would have paid through the utility?

RC: Right. Less than what the alternative would have been.

Another thing you have to look out for in these types of agreements – you bring in a developer and they've got a great idea, you negotiate your contract with them, and then they go out to get funding and the funders want to renegotiate the contract at that point. Basically take another bite of the apple. So that's one of the pitfalls you have to be careful of. You either want to work with someone who has the funding at hand, or who can bring those lenders to the table before you close your final contract negotiations and make sure the agreement is something they can accept.

PS: What is it they would want to renegotiate?

RC: The lenders want certain assurances to protect themselves. You're bringing in a whole other party that has their own interests at heart. The developers have theirs, you've got yours, and now a third party is coming in with their own. If for some reason the project fails or the developer has a problem, or something funny happens with the site, it's their money that's at stake.

PS: So would you suggest bringing the lenders to the table earlier in the process, then?

RC: Yeah, I would try to get them into the process before you finalize your contract on the first go-around. Or work with a developer that has the funding at hand and doesn't need to go to an outside lender to secure the funds.

Another problem that we often see with a PPA – you're working with a developer, and they might be financially stable and provide you with all sorts of assurances but the first thing that they want to do as part of the agreement is sell it off to a Limited Liability Entity. So they spin it off to a subsidiary so that if things go badly they can back away from it. But where does that leave you as the host of the facility?

A couple of ways to deal with that are to require that for any transfer of the agreement there be a minimum financial status as well as having significant insurance requirements that any entity taking over would have to meet. That way you don't change from a billion dollar company to one with two million dollars. Another way to deal with that is to have a parent guarantee – a parent organization that guarantees that liability isn't an issue from the subsidiary that they create. It brings that issue to the forefront as you're discussing it.

When you're looking at one of these projects you're looking out maybe 25 years, and so you really need to make sure that in your long-term plan you know how your land is going to be utilized, not only the project site but most agreements have a clause that says you're not allowed to shade the solar generation. If you build a high-rise on the wrong side then that's of course going to be a problem. So it's just really important that if you have a long-term land use plan to look at that and see that the site is going to be available for that period of time.

PS: I suppose that universities are generally a little better at planning on those longer timescales.

RC: Yeah universities are not about to pack up and move to another state, right? You can't do that.

PS: Too many books.

RC: Ha, right. So some companies may not be able to enter into a 25-year PPA because they don't know where they're going to be in that amount of time.

PS: Well thanks, that's a lot of very useful information. Thank you so much for your time Rick.

About ACCO

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