

Energy

Solar Company Bankruptcy Expected To Intensify Scrutiny of Loan Guarantees

Solyndra LLC, the California-based solar manufacturer and a recipient of a \$535 million Energy Department loan guarantee, announced Aug. 31 it intends to file for bankruptcy, a move that analysts said is likely to intensify congressional criticism of the department's loan guarantee program and other renewable energy subsidies.

The company, which said in a statement it has suspended operations and laid off approximately 1,100 workers, received the Energy Department's first clean energy loan guarantee in September 2009, a transaction that has been the subject of an investigation by the House Energy and Commerce Committee since March 2011 after the company announced it was closing a factory and laying off workers.

"We smelled a rat from the onset," Reps. Fred Upton (R-Mich.), the committee chairman, and Cliff Stearns (R-Fla.), chairman of the Energy and Commerce Subcommittee on Oversight and Investigations, said in an Aug. 31 statement that called the loan guarantee a "dubious investment" that was "suspect from day one."

"Unfortunately, Solyndra is just the latest casualty of the Obama administration's failed stimulus, emblematic of an economic policy that has not worked and will not work," the statement said. "We hope this informs the President ahead of his address to Congress [on jobs] next week."

The investigation, led by Upton and Stearns, has included a subpoena of documents from the White House Office of Management and Budget focusing on the role the agency played in reviewing and approving the credit subsidy cost for the loan guarantee under the Federal Credit Reform Act (136 DEN A-4, 7/15/11).

Loan Raised Red Flags. Shyam Mehta, a senior solar analyst with market analysis firm GTM Research, said the Energy Department's decision to issue a loan guarantee to Solyndra, whose photovoltaic systems were designed specifically for commercial roofs—thereby limiting their share of the market—had previously raised red flags.

"The consensus in the solar industry was that this loan guarantee didn't quite make sense," Mehta said in an Aug. 31 interview.

The company's intention to file for Chapter 11 bankruptcy protection—which a company spokesman said would occur next week in a court in Delaware—is expected to embolden the committees' investigation and could lead to other "political fallout" as well, Mehta and others told BNA.

Under Chapter 11, a company is free from the threat of creditors' lawsuits while it reorganizes its finances. The company remains in control of its business and assets unless the bankruptcy court rules otherwise.

"I think some really, really tough questions are going to be asked now [of the Energy Department] . . . because this looks really really bad for them," Mehta said. "The question that is going to be asked is: Where is the due diligence process?"

A move to place the Energy Department's loan guarantee program "on hold" is a "real risk," Mehta added.

An Energy Department representative did not respond to questions, but referred to an Aug. 31 departmental blog post that said the loan guarantee to Solyndra was pursued by both the Bush and Obama administrations.

"While each transaction undergoes months of extensive and careful expert review to minimize risk, there will always be an element of risk with investments in the most innovative companies," said the post, which was credited to Dan Leistikow, the department's director of public affairs. "The alternative is simply walking off the field and letting the rest of the world pass us by."

Broader Policy Implications Possible. In addition to affecting the Energy Department's loan guarantee program, Solyndra's bankruptcy filing could have broader policy implications as well, William Yeatman, an official with the Competitive Enterprise Institute, a conservative public policy advocacy organization, said in an Aug. 31 interview with BNA.

"There certainly will be political fallout," said Yeatman, who serves as assistant director for the Competitive Enterprise Institute's Center for Energy and Environment. "There is \$535 million potentially at stake of taxpayer funds."

Yeatman predicted the bankruptcy would "galvanize the House" to pull back unobligated loan guarantee funding within the Energy Department, and could halt the momentum of legislation predicated on the DOE loan program that would create a "green bank" to fund risky energy projects.

That legislation, the Clean Energy Financing Act of 2011 (S. 1510), introduced by Sen. Jeff Bingaman (D-

N.M.), chairman of the Senate Energy and Natural Resources Committee, is considered one measure that President Obama may call for in a speech on jobs creation scheduled for the week of Sept. 5 (169 DEN A-5, 8/31/11).

Rosemarie Calabro, a spokeswoman for Democrats on the Senate Energy and Natural Resources Committee, said in an Aug. 31 e-mail to BNA that “significant” investments made by China have reduced the costs of raw materials and conventional solar panels, making for a “difficult competitive environment, even for innovative technologies.”

“The investments by the Chinese government that have led to this situation do not call for retreat, nor do they change the need for the United States to stay involved in this global, competitive market,” Calabro said.

Lowered Demand, Bankruptcies. Solyndra’s bankruptcy filing comes as lowered demand for solar panels—mainly in Germany and Italy—has led to a drop of approximately 30 percent in photovoltaic module prices, Shayle Kann, GTM Research’s managing director, said in an Aug. 31 interview.

In addition to Solyndra, two other solar panel manufacturers, SpectraWatt and Evergreen Solar Inc., have

closed facilities in the United States this month, Kann said.

“What it’s ended up being, any manufacturer that wasn’t competitive on cost and couldn’t burn a lot of cash and wait for better market conditions has fallen out, and Solyndra was just the latest example of that,” Kann said.

Rep. Henry Waxman (D-Calif.), the ranking member of the House Energy and Commerce Committee, said in a statement issued Aug. 31 that the bankruptcies show the nation is in danger of losing “its leadership position in the clean energy economy of the future.”

“Congress needs to get serious about promoting energy independence, reducing emissions that contribute to climate change, and developing clean energy industries in the United States,” Waxman said. “We should be doing everything possible to ensure the United States does not cede the renewable energy market to China and other countries.”

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The Energy Department’s blog post on solar manufacturing is available at <http://energy.gov/articles/competition-worth-winning>.