

Opening Statement of the Honorable Fred Upton
Chairman, Committee on Energy and Commerce
“Continuing Developments Regarding the Solyndra Loan Guarantee”
October 14, 2011
(As Prepared for Delivery)

Eight months ago, we asked Secretary Chu to turn over all documents containing communications between the Department of Energy and the Department of Treasury related to Solyndra. We had to ask again in September, and DOE is only now beginning to respond to our request. The administration claimed our request was too burdensome for a timely response, but it is now apparent that was not the case. We recently asked the Treasury Department to turn over similar documents, and they responded immediately, beginning to turn over the requested documents in less than a week.

What we have seen so far suggests that DOE essentially ignored Treasury after signing off on the \$535 million loan guarantee. The documents also reveal a Department of Energy fervently steering more taxpayer cash to Solyndra with complete disregard to the alarm bells coming from Treasury and others within the Obama administration. DOE apparently stonewalled Treasury, failing or refusing to turn over information related to Solyndra’s restructuring. In one exchange with OMB in August 2011, Assistant Secretary Mary Miller noted that “since July of 2010, Treasury has asked DOE for briefings on Solyndra’s financial condition and any restructuring of terms. The only information we have received about this has been through OMB, as DOE has not responded to any requests for information about Solyndra.” This seems to me a clear violation of the Energy Policy Act of 2005, which says DOE shall consult with OMB and the Secretary of the Treasury before granting any deviation in the loan. Putting the taxpayers at the back of the line behind private investors in the event of liquidation is not only a deviation, it is apparently unprecedented.

So what happened? Why did DOE keep Treasury in the dark? Solyndra was burning through cash and the alarm bells were ringing. In February 2011, DOE restructured the terms of the agreement and gave two private investment firms priority over the federal government in the likely event that Solyndra declared bankruptcy; DOE postponed Solyndra’s initial interest payments and pushed back the repayment of the loan; DOE waived several requirements Solyndra was obligated to meet before receiving further funding, including Solyndra’s consistent failure to comply with the Davis-Bacon Act and their inability to contribute to an agreed-upon reserve fund. While all this was happening, DOE continued to push millions of additional dollars out the door in a futile attempt to save Solyndra. Six months later, as predicted by DOE’s own financial models back in 2009, Solyndra went belly up.

Hopefully today's witnesses will help us understand Treasury's involvement at various points in the life of Solyndra's loan guarantee. Does Treasury believe DOE should have consulted with DOJ about the restructuring? You have to wonder, given Treasury's expertise in commercial lending and project finance, if DOE had responded to Treasury's requests for information, would something have been different? Could some of the taxpayers' money been saved?

The Department of Energy has a lot more explaining to do, and we will hear from them again soon. Unfortunately, we also have to ask: how many more Solyndras are there? Were other warning flags ignored, and risky gambles made with the taxpayers' hard-earned money? Today, we focus on the startling development of one cabinet level agency concerned that another's actions were in violation of the law. This investigation will continue until taxpayers get the answers they deserve, regardless of how high in this administration the facts take us.