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Executive Summary

The Large Public Power Council (“LPPC”)¹ submits its response to the request from Senators Bingaman and Murkowski as they consider issues associated with the development of a Clean Energy Standard (CES). LPPC represents 25 of the largest locally owned and operated not-for-profit electric systems in the nation and provide much of the power to the 45 million people served by public power. LPPC and its members are committed to being in the forefront of the use of renewable resources and other technologies to address climate change concerns.

Our responses are limited to questions 1, 2, 3, 5 and 6 and an additional topic. The answers are focused around the following general principles that are essential to implementing a workable CES:

1. Establish a broad definition of a clean energy resource. The CES should include the broadest range of low carbon resources and energy efficiency programs including those allowed under existing state requirements. A broad definition will provide flexibility by reducing costs and accommodating operational constraints.

2. The LPPC believes that policy to address greenhouse gases should be set by Congress, not EPA. LPPC opposes the regulation of stationary source GHG emissions under the existing Clean Air Act.

3. Allow multi-year compliance periods, banking and borrowing of credits. Existing supply-side and demand-side resources should earn credits, and performance in excess of the standard should be banked for future use. Banking will reward early actors and reduce compliance costs.

¹ Austin Energy (TX), Chelan County PUD (WA), CPS Energy (TX), Clark Public Utilities (WA), Colorado Springs Utilities (CO), liD (CA), JEA (FL), Long Island Power Authority (NY), Los Angeles Department of Water and Power (CA), Lower Colorado River Authority (TX), MEAG Power (GA), Nebraska Public Power District (NE), New York Power Authority (NY) • Omaha Public Power District (NE) • OUC (FL), Platte River Power Authority (CO), Puerto Rico Electric Power Authority (PR), Sacramento Municipal Utility District (CA), Salt River Project (AZ), Santee Cooper (SC), Seattle City Light (WA), Snohomish County PUD (WA) and Tacoma Public Utilities (WA)

4. Allow alternative compliance payments. Alternative compliance payments should be set at a reasonable level and proceeds should be returned to the state from which they were made.

5. Limit the cost impact to consumers. A low-cost reliable energy supply is essential to economic development. It is important to limit the cost impact of a CES to all consumers. A CES must have appropriate mechanisms to ensure its benefits are properly aligned with its costs.

6. Accommodate regional differences. A CES should reflect regional differences resource availability, transmission constraints, weather variations, customer energy consumption patterns and other factors.

7. Open clean energy markets. Some states grant a preference to renewable generation produced in their state, distorting the market and limiting opportunities for generation in other states. A CES should ensure a level playing field for all resources regardless of where they are located.

8. Appropriate incentives must be made available to all sectors of the utility industry. It is essential that congress address the lack of appropriate incentives for public power. Any incentive gap for public power should result in a downward adjustment in the CES compliance obligation.

We understand that this is the beginning of the Senate's legislative process and look forward to participating in this dialogue as the Committee moves forward.

Question 1. What should be the threshold for inclusion in the new program?

Should any states or portions of states be specifically excluded from the new program's requirements?

- *A Clean Energy Standard (CES) should reflect unique regional resource availabilities, transmission constraints, weather variations, customer energy consumption patterns and other factors. The standard should provide flexibility while ensuring that each state makes the appropriate contribution to meeting the national target.*

How should a federal mandate interact with the 30 existing state electricity standards?

- *We believe that harmonization of federal and state CES requirements is important to the success of a federal CES and to the marketplace generally. Congress should consider means to encourage states to adopt consistent standards for renewable energy in order to facilitate a national market for this product.*

Question 2. What resources should qualify as “clean energy”?

On what basis should qualifying “clean energy” resources be defined? Should the definition of “clean energy” account only for the greenhouse gas emissions of electric generation, or should other environmental issues be accounted for (e.g. particulate matter from biomass combustion, spent fuel from nuclear power, or land use changes for solar panels or wind, etc.)?

- *A federal CES program should provide utilities with flexibility as to the types of clean energy utilized. The definition of clean energy should allow utilities to use a broad range of low carbon resources including those allowed under state requirements such as geothermal, solar, wind, biomass, landfill gas, tidal power, fuel cells, nuclear, all hydro resources, lower emitting fossil fuels such as natural gas, and clean coal such as carbon capture and sequestration. Energy efficiency, conservation and demand-side management should be included in the definition of clean energy.*

A broad definition will encourage innovation allowing the market to discover the lowest cost resources within each region. Flexibility will also ensure that operational constraints are recognized to ensure the reliability of the grid.

If a CES is established, Congress should focus on reducing greenhouse gas emissions. Other environmental concerns such as reducing particulate and mercury emission will also be achieved if a CES is adopted, but having a clear goal for the CES program will increase the ability to create a successful program.

What is the role for energy efficiency in the standard? If energy efficiency qualifies, should it be limited to the supply side, the demand side, or both? How should measurement and verification issues be handled?

- *Energy Efficiency should be included as an element of a CES. Energy efficiency and conservation are the first and best choices for limiting greenhouse gas emissions in a cost-effective manner. Energy efficiency is the cleanest and currently one of the least cost resources available. Because it is cost effective, its role in a CES should not be artificially limited. Like other clean generation resources, energy efficiency measures, such as increasing the efficiency of generation units, improving the efficiency of transmission and distribution networks, energy efficiency codes and standards, etc. should be provided appropriate credit because they will contribute to a reduction in emissions and are cost effective solutions that can help reduce consumer costs.*

Question 3. How should the crediting system and timetables be designed?

What are the tradeoffs between crediting all existing clean technologies versus only allowing new and incremental upgrades to qualify for credits? Is one methodology preferable to the other?

- *There should be no penalty for early action. All existing low carbon supply-side and demand-side resources should be allowed to earn appropriate credits under a CES. Early actors have invested significant resources in the deployment of renewable resources and energy efficiency programs. They should be rewarded for this investment.*

Should there be a banking and/or borrowing system available for credits and, if so, for how long?

- *Flexibility will be important for electricity generators to comply with a CES while minimizing cost impacts to consumers. Multi-year compliance periods and banking should be allowed. Performance in excess of the standard should be 'banked' for future use as necessary. Early actors have invested significant resources in the deployment of renewable resources and energy efficiency programs. There should be no penalty for early action. Electricity generators should be rewarded for this investment. Allowing the banking of excess credits can also be a valuable tool to help reduce compliance costs.*

Question 5. How should Alternative Compliance Payments, regional costs, and consumer protection be addressed?

What are the possible uses for potential ACP revenues? Should such revenues be used to support compliance with the standard's requirements? Should all or a portion of the collected ACP revenues go back to the state from which they were collected? Should ACP revenues be used to mitigate any increased electricity costs to the consumer that may be associated with the CES?

- *Alternative compliance payments should be set at a reasonable level and proceeds should be returned to the state from which they were made.*

Should cost containment measures and other consumer price protections be included in a CES?

- *It is important to limit the cost impact of a CES to all consumers. Any federal CES program should include cost containment provisions. A low cost reliable supply of energy is essential to a strong national economy and to economic development. The full cost of a CES and its impact on consumers should be understood and considered before adoption. Any CES should have appropriate mechanism(s) such as ACP's, incentives, or cost caps as options to mitigate costs and to ensure the benefits are properly aligned with the costs.*

How much new transmission will be needed to meet a CES along the lines of the President's proposal and how should those transmission costs be allocated?

- *Further study is required to determine the level of transmission investment that may be required in order to implement the President's proposal. To the extent compliance with a CES requirement similar to the President's proposal requires the construction of long-line transmission facilities spanning utility systems*

and perhaps multiple regions, good policy calls for these costs to be borne either by the generating resources connected to these facilities, or by the customers choosing to access such generators. This approach is consistent with existing law, equitable and requires no new legislation to implement it. Broadly socializing the cost of new, long-line transmission facilities would mask the true cost of interconnecting new generating resources and skew decisions among these resources. This could result in the over-construction and underutilization of expensive high voltage transmission lines and in higher costs for consumers. This would frustrate the goal implicit in the President's proposal of enabling customers to choose among an array of generating options best suited to meet their needs while addressing clean energy goals.

Are there any technological impediments to the addition of significantly increased renewable electricity generation into the electrical grid?

- *Yes. There are physical limitations on the amount of renewable energy that may be added to the electrical grid, resulting from the fact that most renewable generation is intermittent (as is solar and wind energy), cannot generally be stored, and must be balanced by other resources that are traditionally powered. Even where full backstop generating resources are available, those resources can be expensive. Further, it is, and it remains a challenge to manage scheduling for intermittent generation and forecasting (both of load and intermittent generation) in a manner that is sufficiently accurate and timely to ensure a smooth transition from the renewable resource to the backstop. While a good deal of work is under way in the industry to manage these issues, complete solutions are not yet available.*

Question 6. Are there policies that should be considered to complement a CES?

To what extent does a CES contribute to the overall climate change policy of the United States, and would enactment of a CES warrant changes to other, relevant statutes?

- *It is essential that Congress address the lack of appropriate incentives for public power. Current federal policy seeks to reduce the cost disparity between conventional and renewable resources through the use of direct cash grants, known as Section 1603 grants, and tax incentives, such as the investment tax credit and the production tax credit. The Clean Renewable Energy Bonds (CREBs) program is not workable for large public power systems because of the restrictive cap on CREB's that Congress has imposed. Public power entities account for roughly 25% of the nation's total electricity customers but those*

customers are largely unable to access federal incentives to increase the deployment and reduce the cost of clean and renewable generation. To the extent that the incentives “gap” remains, public power compliance obligations under a CES should be adjusted downward.

Congress should amend the nuclear production tax credit to clarify its availability in the case of a public-private joint venture where a publicly-owned utility or electric cooperative enters into a joint venture arrangement with an investor-owned utility.

If a CES is enacted, it is important to address the current process for the siting of transmission and generation on federal lands. In order to meet a CES, new renewable generation sources and the necessary transmission to support it will have to be permitted and built. The current siting process on federal lands is unworkable. It is time consuming and expensive. In the west this problem is further exacerbated by the fact that in the west nearly half of the land is controlled by the federal government. Recent efforts to improve the siting process have not yielded results.

In order to reduce both the cost and the time needed to build new transmission lines, Congress should consider changes to existing federal statutes and requirements that currently make it more difficult, complicated, and expensive to build transmission lines to integrate renewables. Congress should consider establishing deadlines for agency actions.

LPPC supports additional federal siting authority for multi-state transmission facilities in order to overcome the limited ability of individual states to address multi-state transmission projects designed to meet regional needs. LPPC is confident that such new authority can be undertaken in consultation with existing state siting authorities in a manner that capitalizes on existing expertise and ensures that states and local concerns are addressed in the siting process. Further, LPPC is hopeful that legislation may be crafted to address significant obstacles to the development of interstate renewable transmission projects posed by federal land management agencies that could substantially improve the timing and coordination of approvals sought in connection with transmission projects that cross federal lands.

Will the enactment of a CES be sufficient for each technology to overcome its individual challenges?

- *Aggressive federal incentives and substantial public and private RD&D spending are needed to stimulate the technology development necessary to achieve significant greenhouse gas reductions. The longer the delay in funding these technology developments, the longer and costlier it will be to meet emissions*

reduction goals. For maximum benefit, funding and incentives should begin before a CES is enacted.

Federal financial incentives to promote development and deployment of zero- or low-emitting generation technologies and energy efficiency must be made available to all types of electric utilities. Tax-exempt utilities should be able to receive incentives for renewable energy, energy efficiency, nuclear and advanced coal comparable to those available to taxable entities.

Federal legislation is needed to address potential barriers to widespread deployment of CCS. Most importantly, legislation should establish a workable regulatory framework for geological sequestration of CO₂ and address key liability issues arising from CO₂ transport and sequestration.

New federal and state policies also are needed to address potential regulatory and technical barriers to broad deployment of certain renewable energy technologies (e.g., ocean and tidal power, geothermal); furthermore, federal and state policies should support timely development of natural gas.

Are there specific supporting policy options that should be considered for coal, nuclear, natural gas, renewable energy, and efficiency?

- *It is essential that Congress address the lack of appropriate incentives for public power. Current federal policy seeks to reduce the cost disparity between conventional and renewable resources through the use of direct cash grants, known as Section 1603 grants, and tax incentives, such as the investment tax credit and the production tax credit. The Clean Renewable Energy Bonds (CREBs) program is not workable for large public power systems because of the restrictive cap on CREB's that Congress has imposed. Public power entities account for roughly 25% of the nation's total electricity customers. But those customers are largely unable to access federal incentives to increase deployment and reduce the cost of clean and renewable generation. To the extent that the incentives "gap" remains, public power compliance obligations under a CES should be adjusted downward. Congress should amend the nuclear production tax credit to clarify its availability in the case of a public-private joint venture where a publicly-owned utility or electric cooperative enters into a joint venture arrangement with an investor-owned utility.*

If there is an additional topic related to the design of a mandatory market based program that you would like to address, please submit comments on this form.

- *The LPPC believe that policy to address greenhouse gases should be set by Congress, not EPA. LPPC opposes the regulation of stationary source GHG emissions under the existing Clean Air Act.*