



The Large Public Power Council

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**Statement of the
Large Public Power Council
for the Record of the Hearing Titled
“Energy Tax Incentives Driving the Green Job Economy”
House Committee on Ways and Means**

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The Large Public Power Council (“LPPC”) is pleased to submit its testimony to the Ways and Means Committee in connection with its hearing titled “Energy Tax Incentives Driving the Green Job Economy” to provide the Committee with the LPPC’s views concerning federal tax law incentives for the provision of electricity from renewable and other resources.

The Large Public Power Council is an organization representing 23 of the largest locally owned and operated not-for-profit electric systems in the nation. LPPC members are located in 10 states and Puerto Rico and provide electric service to most of the 45 million people served by public power. Over 75,000 megawatts of generation capacity is owned and operated by LPPC members.

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. In fact, LPPC’s members have identified over 6600MW in renewable projects currently under consideration, including technologies ranging from wind and solar to hydropower, biomass and landfill gas. These renewable projects are estimated to create some 6800 direct jobs as well as related manufacturing and construction jobs over the lives of the projects. At the present time, renewable generation is often more expensive than conventional sources. Congress has recognized the importance of federal assistance to help deploy large-scale renewable projects in the most beneficial and affordable way to electric customers, and has utilized the tax code to incentivize construction of renewable projects.

However, despite facing many of the same financial challenges and renewable mandates as private utilities, public power and cooperatives are not eligible for the most beneficial federal incentives, such as the production tax credit and the Section 1603 Treasury grant program. Recognizing this disadvantage to public power and cooperative customers and to encourage the further development of renewable energy projects, the Congress created the Clean Energy Renewable Bonds (“CREBs”) program. Unfortunately, the restrictive cap on CREBs and lack of available comparable incentives (such as the Section 1603 grant program) make the economics of these renewable projects too expensive for direct public power ownership and force these entities to obtain renewable resources by dealing with a third party owner who is able to take advantage of the federal incentive programs even though 100% of the benefits are not passed along to the public power system. In fact, data collected by the LPPC shows that over 90% of public power’s projects are being done this way, even though the federal subsidy is not fully passed through to public power and the operational benefits of owning and operating the facilities are not gained. Using third party owners results in a large portion of the federal subsidies being lost and delays getting jobs on the ground. It takes months of administrative and legal time to review and negotiate the third party contracts. Cutting out this intermediary would significantly expedite the process of constructing renewable projects in the United States.

In short, it is critical that Congress provide all sectors of the utility industry with the tools needed so that it can help to solve the nation’s energy problems while creating thousands of jobs. As described in detail below, the LPPC urges Congress to either (1) extend the Section 1603 grant program for renewable energy facilities created as part of the American Recovery and Reinvestment Act of 2009 (“ARRA”) and make this program available to public power systems, or (2) remove the restrictive cap on the CREBs program.

Tax credits and grants for electric generation

Congress has enacted several tax credits for different types of electric generation facilities. First, as indicated above, the Internal Revenue Code provides a 1.5 cents per kilowatt production tax credit (indexed for inflation) for qualifying renewable energy facilities and a 1.8 cents per kilowatt production tax credit (indexed for inflation) for qualifying advanced nuclear facilities. As part of ARRA, Congress recognized that tax credit programs can have significant limitations, particularly during difficult economic periods. Under new the Section 1603 of ARRA, Congress provided owners of renewable energy projects with the ability to obtain a 30 percent grant from the Department of Energy in lieu of a tax credit. As both the Treasury and Energy Departments testified, this program has been enormously successful. Unfortunately, this grant program was made inapplicable to public power systems and electric cooperatives. The combination of the success of the Section 1603 grant program and, before that, the production tax credit, and the limitations of the CREBs program have resulted in public power systems overwhelmingly turning to structures in which a private entity owns the renewable energy project and sells the electricity to the public power system under a power purchase agreement (“PPA”). There are many difficulties with these PPA structures. As much as 1/3 of the federal subsidy dollars are retained by the private intermediary and, as a result, are not used for the renewable project receiving the grant. Thus, for every dollar of federal assistance provided, only 70 cents is used for that renewable energy facility. The remainder of the grant is not certain to be reinvested in renewable projects in the United States. The inefficiency of the PPA structure would be eliminated if public power and cooperatives had direct access to the Section 1603 grant program and US tax payer dollars and jobs would stay within the United States.

Clean Renewable Energy Bonds

For many years, the Internal Revenue Code has provided a production tax credit for renewable energy projects with no corresponding provision to assist public power systems and cooperatives in building renewable generation. Congress sought to provide public power and cooperatives with an incentive that is relatively comparable to the production tax credit. As part of the Energy Policy Act of 2005 (the “Energy Policy Act”), Congress provided for the issuance of clean renewable energy bonds which were intended to provide qualifying borrowers with low-rate loans to finance their renewable energy projects.

The Large Public Power Council is very appreciative of the incremental improvements to the program that have improved the marketability of the CREBs, however, there remain restrictions on CREBs that substantially reduce its effectiveness. Most significantly, the CREBs program has a volume cap that ensures that only a small fraction of the qualifying projects of public power systems benefit from CREBs. In contrast, there are no volume limitations on the projects that are eligible for the production tax credit or the Section 1603 grant program. Introduction of a cap to the program creates both financial and planning challenges. From a financial standpoint, the cap has restricted the ability for utilities to finance an entire project with CREBs. In fact, the volume cap is set at such a restrictive level that a single public power system could use the entire cap. To date, the CREBs volume cap provided by the Congress has been dramatically oversubscribed by public power, even with many systems requesting only a small fraction of their renewable project requirements and many systems not bothering to apply at all. The fact is

that an allocation of CREBs authority that is not large enough to finance an entire project does not compare financially to a privately owned PPA structure. Both publicly available data and LPPC's survey of its members plans bear this out: public power systems have almost always used PPA structures because, despite the inefficiencies and other problems, these structures are the lowest cost method of financing renewable energy projects.

The recently enacted changes to the CREBs program to provide direct payments to CREBs issuers similar to the Build America Bonds program (in lieu of tax credits to the investors) is a very beneficial change. With this change, the marketability challenges have been alleviated and the restrictive cap is the primary issue reducing the effectiveness of the program.

LPPC's recommendations

LPPC strongly believes that the electric industry needs to be provided with the appropriate tools to increase the use of renewable resources, to help solve the problems associated with climate change, and to create new, "green" jobs that are located in the United States. We believe that the following steps should be taken: extend the sunset date on the Section 1603 grant program and extend the grant program to apply to public power and cooperatives; or eliminate the volume cap on CREBs. If the CREBs program is expanded in this manner, we suggest that governmental entities other than public power systems be made ineligible for the program given that those entities have the ability to issue qualified energy conservation bonds. In contrast to other governmental entities, public power systems have a legal obligation to serve their customers and, as a result, must plan for the needs of their customers and invest in the new facilities to meet those needs. Direct access to the federal grant program and uncapping CREBs would enable LPPC's members to develop and own their own renewable energy projects, help combat global climate change, create more reliability of the system and reduce the costs to consumers by maximizing the value of the grants. This would create thousands of additional US jobs getting them on the ground quicker and in a more efficient manner.

Other energy resources

As important to the Nation's future as renewable energy is, it is also clear that other types of electric generation will be needed to meet the demand for electricity, while doing so in a more environmentally sensitive manner than has been used in the past. At least for the foreseeable future, these other technologies will be more costly than more traditional forms of electric generation. Congress recognized these factors in enacting tax credits for clean coal, IGCC, and advanced nuclear generation. As with the Section 1603 grants for renewable energy projects, these tax credits are not available to public power and cooperatives. Public power systems are involved in most of the nuclear projects currently moving forward and face the same increased financial risk as the private companies. Ensuring that all sectors of the industry are incented and aided equally is critical.