

**Testimony of  
The Large Public Power Council (LPPC)  
Large Public Power Council  
300 N. Washington Street  
Suite 405  
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**Hearing before the Committee on Finance  
United States Senate**

**“Climate Change Legislation: Tax Considerations”  
June 16, 2009**

Dear Chairman Baucus and Ranking Member Grassley:

The Large Public Power Council (LPPC) appreciates the opportunity to provide written comments for the record in conjunction with the climate change hearing held by the Senate Finance Committee (the “Committee”) on June 16, 2009. We thank the Committee for studying tax considerations as a result of climate change legislation.

LPPC is an association of the nation’s largest municipal and state-owned electric utilities. LPPC members are not-for-profit entities located in states and territories representing every region of the country. Our commitment is to provide highly reliable, low cost and environmentally responsible electric service to our citizen-customers

LPPC members are actively pursuing renewable and low carbon electricity alternatives in an effort to reduce our carbon footprint, and comply with current and future policies designed to reduce greenhouse gas emissions. In many cases, these alternative sources of electricity generation are more expensive or present more financial risk than traditional sources. Over the past few years, Congress has enacted into law various tax incentives and financing programs that are assisting electric utilities transition to a low carbon economy while limiting the financial impact of this transition on our customers, the ratepayers. However, because public power is not-for-profit, LPPC’s members are not able to access some of the most valuable incentives and programs despite facing the same challenges of added expense and financial risk in the deployment of these technologies

The LPPC respectfully urges the Committee to expand these energy tax incentives (described below), in order to maximize public power’s contribution of deploying more low and no carbon emission electricity generation, while at the same time reducing the financial impact to our ratepayers.

**Production and Investment Tax Credits**

Since passage, the renewable production tax credit (PTC) and the investment tax credit (ITC) have helped incentivize deployment of renewable generation. Earlier this year, the Committee recognized that, as a result of the current economic difficulties, there was no longer a sufficient market for tax credits. Accordingly, as part of the American Recovery and Reinvestment Act (ARRA), Congress modified the PTC and the ITC to allow these tax credits to be converted into federal grants equal to 30 percent of a project's costs (the Treasury "grant program"). **LPPC member companies were extremely disappointed that public power and cooperatives were specifically prohibited from participating in this new grant program.**

As a result of its exclusion from the grant program, public power has often been forced to purchase renewable electricity from privately owned projects rather than build its own. While this structure can result in somewhat lower cost than with no incentives, in most cases only a portion of the value of the federal incentive is realized by the public power entity and its customers. In addition, there is added risk of price volatility as original contracts expire. Direct access to this program would allow LPPC members to pursue more clean renewable projects and moderate the rate impact to all of its customers.

LPPC members have identified numerous projects that could be accelerated or expanded if public power was eligible for the Treasury grant program. The projects identified include a variety of technologies, from solar and wind to geothermal and biomass, and constitute investments of billions of dollars.

### **Financial Incentives and Clean Renewable Energy Bonds (CREBs)**

As part of the ARRA, Congress provided state and local governments, including public power, with a number of new or expanded financing tools to address the disruption in the tax-exempt bond markets. Initial reports from our member companies are quite positive. These new financing tools, particularly "Build America Bonds," appear to be succeeding in providing public power and other State and local governments with an incremental cost reduction in financing, although the level of incentive for renewable energy projects still does not compete with the cost savings of a 30% grant.

Unfortunately, the same result has not been achieved with Clean Renewable Energy Bonds ("CREBs"). As the Committee is well-aware, CREBs were created in an effort to provide public power and cooperatives with an incentive, roughly comparable to PTCs and ITCs, for renewable energy projects. Unfortunately, CREBs have always been subjected to an arbitrary limit or "cap", which severely limits the ability of public power to utilize them.

Although ARRA increased public power's CREBs allocation to \$800 million, this cap amount continues to be inadequate to incentivize development of renewable energy generation. For example, the construction cost of one large solar-thermal plant would exceed the entire public power allotment (\$800 million). Also consider that \$800 million will build only about 400MW of wind generation. That is less than half the size of a single nuclear or coal plant. In its current form and under the current market conditions, CREBs do not provide a sufficient incentive to allow LPPC members to construct and operate renewable projects at a price that is in our stakeholder's best interest. The solution is to remove the cap altogether to allow public power to

accelerate its own development of renewable energy generation. As with PTCs and ITCs, the continued lack of a robust market for tax credits further reduces the value of CREBs as an incentive.

### **Nuclear Production Tax Credit**

A number of LPPC members that currently own nuclear generation are pursuing new investments in nuclear power as a way to mitigate against price volatility, pollutant emissions and prospective limitations on greenhouse gas emissions. These utilities face identical hurdles to project completion as private investors but do not receive the same incentives provided by the Energy Policy Act of 2005 to promote new nuclear investment.

The tax status of the public power entities prevents them from utilizing the nuclear Production Tax Credit (PTC) authorized in EAct of 2005, in its current form. The inability of a municipal owner to take advantage of the incentives available to a taxable nuclear plant owner, greatly changes the economic analysis for a municipal system. Because the PTCs are allocated *pro rata* to a facility's owners, the tax credits allocated for the share owned by municipal power providers not only can't be utilized by the municipal partner, but will go unused altogether. This result could be resolved by authorizing and directing the Treasury Department to allocate the municipal partner's share of the PTCs to the taxable entity, up to the taxable entity's ownership stake in the facility. This assumes that there will be more demand for nuclear PTCs than are authorized. Under the current Treasury NOPR, Treasury will assign each qualifying facility a pro-rata share of the authorized credits. Applications for 30,000MW of new nuclear generation capacity have been submitted to the NRC. More applications are expected, indicating that there will likely be more demand for these credits than are currently authorized.

Late in the 110<sup>th</sup> Congress, Chairman Baucus and Ranking Member Grassley released a draft of an energy tax bill which included changes to the nuclear Production Tax Credit (PTC) that would allow public power entities to take advantage of the PTC when it partners in a nuclear facility with a tax paying entity. LPPC continues to seek these changes to current law. Importantly, last year this provision in the Baucus-Grassley proposal was deemed by CBO to have no effect on the federal budget.

### **Conclusion**

The LPPC appreciates the Committee's work on these issues. As climate legislation is considered, we urge you to 1.) Allow public power and cooperatives to access the 30% grant program; 2.) remove the cap on the CREBs program; and 3.) clarify the nuclear production tax credit to allow full utilization by facilities built in partnerships between public and investor owned utilities. These actions would give public power systems access to the level of incentives that allow reductions in carbon emission without adversely affecting their commercial and residential customers.