LPPC
LARGE PUBLIC POWER COUNCIL

LPPC 2018 TAX LEGISLATIVE PRIORITIES

In the United States, there are more than 2,000 communities that own and operate public power systems serving about 14 percent of all customers. The Large Public Power Council ("LPPC") represents 26 of the nation's largest publicly-owned electric utilities in 12 states including Washington, California, Arizona, Colorado, Texas, Oklahoma, Nebraska, Georgia, Florida, North and South Carolina, New York as well as the Commonwealth of Puerto Rico. These municipal electric utilities support tax policies that allow public power systems to build infrastructure, invest in communities and provide reliable service at affordable rates to their 30 million customers. LPPC is seeking to ensure that its member companies can continue to provide reliable electricity to homes and businesses at competitive prices.

As part of the legislative and regulatory agenda, LPPC supports efforts to:

1) PRESERVE CURRENT LAW'S TAX-EXEMPT FINANCING FOR PUBLIC POWER

In the last decade, public power utilities have invested more than $100 billion in power generation, transmission, distribution, reliability, demand control, security, efficiency and emissions control – which are all needed to deliver safe, affordable and reliable electricity. Since the creation of the Federal income tax in 1913, interest on government purpose municipal bonds has been excluded from gross income. Proposals to restrict, cap, means-test or eliminate the longstanding Federal income tax exemption for municipal bonds will limit investment in critical infrastructure and increase the price that public power customers such as small businesses and low- and fixed-income households pay for electricity. Accordingly, LPPC strongly supports preserving current-law treatment of tax-exempt financing.

2) MODERNIZE TAX-EXEMPT FINANCING PROVISIONS

There is a longstanding and comprehensive Federal legislative and regulatory system in place to regulate the tax-exempt bond market. Federal tax laws significantly limit: the entities that can issue tax-exempt bonds, the purpose for which the bonds may be issued, the use of the financed facilities, and the investment of bond proceeds. Unfortunately, many of these rules are particularly restrictive for public power utilities and have not kept up with changes in the electric industry. LPPC urges Congress and Treasury to review such restrictions and take appropriate action to update and enhance the benefit and efficiency of tax- exempt financing.[1]

[1] See LPPC letter to IRS (dated June 15, 2018) requesting inclusion of modifications to Section 141 regulations related to public power facilities' private activity bond tests in the 2018-2019 Department of Treasury Priority Guidance Plan.

3) REINSTATE ADVANCE REFUNDING BONDS

As part of the *Tax Cuts and Jobs Act of 2018*, Congress ended the ability of tax-exempt bond issuers to refinance (refund) outstanding debt more than 90 days before its call date, including to take advantage of lower interest rates in the municipal bond market. Advance refunding bonds allow public power utilities to refinance existing debt with the greatest flexibility, resulting in substantial reductions in borrowing costs. LPPC supports the bipartisan efforts of policymakers to fully reinstate advance refunding bonds.[2]

4) INCLUDE ENERGY PROJECTS AS PART OF INFRASTRUCTURE LEGISLATION

Rebuilding the nation's infrastructure remains a bipartisan priority. LPPC urges Congress and the Administration to include publicly and privately-owned energy projects, including upgrades to the nation's power grid and transportation electrification proposals, as part of any future infrastructure legislation.

5) ENSURE COMPARABLE ENERGY TAX INCENTIVES ARE AVAILABLE TO PUBLIC POWER

For many years, there has been strong support for increased energy production from renewable and clean energy resources. Congress has consistently provided taxable utilities with tax incentives for such investments (i.e., the Section 45 production tax credit and Section 48 investment tax credit). LPPC is seeking comparable incentives for its non-taxable members. House and Senate tax-writing committees are exploring ways to replace the multitude of energy tax provisions with a simplified system of technology neutral tax credit incentives. If Congress adopts a system of technology neutral tax incentives, public power entities should be afforded comparable tax benefits to those provided to taxable utilities. For example, LPPC would support the adoption of a direct pay bond with a sliding scale of subsidy levels that would correspond to the sliding scale of tax credits provided to privately-owned energy companies. Another option would be to provide a mechanism that would allow public power entities to monetize tax benefits for renewable electricity. LPPC commits to work with policymakers to develop appropriate comparable energy tax incentives for public power.

6) PROVIDE COMPLEMENTARY FINANCING OPTIONS

Build American Bonds ("BABs") are taxable bonds on which the Federal government reimburses the issuer for a portion of the interest paid. Although BABs were effective in helping to finance public infrastructure projects at lower borrowing costs, the ability to issue BABs expired in 2010. In addition, the subsidy payments on existing bonds have been impacted by across-the-board budget cuts – sequestration – that went into effect on March 1, 2013. LPPC urges repealing the current sequestration of existing BABs and supports the reinstatement of BABs (or other direct payment bond programs) to support infrastructure investment without exposure to future sequestration.

[2] H.R. 5003, introduced by Reps. Hultgren (R-IL) and Ruppersberger (D-MD