

**Testimony of
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**Before the
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES**

**Hearing to Examine the Evolution of Energy Infrastructure in the United States and How
Lessons Learned from the Past Can Inform Future Opportunities**

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Introduction

Chairman Murkowski, Ranking Member Cantwell and Members of the Committee, thank you for the opportunity to testify in support of a concerted national effort to enhance our nation's infrastructure. My name is John Di Stasio, President of the Large Public Power Council (LPPC). I appreciate your focus on the nation's energy infrastructure and the crucial role that it plays. The points I will emphasize today are these:

- The nation's electric infrastructure is robust, but opportunities for modernization and the need to address emerging risks call for new investment.
- Public power utilities play an important role in the nation's electric grid and in the regions and communities that they serve.
- There is a role for the federal government in partnering with non-federal utilities, including those in public power. Federal funding should be focused on advancing goals and outcomes, and allowing for regional, state and local solutions.
- Federal siting and licensing processes can be improved.
- Certain barriers to state and municipal utility participation in an electric infrastructure initiative should be reduced or eliminated.
- Investment incentives should empower utilities to make prudent investment decisions based on their experience.
- The role played by federally-owned utilities should be respected.

Testimony

1. The Nation's Electric Infrastructure Is Robust, But Opportunities for Modernization and The Need to Address Emerging Risks Call for New Investment.

The electric power sector comprises an enormous and critical component of the nation's economic infrastructure. It serves as a building block for every sector of the nation's economy. The component parts of the electric sector include distribution, transmission and generation subsectors. The distribution sector is generally subject to state and locally-based oversight and the transmission and generation sectors subject to a combination of federal, state and local regulation.

The electric grid is reliable by any measure but faces significant challenges. While average nationwide annual load has been relatively flat and has even declined in some regions, the need for new transmission infrastructure investment is being driven by a changing generation resource mix, reflecting the retirement and anticipated retirement of some large coal and nuclear fueled generating stations and a shift to renewable, natural gas-fired and distributed energy resources.

In its 2017 Long-Term Reliability Assessment, the North American Electric Reliability Corporation (NERC) reported that a total of 6,200 miles of transmission additions is currently planned in order to meet these evolving needs, with 1,100 circuit miles of transmission currently under construction.¹ NERC further reports that while much of this investment is in regions that have experienced substantial growth in renewable generation, 78% of the investment is attributable to reliability needs and 13% of it specifically to the integration of variable renewable generation.² By rough order of magnitude, these plans represent an incremental investment in the grid of well over \$20 billion annually over the next several years.³

In addition to investment in large-scale transmission projects, the industry is investing substantially in "smart grid" technologies aimed at optimizing grid utilization. These investments incorporate a range of technologies that facilitate such things as: (1) improved information to increase customer energy choices and more efficient energy use (e.g. smart meters, smart thermostats and home and mobile energy displays); (2) equipment enhancing grid situational awareness; (3) equipment enhancing the integration of distributed energy resources; (4) Investment in transportation electrification; and (5) investment in cybersecurity.

2. Public Power Utilities Play an Important Role in the Nation's Electric Grid and in the Communities They Serve.

Public power utilities are a large, integrated component of the nation's electric grid. LPPC represents 26 of the nation's largest public power systems, which provide power to over 30 million people in 13 states. These utilities are owned by and accountable to the state and municipal governments to whose communities, citizens and businesses they provide service. Together, LPPC member utilities own more than 71,000 megawatts of generation capacity powered by natural gas, nuclear, coal, hydroelectric, wind, solar and other renewable energy sources. LPPC members own and operate roughly 90% of non-federal, public agency owned transmission in the United States.

LPPC members are also members of the American Public Power Association (APPA), the umbrella organization which represents 2,011 public power utilities, providing electricity to 49 million people in every state but Hawaii. LPPC members are the larger members of this community, owning the bulk of public power's transmission and generating assets. Nationwide, public power entities own 10% of the nation's electric generating fleet, 10% of its transmission and 15% of the electric distribution grid. These systems are an integral, reliable and economical part of the nation's energy grid.

The hallmark of all public power entities is their commitment to public service and the communities they serve. These are community-owned enterprises whose only mission is to provide service to their cities, states and communities. Public power utilities employ 93,000

¹ See: http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_12132017_Final.pdf, p. 32-22.

² *Id.*

³ See http://www.eei.org/issuesandpolicy/transmission/Documents/bar_Transmission_Investment.pdf.

people and return, on average, 5.6% of their operating revenues to their communities through payments, fund transfers or reduced fees for service.⁴

3. There Is a Role for The Federal Government in Partnering with Non-Federal Utilities, Including Those in Public Power.

LPPC strongly supports a role for the federal government in facilitating grid modernization and resilience. There is merit in the proposals for partnerships between the government and non-federal entities, provided that these partnerships include public power utilities. Over the last decade, public power utilities have invested more than \$100 billion in power distribution, transmission, and generation equipment needed to support reliability, affordability, environmental stewardship and economic development in the regions and communities that we serve.

My own experience directly speaks to the value of these partnerships. When I was the CEO of Sacramento Municipal Utility District (SMUD), SMUD implemented a \$127.5 million grant from the Department of Energy (DOE) and added \$150 million in matching funds to implement grid modernization in 2011-2013. This investment enabled us to improve reliability, resilience, cyber security, improve energy usage and consumption patterns dramatically, while integrating emerging technologies. It was truly an effort to transform our distribution grid from electron delivery to an interoperable platform. The experience is a model for a federal municipal partnership that we can continue to use successfully.

SMUD's experience underscores that federal partnerships aimed at increasing infrastructure development must include publicly owned and privately- owned entities. Community-owned utilities are an integral, reliable and technically forward-looking part of the electric grid, and every bit as capable of leveraging federal funds as are private entities, if some of the barriers to investment describe below are addressed.

4. Clearing Away Barriers to Infrastructure Investment.

It is important to address three barriers to government investment in electric infrastructure investment based upon our experience. The first and second, related to siting authority for facilities on federal lands and hydroelectric licensing – are common to public and private utilities alike. The third is unique to financing arrangements employed by the public power utility community for which I speak.

a. Federal Authority Over Electric Transmission Siting Can Be Improved

Larger, long-line transmission facilities linking significant markets with remote sources of generation will often cross several states and involve federal lands, thus implicating siting authority of multiple states, some localities and federal agencies. Coordination among these varied authorities can difficult, expensive and time-consuming.

⁴ See: <https://www.publicpower.org/public-power/stats-and-facts>

As to relevant federal agencies, previous administrations have made well-intentioned efforts to improve their coordination; however, the process remains complicated, lengthy and often focused on individual agency objectives, as opposed to the overarching project objectives. Federal and state agency coordination is often lacking and conducted in a serial fashion adding significant time and cost barriers to any project. We fully support the necessary review at all jurisdictional levels to determine public purpose, economic and environmental impact. With that said, efforts to streamline these processes would remove significant project risk and cost. We appreciate your focus on this important aspect of infrastructure development.

b. The Hydroelectric Licensing Process Can Be Improved

Hydropower is a remarkably economical, renewable and carbon free resource, and yet the licensing process governing the development of new facilities and the relicensing of existing plants is enormously time-consuming, expensive, and inefficient. This process is lengthy and costly. My own experience while at SMUD was that a 12-year relicensing process for our hydroelectric facilities was typical, if not a bit better, than the relicensing time lines experienced by others. The licensing process typically involves several federal and state resource agencies, and often these agencies appear indifferent to the societal benefits of provided by hydropower.

With all due respect for the missions of each of these agencies, I believe we can do better in managing their input, and the resulting process at FERC, given the large economic and environmental stakes associated with the retention and addition of hydropower resources. For this reason, I support initiatives such as those advanced by this Committee to reform this process.

c. Financing Has Been a Barrier

There are two potential obstacles to community-owned utility participation in a federal infrastructure initiative, both related to the financing tools employed by the public power community, that we ask for the Committee to work with colleagues to address: that comparable incentives be considered for the public power community, and secondly, reform of Internal Revenue Service (IRS) regulations that may stand in the way of municipal participation in federal/non-federal partnerships.

On the first point, since public power utilities are not subject to federal taxation and rely upon tax exempt municipal bonds for their larger investments, it is critical that any federal incentives in support of infrastructure provide a mechanism, such as direct pay bonds, refundable tax credits or grants that can also be accessed by non-tax paying entities. These federal incentives can significantly accelerate, or leverage infrastructure investments already planned or contemplated.

Our experience with the American Recovery and Reinvestment Act funding was mixed. The “Build America Bonds” (BABS) were a very good mechanism to provide additional financial assistance to State and local governments and broaden the investor pool, but they were subject to sequestration after the fact, significantly lessening the benefit and creating concern for the use of this type of “direct payment” bond in the future. The DOE Smart Grid grants were put to good use by SMUD, as well as many public and private utilities across the country. As currently written, incentives offered in the form of tax credits are not accessible to public power

without engaging a tax paying counter party, again creating inefficiencies that significantly lessen the benefit that accrues directly to consumers, and in some cases, limits the size of the investment.

Second, many of the IRS private use restrictions have not been updated since the 1986 and may need to be modified to facilitate certain public private partnerships and to enable public power to operate effectively in the current industry environment. IRS regulations restrict the use of funds derived from tax-exempt financing to projects that are devoted to public, not private, purposes. The application of these regulations is complicated in connection with electric grid facilities that can serve private and public purposes.

5. Experience Suggests that Infrastructure Investment Objectives Should Focus on Outcomes

As Congress may consider policies to spur investment in the grid, I urge policy-makers to avoid prescriptive solutions, recognizing that the electric industry performs best when asked to meet broad objectives, thus empowering the industry to determine how best to meet public policy goals based on regional differences, existing infrastructure and state policy objectives. Put another way, the industry responds best when directed to address "the what" and not "the how."

This approach is relevant to two issues that may arise in connection with federal support for infrastructure investment. The first involves federal support for grid modernization. Any funds that are made available steer clear of prescriptive solutions. Broad objectives that come to mind are efficiency in energy usage, grid resilience/reliability and cost reduction. More specific directives would thwart broader goals by preventing utilities the flexibility to achieve national objectives.

Closely related are efforts to improve grid resilience. This topic has been in the headlines, in substantial part due to legitimate interest in strengthening the grid in response to recent disasters. These efforts have also attracted attention due to DOE's Notice of Proposed Rulemaking in Docket No. RM18-1. In that docket, DOE proposed that FERC establish a funding mechanism aimed at supporting electric generation with 90-day fuel supply, a category that is effectively limited to coal and nuclear resources. The effort drew fire for the attention it narrowly focused on specific generating resources and was recently rejected.

While the DOE NOPR launched a productive conversation regarding system resilience, its emphasis on a single solution would have foreclosed discussion of the range of resources and techniques that support grid resilience. These attributes can be exhibited by a variety of generating resources. Federal policy should be performance-based and technology-neutral, permitting a variety of investment choices meeting objective goals. I urge the Committee to keep this lesson in mind as it considers various ways to target infrastructure investment.

6. State and Locally-Based Solutions and Objectives Must Be Respected.

As support for investment in nation's electric infrastructure is considered, I urge the Committee to be respectful of state and locally-based policy objectives, including varied environmental goals. We believe such deference is hard-wired into our federal system, and particularly important to preserve harmony in an environment in which we do not have national consensus on certain of these objectives. We can all agree that a reliable, resilient electric grid is a shared goal, but we obviously do not have consensus now on a variety of other policy goals, including those related to the environment. For this reason, LPPC urges Congress as it considers grid investments to allow states and local governments the space to accomplish additional policy objectives they consider important.

7. The Role Played by Federally-Owned Utilities Should be Respected.

Finally, LPPC strongly urges the Committee to reject proposals now circulating that call for the sale of transmission assets owned by federal Power Marketing Administrations (PMAs) to private entities. There are four PMAs in the nation, each of which provides critical service to members of the public power community, and none of which represents a drain on taxpayer resources. These entities are Bonneville Power Administration (BPA), Western Power Area Administration (WAPA), Southeastern Power Administration (SEPA) and Southwestern Power Administration (SWPA). Each are responsible for administering hydroelectric resources developed on federal waterways with the aim of serving local communities in their regions.

The PMAs are active and constructive participants in the power sector and serve a critical role in providing service to communities that need it. Federal law under which each of the PMAs operate require them to set rates at levels that ensure that the cost of all federal investment (plus interest) is recovered, and that taxpayers bear no cost responsibility for their operation. Rates collected by WAPA, SEPA and SWPA flow through the U.S. Treasury, and are designed never to result in funding shortfall. Though BPA funds are collected and spent directly by the PMA, the economic result is the same. For this reason, there is no argument that the PMAs are a burden on taxpayers.

I am aware that there are economic interests interested in "recycling" certain of the PMA assets to have the resources invested elsewhere. This would be a mistake. Selling the PMA assets would be a zero-sum game. The assets currently recover their full costs through rates, and no more. If there is some benefit associated with their sale, it would result in the purchasing entity charging more to generate a rate of return and likely eliminate the other economic and environmental objectives being achieved. The resulting economic harm would shift to the communities these assets were built to serve.

Conclusion

LPPC stands ready, based on its members' deep and diverse experience, to be a resource and partner to this Committee as Congress considers policies to advance federal and non-federal investment in infrastructure. We look forward to working with you to focus on the ways in which the government can work with public power as partners in improving the nation's electric infrastructure.