April 7, 2016

The Honorable Orrin Hatch
Chairman, Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member, Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Re: Correcting Deficiencies in IRC§45(j) Nuclear PTC

Dear Chairman Hatch and Ranking Member Wyden,

We are writing to urge you to address several issues associated with IRC §45(j), the nuclear production tax credit (PTC) established by the Energy Policy Act of 2005 (EPAct 2005). Specifically, we urge your support for a proposal offered by Senator Tim Scott that would ensure the nuclear PTC fully meets Congress' original intent.

The §45(j) credit was intended to offset the first-of-a-kind risk of the first 6,000 megawatts of new nuclear generating capacity built after 2005. It is a limited credit both in duration (the first eight years of operation) and extent (the first 6,000 megawatts of new nuclear generating capacity). Unlike several other energy-related tax credits, the nuclear PTC is not indexed for inflation. Senator Scott's proposal would **not** change any of these constraints.

Business conditions have changed significantly since the nuclear PTC was created over a decade ago. The United States experienced a major recession and, as a result, economic growth and growth in electricity demand has been lower than expected. Partly due to this, the pace of new nuclear plant construction is not as rapid as had been expected in 2005.

Nonetheless, four new nuclear reactors are currently under construction in Georgia and South Carolina – the first new reactors built in the United States since the 1970s. Additional projects, including the first of a new generation of small modular reactors, are moving through the licensing process at the Nuclear Regulatory Commission, and will be ready for commercial deployment in the first half of the next decade. Many of these projects are being built by (or would be built by) partnerships that include investor-owned companies, electric cooperatives and public power systems.

The new nuclear plants now being developed serve multiple national imperatives: they will provide needed baseload (24-by-7) electricity; create tens of thousands of new jobs during construction and operation of the plants and through the entire nuclear supply chain; and reduce the electric power industry's carbon emissions. They also set the stage for the additional nuclear plant construction that will be necessary in the 2020s and beyond to meet America's energy and environmental goals.

Congress can ensure that this job creation is sustained by addressing several unintended deficiencies with the nuclear production tax credit, thereby preserving Congress' original intent. Specifically, Senator Scott's proposal would:

1. Remove the requirement in the 2005 law that new nuclear plants must be placed in service by the end of 2020. This change would allow nuclear plants placed in service after the end of 2020 to qualify for the tax credit – until the 6,000-megawatts cap is reached.
2. Allow not-for-profit utilities to assign their allocation of credits to entities with tax obligations that are involved in the project. All of the "first movers" in the next generation of nuclear plants are joint ventures that include not-for-profit rural electric cooperatives and public power systems. These entities face the same risk as investor-owned companies and must be able to compete in the same markets. Under current law, the nuclear PTC is allocated to facilities on a pro-rata basis, then shared among the joint venture parties in those projects. Without the change proposed by Senator Scott, the tax credits assigned to publicly owned companies would be lost.

Until very recently, Americans enjoyed the benefits of a diverse portfolio of electricity sources, based on fuel and technology decisions made decades ago. This fuel and technology diversity is the bedrock strength of America's electric power supply system, but it is taken for granted and, as a result, undervalued. If current trends continue, that diversity is seriously at risk. As much as one-third of America's coal-fired generating capacity could be shut down in the next five years or so and the United States is increasingly dependent on natural gas for production of electricity. This could expose consumers of natural gas and electricity to price volatility and loss of reliability. In this environment, continued construction of new nuclear plants is a strategic national imperative.

We strongly support the proposal offered by Senator Tim Scott to clarify congressional intent regarding the application of the production tax credit for advanced nuclear power facilities and to provide certainty to projects under development. As the trade associations representing the companies working to meet the nation's environmental goals and its electric generating capacity needs affordably and reliably, we urge the Senate Finance Committee to enact Senator Scott's proposal as soon as possible.

Thank you for your consideration.

Sincerely,

The Edison Electric Institute
The Nuclear Energy Institute
The National Rural Electric Cooperative Association
The American Public Power Association
The Large Public Power Council