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Statement of the AMERICAN PUBLIC POWER ASSOCIATION (APPA) for the HOUSE WAYS AND MEANS COMMITTEE'S Hearing Entitled "Energy Tax Incentives Driving the Green Job Economy"

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The American Public Power Association (APPA) appreciates the opportunity to provide the following statement for the record for the House Ways and Means Committee's hearing on energy incentives. APPA represents the interests of more than 2,000 publicly-owned electric utility systems across the country, serving approximately 45 million Americans. APPA member utilities include state public power agencies and municipal electric utilities that serve some of the nation's largest cities. However, the vast majority of these publicly-owned electric utilities serve small and medium-sized communities in 49 states, all but Hawaii.

Overall, public power systems' primary purpose is to provide reliable, efficient service to their customers at the lowest possible cost, consistent with good environmental stewardship. Public power systems are locally created governmental institutions that address a basic community need: they operate on a not-for-profit basis to provide an essential public service, reliably and efficiently, at a reasonable price.

Since public power utilities operate on a not-for-profit basis and incur no federal income tax liability, traditional production tax credits otherwise available to for-profit utilities simply do not work—because there is no federal tax liability to offset with the credit. Yet the nearly 3,000 public power utilities and rural electric cooperatives (represented by the National Rural Electric Cooperative Association) collectively serve 25 percent of the nation's electricity customers. These utilities are often ideally situated in terms of both geography and size to integrate clean and renewable technologies into their systems.

The Clean Renewable Energy Bond (CREB) program was included as part of the tax title of the Energy Policy Act of 2005, which was signed into law in August 2005. The original program was extended twice and was modified in the Emergency Economic Stabilization Act of 2008 to make it more workable for public power and more attractive to institutional investors. The Emergency Economic Stabilization Act and the American Recovery and Reinvestment Act of 2009 provided for an additional $2.4 billion in CREB funding split equally between public power providers, rural electric cooperatives, and other governmental bodies. In March 2010, Congress passed another very useful modification to the CREB program by giving issuers of CREBs the option to issue the bonds as "direct-pay bonds" (similar to the structure of Build America Bonds).

In the last round of funding, $800 million was made available to public power utilities and the program was oversubscribed – much more funding was requested than was available. Public power utilities have billions of dollars in projects awaiting these incentives--with some even having the potential to use $800 million for a single project if given the opportunity.

Improvements to the Clean Renewable Energy Bond Program

<u>Elimination of the Cap</u>

Some larger public power utilities and consortia of smaller utilities are seeking to build large renewable power projects that cost hundreds of millions or even billions of dollars to construct. For these utilities, the incentive is not robust enough to apply for CREBs. They face a costly and complicated application process, uncertainty about the amount of allocation they will receive, and the likelihood that any amount they receive will only cover a very small fraction of funding necessary to finance their project.

Many of our members find that they can get a richer incentive by entering into a purchase power agreement with a private company and indirectly, and at a discount, receive the benefit of the production tax credit or the Section 1603 30% grant program authorized in the American Recovery and Reinvestment Act (ARRA). When this occurs, the federal government is spending less on financing new renewable energy generation, and is instead helping private developers profit.

If the cap on CREBs were lifted completely, our members would no longer have to go through the application process--eliminating a lengthy administrative process for both the applicants and the federal government. Public power utilities could apply for CREBs knowing that the entire project could be financed using one mechanism. In addition, the entire incentive from the federal government would be used directly for renewable energy financing—a better value for the government than a purchase power agreement.

<u>Direct-Pay Option</u>

In March 2010, Congress passed H.R. 2847, the Hiring Incentives to Restore Employment Act, which included a modification to the CREB program giving issuers of CREBs the option to issue the bonds as direct-pay bonds instead of tax credit bonds. This added flexibility will be extremely valuable to our members who currently hold CREBs and have had a difficult time issuing them as tax credit bonds in current market conditions. We urge Congress to continue to give this flexibility to issuers of CREBs should they eliminate or otherwise increase the volume cap in the future.

<u>“Other Government Entities”</u>

APPA supports making CREBs available to electric utilities only. Those in the category of “other government entities” are now able to finance a broad swath of renewable energy and energy efficiency programs using Qualified Energy Conservation Bonds (QECB) and we think that is a more appropriate funding program for non-utilities.

When the CREBs program was first envisioned, the intention of the program was to provide financing for renewable projects for non-profit utilities. Once the program was implemented it was clear that there was also a need to incentivize small-scale projects such as solar panels on government buildings. Given this situation, CREBs should be allocated only to utilities going forward. Any project eligible for CREBs is also eligible for QECBs and QECBs can be used for green projects beyond the scope of CREBs.

This modification would be especially important should the CREB program retain a cap. However without a cap, limiting the program to utilities could reduce the overall cost of the program.

1603 Grant Program

Another way to provide a true comparable incentive would be to expand the ARRA Section 1603 grant program. This program provides a 30% grant to renewable projects in lieu of the production tax credit. Public power utilities are not currently eligible to receive the grant directly. As mentioned above, some utilities are using purchase power agreements to indirectly access the grants. By allowing these utilities to access this program directly, the funds would be spent only on financing for renewables which would, again, result in a better value to the federal government.

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We seek the above changes to provide a truly comparable incentive for consumer-owned utilities through the CREB program. CREBs with no cap, a direct-pay option and an eligibility rule for utilities only would provide a real tool to our members to build utility-scale renewable generation while providing the most value per dollar to the federal government.