Minnesota Municipal Utilities Association

Federal Position Statements

2020

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About MMUA:
The Minnesota Municipal Utilities Association is a non-profit entity representing 124 electric, 170 water, and 33 gas utilities owned and operated by cities across the state. MMUA strives to be a recognized leader in advocacy, bringing value to municipal utilities and enhancing their position within the industry.

MMUA's mission is to unify, support and serve as a common voice for municipal utilities. Its core values: People, Safety, Advocacy, Teamwork, Communication, Creativity, Dedication, Integrity, and Environment. For more about MMUA, its mission and values, visit us online at www.mmua.org

Responding to Climate Change

Public power utilities recognize the threat posed by climate change and are taking steps to reduce greenhouse gas emissions and bring more renewables on line. Minnesota's electric utilities have been leaders in reducing greenhouse gas emissions.

Public power systems need flexibility in responding to climate change; there is no one-size-fits-all approach that will work in every system.

If Congress moves toward implementing a Clean Energy Standard (CES), we believe that the program would be much easier to administer if it applied to generators rather than retail sellers. A CES should provide sufficient transition time to allow utilities to plan, permit and build new generation resources; and existing clean energy resources should receive credit for early action.

There is no one-size-fits-all solution to the issues faced by the utility industry in dealing with climate issues. Minnesota 'Public Power' is moving forward using a variety of local resources.

Need

Public power utilities need flexibility to address climate-related issues while still being able to meet the needs of customers for reliable and affordable energy. Congress and federal agencies should not impose mandates and artificial timelines.

Background

Public power utilities recognize the threat climate change poses. For over a decade, utilities have been working hard to reduce their greenhouse gas emissions and responding to the increasing market demand for cleaner, renewable sources of energy. However, utilities also operate under an obligation to ensure safe, reliable, and affordable energy to their customers. There is no "one-size-fits-all" answer to the issues faced by the utility industry in dealing with climate issues. There is also no one timeline by which all utilities can guarantee being at a set level of renewable/carbon free/clean energy. Many factors play a role, including the size of the utility, the location of the utility, the availability of transmission.

A recent Midwest Independent System Operator (MISO) study indicates that there may be great challenges to overcome once utilities cumulatively get to about 40 percent renewables. And, most sources agree that the technology and infrastructure does not yet exist to allow everyone to have simultaneous dependable access to renewable energy. Fuel sources such as natural gas will be necessary in order to ensure the stability of service at peak times, during extreme weather events, etc. Widespread implementation of 100 percent renewable energy will remain an elusive goal until technology improves.

Still, public power utilities are doing their part to maximize efficiencies, increase the use of clean and/or renewable sources of energy, and reduce greenhouse gas emissions. Across the country, municipal utilities have decreased their carbon emissions by 33 percent over 2005 levels. Minnesota's electric utilities have done even better. Minnesota Pollution Control Agency data shows that the State's electric utility sector had, by 2016, already reduced CO_2 emissions 29 percent from 2005 levels, and reductions have continued. New renewable projects have continued to come on-line, and coal plant capacity factors have continued to decrease. Extrapolating the 2.6 percent average annual reduction puts total reductions at about 40 percent by 2020. The electric utility sector is no

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longer the leading source of CO_2 emissions in Minnesota.

And there is no sign that municipal utilities are letting up. For example, the Southern Minnesota Municipal Power Agency (SMMPA) and Rochester Public Utilities have both developed resource plans that will reduce carbon emissions by 90 percent by 2030.

Many factors play a role in the provision of renewable/carbon free energy, including the availability of transmission.

MMUA Position

Because of the work already being done by public power utilities both in Minnesota and across the nation, MMUA has several concerns with new House and Senate proposals to mandate things like a clean energy standard (CES) on all electric utilities. At this point, market forces are driving the industry to invest in renewables and to retire coal plants. It seems somewhat inappropriate to impose regulations that substitute themselves for these market forces that are already achieving or exceeding desired results.

Instead of imposing a federal CES on all retail sellers of electricity, MMUA believes a CES would be much easier to administer if it applied to generators. Using retail sales would unnecessarily require reporting from hundreds of small municipal utilities and rural electric cooperatives that typically have no generation facilities and no control over their generation mix.

Further, a longer transition time is needed to allow utilities to build or purchase both the necessary infrastructure and clean energy sources before requiring the purchase of clean energy credits. It takes at least five years, and often longer, to plan, permit, and construct new generating facilities, and transmission issues can take even longer to resolve. It doesn't make sense to impose additional costs on a utility that is working hard to decarbonize its generating fleet. Therefore, credit should be given for early action—existing clean energy facilities should receive clean energy credits for at least the five years prior to the date of implementation or to the in-service date if the facility has been in service less than five years. And, 2005 should be the baseline from which emission reduction goals and standards are measured.

Public power utilities are already responding to climate-related issues and are working hard to meet the demands of customers for increased use of renewable/clean/carbon-free energy while also ensuring the energy source is dependable and affordable. Congress and federal agencies should resist the urge to adopt artificial standards and deadlines and instead work with the utility industry to identify new technologies and strategies for further reducing greenhouse gas emissions from utilities and their consumers.

Comparable Incentives for Clean and Renewable Energy

Tax incentives to encourage investment in clean and renewable energy are not helpful to not-for-profit public power utilities.

Energy-related tax credits should be refundable and transferable to enable public power systems to make use of them. Direct grants in lieu of tax credits for non-for-profit utilities also work, but they should be exempt from sequestration.

By not offering comparable incentives to public power utilities and other tax-exempt energy-related entities, Congress is failing to reach a full market-wide approach to incentivizing investments in cleaner energy and renewable sources.

Need

Develop financial tools by which public power utilities can benefit in a comparable manner as taxable entities benefit from current tax incentives for investments in the production of cleaner energy, and the increased use of renewable sources. Examples of such tools include refundable tax credits, transferability, and non-capped Clean Renewable Energy Bonds.

Background

Congress routinely seeks to incentivize investments in the production of cleaner energy and the use of renewable sources. Sometimes this is done through direct federal grants, subsidized loans, and/or loan guarantees; however, the most significant incentives are usually provided through the federal tax code. These tax policies began decades ago. Business energy investment tax credits (ITCs) were enacted in 1978 and 1980 to stimulate the development of "alternative" energy sources, and they remain in effect today. In 1992, Congress created a production tax credit (PTC) for the production of energy from renewable resources, which also remains in effect today. Combined, ITCs and PTCs account for 58 percent of the federal energy-related tax-expenditure budget. According to the most recent Joint Committee on Taxation estimate, energy-related tax expenditures were worth $11 billion to project developers in 2019 alone.

Unfortunately, not-for-profit and non-taxed public power utilities cannot directly benefit from either an ITC or PTC. In fact, the tax code states specifically that no ITC will accrue to a government-owned project. Likewise, a public power utility cannot feasibly enter the sort of "partnership flip transaction" that electric cooperatives can use to indirectly access an ITC or PTC. Public power utilities can indirectly benefit from such credits by entering long-term power purchase agreements with taxable entities that can benefit from the credits. The transactional costs of such agreements, however, can be high. Additionally, only a portion of the value of the tax credit is generally eligible to be passed on to the purchaser, thus further muting the incentive effect.

There are examples in the existing tax code of efforts to accommodate tax-exempt entities to incentivize clean and renewable energy-related activities. However, the tax code also includes a variety of provisions which can make such accommodations difficult to apply to public power utilities and which can result in unintended consequences.

Over the last several decades, Congress has tried several methods of addressing these problems. In 1992, Congress authorized Renewable Energy

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Production Incentives (REPIs) for public power and cooperative utilities, which sought to provide direct payments comparable to a PTC earned by other entities including investor-owned utilities. However, during the 15 years during which REPI funds were appropriated, public power utilities and rural electric cooperatives qualified for $329 million in REPI payments, but Congress appropriated just $54 million. After 2009, Congress stopped appropriating funds for REPI entirely.

MMPA's Oak Glen Wind Farm is a 44-megawatt wind plant in Steele County. The project received a $25.4 million stimulus grant under Section 1603 of the American Recovery and Reinvestment Act, directly reducing the cost of providing renewable energy.

In the Energy Policy Act of 2005, Congress sought to provide an investment incentive for certain tax-exempt entities akin to an ITC by creating the Clean Renewable Energy Bond (CREB). Qualified CREB issuers included public power utilities, states and localities, and rural electric cooperatives. Interest paid on a CREB is taxable, but the CREB holder receives a tax credit. However, tax credit bonds are quite complex, and issuers had a difficult time finding willing buyers. As a result, in 2010, Congress modified CREBs (now called New CREBs) to allow issuers the option of receiving a direct payment from Treasury in lieu of providing bond holders a tax credit.

CREBs and New CREBs were hamstrung by an overall volume limit which was initially set at $800 million, but eventually increased to $2.4 billion. This limit was problematic in that allocating volume was time consuming and burdensome both for issuers and the Internal Revenue Service (IRS). The limit was also substantially lower than needed to meet demand. For example, in 2009, the IRS received 38 applications from public power utilities requesting a total of $1.45 billion in New CREB bond volume, but just $800 million of bond volume was available for public power. New CREBs issued as direct payment bonds were further handicapped by budget sequestration—across-the-board cuts applying to all mandatory spending, including payments to issuers of direct payments bonds. Finally, in 2017, Congress prohibited the issuance of any additional New CREBs as part of the Tax Cuts and Jobs Act.

By not offering comparable incentives to public power utilities and other tax-exempt energy related entities, Congress is failing to reach a full market-wide approach to incentivizing investments in cleaner energy and renewable sources.

MMUA Position

Direct grants and the improved use of some current tools are needed to create a full-market approach to energy related incentives. Energy related tax credits should be refundable and transferable. Transferability is already proving a critical lifeline to advanced nuclear power projects in Georgia and Idaho. Refundability as proposed under the House's new GREEN Act (Growing Renewable and Energy Efficiency Now Act) is another viable alternative. In the case of New CREBs, no volume cap should be established that is not also imposed on other incentives utilized by non-public power entities. And, direct payments used for energy incentives should not be subject to budget sequestration (a Senate proposal currently offers a model on how to accomplish this effort). Finally, MMUA strongly encourages lawmakers to enlist the American Public Power Association (APPA) and local public power utilities when drafting new proposals and refining existing efforts, to ensure that these proposals will work as intended.

Modernize Tax-Exempt Financing

Tax-exempt municipal bonds are the most powerful and effective tool for financing public investments in public infrastructure. To jump-start development of much-needed infrastructure, Congress should:

Repeal the ban on tax-exempt advance refunding of bonds; Simplify outdated private-use rules; Raise the bank-qualified exception cap to $30 million; End the sequestration of tax credit payments to Build America Bond issuers.

Despite massive investments, including $7 billion a year by Public Power, U.S. infrastructure spending is still lagging.

Need
To maximize the effectiveness of tax-exempt municipal bonds, Congress should enact comprehensive municipal bond modernization.

Background
Tax-exempt municipal bonds have been, and should remain, the most powerful and effective tool for financing public investments in public infrastructure. Congress should further incentivize infrastructure investments by improving this powerful financing tool with comprehensive municipal bond modernization legislation.

Over the next decade, state and local governments are on track to make more than $3 trillion in tax-exempt bond financed investments in roads, bridges, water systems, schools, hospitals, public power systems, and other key infrastructure. This follows the $2.3 trillion in such tax-exempt bond financed investments made in the previous 10 years. Public power utilities alone are making $7 billion a year in investments in their generation, transmission, and distribution systems using tax-exempt bonds.

Despite these massive investments, U.S. investment in infrastructure is still lagging and, as a result, lawmakers should consider new ways to encourage additional infrastructure investments by state and local government entities, including municipal utilities and municipal power agencies.

MMUA Position
To jump-start further development of much-needed infrastructure by public power agencies and local governments, Congress should:

• Repeal the ban on tax-exempt advance refunding of bonds. This ban has reduced the ability to lower costs by refinancing existing debt. HR 2772, introduced by Rep. Ruppersberger (D-MD) and Rep. Stivers (R-OH), contains provisions to reinstate advanced refunding of bonds.

• Revisit private-use rules created more than 30 years ago that are needlessly complex and punitively single out public power.

• Make it easier for more small counties, cities, and villages to sell their bonds to banks by increasing from $10 million to $30 million the cap for qualifying for the small issuer "bank-qualified" exception, a limit which has not been updated permanently since 1986.

• End the sequestration of tax credit payments to Build America Bond issuers.

Protect Mid-Band (6 GHz) Radio Spectrum

The mid-band spectrum, commonly referred to as the 6 GHz frequency, should not be made available to unlicensed users due to the unacceptable risk of interference to mission-critical electric utility communications.

The FCC needs to develop rules that protect the 6 GHz band to ensure the safety and reliability of essential communications that protect the integrity of the nation's utility grid.

The FCC needs to protect the 6 Ghz band to ensure access by utilities for control of far-flung utility infrastructure.

Need

Protection from interference in the use of mid-band 6 GHz Spectrum to protect mission-critical communications by utilities.

Background

The mid-band spectrum, commonly referred to as the 6 GHz frequency, spans approximately 1,200 MHz of frequency band from 5.9 GHz through 7.1 GHz. Many utility licensees moved into the 6 GHz band in the 1990s after being required by the FCC to leave the 2 GHz band, which was being reallocated for personal communication and mobile satellite services.

Utilities use the 6 GHz radio spectrum for communications with multiple substations, generation facilities, and office sites over a large geographical area. The ability to send large data and control signals over this spectrum ensures reliability, safety, effectiveness, and efficient operations of the electrical grid. As utilities install renewable generation facilities at multiple sites over large geographic locations to offset the loss of fossil-fueled units, reliable communications with those facilities is critical to reliability. In much of Minnesota, and presumably many other states, good sites for renewables development do not have reliable, if any, broadband access and the 6 GHz radio frequency is the only reliable means of constant real time communications. Continued development of renewables in remote locations will require expanded use of the 6 GHz spectrum. Reduction in the availability of this spectrum for utilities is counterproductive to expanded use of renewables, and the integration of renewable resources into the grid.

The attributes that make the 6 GHz band well-suited for critical utility communications also make it susceptible to interference. Until very recently, no spectrum sharing was allowed in the band. But with mounting pressure by large technology companies to open more bands of spectrum for

Utilities use the 6 GHz radio spectrum for communications with multiple substations, generation facilities, and office sites over a large geographical area.

unlicensed uses, and with new federal policies that direct the National Telecommunications and Information Administration (NTIA) and FCC to facilitate spectrum sharing where possible, electric utilities now face the real threat that spectrum sharing in the 6 GHz band will be allowed. Splitting of the 6 GHz spectrum will severely limit utilities' ability to effectively control and monitor renewable resources and will result in system instability, reduced reliability, decreased safety and reduced efficiency in renewable dispatch.

Further, there is no evidence that the FCC's proposed AFC (Automated Frequency Coordination) technology will perform as promised and prohibit interference. Moreover, there are no current reasonable alternative bands for utilities to migrate to if interference is not mitigated.

MMUA Position

MMUA opposes opening the 6 GHz band to unlicensed users due to the unacceptable risk of interference to mission-critical electric utility communications. The FCC needs to develop rules that protect the 6 GHz band to ensure access by utilities without any risk of interference by unlicensed users to ensure the safety and reliability of essential communications that protect the integrity of the grid.

Protecting the Interests of WAPA Customers

The Administration's proposals to sell off PMA transmission assets and require PMA power to be sold at market rates should be rejected.

Selling off PMA transmission assets would provide a small one-time infusion to a projected $4.8 trillion budget and lead to decades of higher transmission rates for dozens of small municipal utilities in western Minnesota.

Abandoning the long-standing policy of cost-based rates and moving to market-based rates would result in substantial rate increases for PMA customers.

There is no taxpayer subsidy of WAPA. Customers pay all the costs.

Background

The four federal power marketing administrations (PMAs) deliver reliable, cost-based hydroelectric power to various regions of the United States. Approximately 1,200 public power systems and rural electric cooperatives throughout the country buy low-cost, zero-emissions hydropower from the PMAs that market this power from the federal multi-purpose dams.

The Western Area Power Administration (WAPA) is the PMA that delivers power to a 15-state region of the central and western United States that also includes the western third of Minnesota. WAPA's 17,000-mile transmission system carries electricity from 55 hydropower plants operated by the Bureau of Reclamation, the U.S. Army Corps of Engineers and the International Boundary and Water Commission. Minnesota is served by WAPA's Upper Great Plains Region office, which provides electricity from the seven dams of the Pick-Sloan Missouri River Program established by Congress in 1944.

WAPA is critical to Minnesota municipal utilities, providing about one third of the wholesale power needs of 48 public power systems serving over 200,000 people in the western part of the state.

Gavins Point Dam near Yankton, South Dakota is one of seven Missouri River dams supplying hydropower to Minnesota.

The relationship between WAPA and most of the Minnesota municipal utilities it serves has been in place since the 1950s.

Unfortunately, the administration has repeatedly sought to disrupt this long-standing relationship, including via a fiscal year (FY) 2021 budget proposal.

Retain WAPA Transmission Assets

The Administration proposes privatizing the transmission assets of WAPA, along with those of the Southwestern Power Administration and the Bonneville Power Administration, as well as the Tennessee Valley Authority.

The one-time infusion of cash that the federal government might receive for selling off these publicly-owned transmission assets will not move the needle much in a $4.8 trillion budget, but the negative impact on the public and not-for-profit entities that rely on those assets will be felt for decades.

Many of these transmission assets have been in place for years and are substantially depreciated. A new owner, likely a for-profit transmission company, would seek to recover the full purchase price plus a rate of return in rates. The result will likely be sharp increases in transmission costs for

public agencies, small town municipal utilities, and rural electric co-ops. The modest one-time benefit from selling these assets is simply not worth the ongoing increased cost to not-for-profit entities across the country.

Many factors play a role in the provision of renewable/carbon free energy, including the availability of transmision.

Preserve Cost-based Rates

The administration estimates that the federal government could raise additional revenue by charging PMA customers market-based rates instead of the current cost-based rate structure. This proposal would violate current federal law in addition to upsetting the longstanding beneficial partnership between WAPA and its preference customers.

In accordance with federal law, PMA "cost-based" rates are set at the levels needed to recover the costs of the initial federal investment (plus interest) in the hydropower and transmission facilities. The PMAs annually review their rates to ensure full cost recovery. None of the costs are borne by taxpayers. If a deficit is projected, rates are adjusted to eliminate any deficit. Power rates also help to cover the costs of other activities authorized by these multipurpose dams such as navigation, flood control, water supply, environmental programs, and recreation. PMA power is generally low-cost in relation to other sources of electricity because hydropower is a renewable resource and most dams were constructed long ago, when material and labor costs were much lower than today.

WAPA and the other PMAs are a long-standing federal program that works. WAPA's cost-based rates cover the costs of operations, and there is no drain on the federal treasury. There is no reason to impose a cost increase on the cities, government agencies, and not-for-profit institutions that rely on WAPA power.

MMUA Position

MMUA urges Congress to reject proposals that would disrupt the stable, low-cost, and emission-free power that WAPA provides to so many Minnesota communities. For well over half a century there has been a successful partnership between federal power marketing administrations and the communities that receive a federal hydropower allocation, which has helped keep costs low for our customers. The Administration's proposals to sell off PMA transmission assets and require PMA power to be sold at market rates should be rejected.

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3131 Fernbrook Lane N., Suite 200, Plymouth, MN 55447
www.mmua.org