

Sponsors: Salt River Project; Orlando Utilities Commission; New York Association of Public Power
In Support of Congressional Efforts to Provide Public Power Utilities with Comparable Incentives to Energy-Related Tax Incentives

1 Since the 1970s, Congress has used the federal income tax to stimulate the development of alternative
2 energy sources, first with the creation of the investment tax credit and then later with the production tax
3 credit. Despite these incentives, it was not until 2011 before generation from these resources exceeded
4 100,000 gigawatt hours (GWh) annually and the value of these tax expenditures reached roughly \$2
5 billion annually. In the subsequent decade, generation from these resources has tripled to nearly 300,000
6 GWh and the value of these tax expenditures has increased to nearly \$11 billion annually. These tax
7 incentives have had far more effect on our nation’s generation portfolio than regulatory changes Congress
8 has sought to make over the last several decades.

9
10 However, with relatively few exceptions, tax-exempt entities cannot take advantage of these incentives,
11 including public power utilities and rural electric cooperatives that serve nearly 30 percent of the nation’s
12 electric utility customers. In most cases, this makes it economically unfeasible for a public power utility
13 to directly own such facilities: instead it must rely on a power purchase agreement with a third-party
14 generator that can take advantage of tax credits. As a result, the value of tax credits for most wind and
15 solar facilities accrues to public power utility customers only insofar as the seller of the output of such
16 facilities passes some percentage of it on in the form of reduced prices. Additionally, the utility loses
17 operational control and expertise it would gain from direct ownership. Omitting tax-exempt entities from
18 energy-related tax incentives makes it more costly for public power utilities to make investments in
19 renewable resources that will be needed to reduce greenhouse gas emissions to address climate change.
20 This is unfair and inefficient.

21
22 Over the years, Congress has sought to provide comparable incentives for alternative energy source
23 development by tax-exempt entities. These attempts include: (1) direct appropriations through the
24 Renewable Energy Production Incentives (REPI) program; (2) tax credit and direct payment Clean
25 Renewable Energy Bonds (CREBs) for the financing of qualified facilities; and (3) allowing the transfer
26 of certain energy-related tax credits to project partners. However, these alternatives have always been
27 hamstrung: Congress never fully funded REPI; the volume of CREBs allowed to be issued was severely
28 limited by the statute itself; and only limited types of energy-related tax credits can be transferred.

29
30 However, in recent years, policymakers have begun to understand the importance of tax policy in driving
31 energy and environmental policy and the folly of excluding tax-exempt entities and the 30 percent of

32 retail customers that they serve. As a result, it is becoming more common for legislative proposals to
33 accommodate tax-exempt entities. Oftentimes these proposals seek to improve upon past initiatives. For
34 example, S. 1288, the Clean Energy for America Act, would allow the issuance of tax credit and direct
35 payment bonds for qualified facilities with no volume restrictions. Likewise, H.R. 2704, the Renewable
36 Energy Transferability Act, would allow the transfer of the production and investment tax credits for all
37 types of qualifying facilities. Policymakers are also developing new approaches. A discussion draft of
38 the Growing Renewable Energy and Efficiency Now (GREEN) Act would make production and
39 investment tax credits directly refundable to project owners.

40

41 **NOW, THEREFORE, BE IT RESOLVED:** That the American Public Power Association (APPA)
42 believes if Congress is going to continue to use the tax code to drive federal energy and environmental
43 policy, it must provide comparable incentives to public power utilities that—because of their tax-exempt
44 status—cannot directly access many energy-related tax credits, such as the wind production tax credit
45 (PTC) and solar investment tax credit (ITC);

46

47 **BE IT FURTHER RESOLVED:** That APPA applauds lawmakers in Congress who are seeking to make
48 federal energy investment incentives fairer and more efficient by pursuing legislation that will allow tax-
49 exempt entities, including public power utilities, to benefit from energy-related tax incentives;

50

51 **BE IT FURTHER RESOLVED:** That APPA commits to working with members of Congress seeking to
52 improve upon past efforts, or seeking new approaches, to provide comparable incentives to energy-related
53 tax incentives; and

54

55 **BE IT FURTHER RESOLVED:** That APPA strongly encourages Congress, as it develops
56 comprehensive climate legislation, to ensure public power utilities are put on a level playing field for
57 making investments in renewable resources by providing them with comparable incentives for the PTC
58 and ITC.