The Honorable Richard Neal
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

The Honorable Charles Grassley
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Kevin Brady
Committee on Ways and Means
United States House of Representatives
1139 Longworth House Office Building
Washington D.C. 20515

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

July 15, 2019

Dear Chairmen Neal and Grassley and Ranking Members Brady and Wyden:

As Congress considers legislation to increase federal support for infrastructure investments, we support enacting properly structured legislation to again authorize issuance of direct payment municipal bonds. Given our past experience with Build America Bonds (BABs) and New Clean Renewable Energy Bonds (New CREBs), we believe that direct payment bonds could again be an important tool for achieving federal infrastructure investment goals. In particular, direct payment bonds could expand the scope of infrastructure investors, including pension funds and offshore investors. Direct payment bonds could also provide targeted investment incentives**.** *However, it is critical that Congress end current federal budget sequestration of direct payments to issuers. Failure to do so will needlessly hinder any newly authorized direct payment bonds.*

Direct payment bonds are government-purpose bonds whose interest is taxable to the bond holder, but for which the state or local government issuer receives a direct federal payment. In the past, this payment has been equal to a percentage of the interest paid to bond holders. Over the years, Congress has authorized the issuance of a variety of direct payment bonds, including BABs and New CREBs. We issued BABs and/or New CREBs or participated in projects financed with BABs and/or New CREBs.

Although the authority to issue direct payment bonds has since expired or been rescinded by Congress, direct payment bonds could again be a powerful supplement to traditional tax-exempt financing of infrastructure projects. For example, a taxable direct payment bond can be attractive to pension funds, foreign investors, and other tax insensitive investors wishing to invest in U.S. infrastructure. Also, where tax credits do not work to encourage investment decisions by tax-exempt entities, the credit rate for a direct payment bond can be adjusted to provide a comparable incentive to these entities.

Congress is again considering whether to allow states and localities to issue direct payment bonds. Unfortunately, enthusiasm for direct payment bonds from both issuers and purchasers has been dampened by sequestration of direct payments to issuers of previously issued direct payment bonds. Since 2013, $1.8 billion in payments to issuers of direct payment bond have been sequestered. The American Public Power Association estimates that under current law another $1.8 billion will be cut before sequestration is scheduled to end in 2027.

The decision to sequester these payments is based on the Office of Management and Budget's (OMB) interpretation of the Budget Control Act of 2011 (Pub. L. 112-25). OMB's interpretation contradicts earlier statements by the Treasury Department and congressional intent. It is also inconsistent with the treatment

of comparable direct payments resulting from the refundable portions of both the Earned Income Tax Credit and the Corporate Alternative Minimum Tax Credit.

These payment cuts hurt all direct payment bond issuers, who proceeded with infrastructure investments and issued direct payment bonds based on project economics that assumed full payment of direct payments to issuers. As a result, issuers have been forced to replace the $1.8 billion in payments they were initially promised – and will have to replace another estimated $1.8 billion if Congress does not act soon to remedy this situation. Public power utilities alone have lost $170 million in such payments since 2013.

Sequestration has also hurt bondholders' ability to rely on direct payments bonds as a long-term, stable investment. Again, while congressional and Treasury staff had said that direct payments would not be reduced, some issuers took an additional hedge against that risk, by including in their bond offerings provisions retaining the right to redeem newly issued bonds in case payments were reduced. Insofar as issuers redeemed bonds that were no longer cost-effective because of sequestration, bond holders have been forced find new investments. Since most investors purchase municipal bonds because they are looking for a long-term, stable investment, the unexpected redemption of these direct pay bonds has been counter-productive to investors' investment horizons.

Fortunately, most proposals for new direct payment bonds would exempt payments on newly issued bonds from sequestration. However, the continued sequestration of payments to existing direct payment bond issuers still will have a chilling effect on newly authorized direct payment bonds. Issuers rightfully questioning Congress' commitment to retaining the exemption from sequestration will likely insist upon the right to redeem newly issued bonds. In turn, investors seeking a long-term reliable investment will demand a higher interest rate by way of compensation for the threat of an early redemption.

Ironically, inclusion of such "extraordinary redemption" provisions will drive up the cost to the federal government of direct payment bond payments. Again, direct payments are generally set as a percentage of interest paid, and an extraordinary redemption clause drives up the interest rate demanded by investors. In fact, this increased cost to the federal government could easily equal or exceed the "savings" generated by sequestration.

In conclusion, we believe direct payments bonds can be a useful supplement to traditional tax-exempt financing, both by expanding the pool of likely investors and, if the payment rate is set appropriately, by providing an incentive comparable to tax credits to for-profit, taxable entities. However, previous direct payment bond issuers should never have been subject to sequestration, and those seeking to reinstate direct payment bonds must end current sequestration of these payments to ensure the success of future direct payment bonds.

We hope you will take this under advisement and will happily discuss further if you would like.

Sincerely,

American Municipal Power, Ohio Beaches Energy, Florida

Blooming Prairie Public Utilities, Minnesota

Blue Ridge Power Agency, Virginia

Bowling Green Municipal Utilities, Ohio

Bryan Municipal Utilities, Ohio

Carey Municipal Light & Power, Ohio

Chelan County Public Utility District, Washington

City of Acworth, Georgia

City of Adel, Georgia

City of Albany, Georgia

City of Barnesville, Georgia

City of Blakely, Georgia

City of Buford, Georgia

City of Cairo, Georgia

City of Calhoun, Georgia

City of Camilla, Georgia

City of Cartersville, Georgia

City of College Park, Georgia

City of Columbiana Electric Light Dept., Ohio

City of Commerce, Georgia

City of Covington, Georgia

City of Douglas, Georgia

City of Ellaville, Georgia

City of Elberton, Georgia

City of Fairburn, Georgia

City of Forsyth, Georgia

City of Fort Valley, Georgia

City of Grantville, Georgia

City of Grantville, Georgia

City of Griffin, Georgia

City of Hogansville, Georgia

City of Hubbard Light Department, Ohio

City of Jackson, Georgia

City of LaFayette, Georgia

City of LaGrange, Georgia

City of Lawrenceville, Georgia

City of Marietta, Georgia

City of Martinsville Electric Department, Virginia

City of Monroe, Georgia

City of Moultrie, Georgia

City of Newnan, Georgia

City of Norcross, Georgia

City of Palmetto, Georgia

City of Philippi Electric Department, Ohio

City of Radford Electric Department, Virginia

City of Salem Electric Department, Virginia

City of St. Marys Electric Department, Ohio

City of Sylvania, Georgia

City of Sylvester, Georgia

City of Thomaston, Georgia

City of Thomasville, Georgia

City of Washington, Georgia

City of West Point, Georgia

City Utilities of Springfield, Missouri

Cleveland Public Power, Ohio

Cleveland Utilities, Tennessee

Clyde Light & Power, Ohio

Colorado Association of Municipal Utilities

Colorado Springs Utilities, Colorado

CPS Energy, Texas

Crisp County Power Commission, Georgia

Cuyahoga Falls Electric Department, Ohio

Danville Utilities, Virginia

Deshler Municipal Utilities, Ohio

Douglas County Public Utility District, Washington

Dover Light & Power, Delaware

ElectriCities of North Carolina, Inc.

Fitzgerald Water, Light, and Bond, Georgia

Genoa Municipal Utilities, Ohio

Grant County Public Utility District, Washington

Hamilton Department of Electric, Ohio

Illinois Municipal Electric Department

Jackson Center Municipal Electric Dept., Ohio

Kaukauna Utilities, Wisconsin

Knoxville Utilities Board, Tennessee

Long Island Power Authority, New York

Los Angeles Dept. of Water and Power, California

Marietta Board of Lights & Water, Georgia

Michigan South Central Power Agency

Missouri Joint Municipal Electric Utility Commission

Missouri River Energy Services, Missouri

Modesto Irrigation District, California

Monroeville Municipal Light & Power, Ohio

Montpelier Municipal Utility, Ohio

Municipal Electric Authority of Georgia

Municipal Electric Systems of Oklahoma

Napoleon Light & Power, Ohio

New Martinsville Municipal Electric, West Virginia

North Carolina Eastern Municipal Power Agency

North Carolina Municipal Power Agency No. 1

Northern California Power Agency

Ohio Municipal Electric Association

Oklahoma Municipal Power Authority

Omaha Public Power District, NE

Orrville Utilities, Ohio

Painesville Municipal Electric, Ohio

Piqua Power System, Ohio

Seattle City Light, Washington

Shelby Division of Electric and Telecommunications, Ohio

Southern California Public Power Authority

Southern Minnesota Municipal Power Agency

Stowe Electric Department, Vermont

Tacoma Public Utilities, Washington

Town of Bedford Electric Department, Virginia

Town of Richlands, Virginia

Turlock Irrigation District, California

Village of Clinton Electric Department, Michigan

Village of New Bremen Utilities, Ohio

Village of Republic Utilities, Ohio

Village of Versailles Utilities, Ohio

Village of Wellington Utilities, Ohio

Washington Public Utility Districts Association

Western Minnesota Municipal Power Agency