



The American Public Power Association (APPA) represents the interests of more than 2,000 publicly-owned electric utilities across the country, serving approximately 45 million Americans, or 14 percent of the nation's electricity customers. APPA member utilities include state public power agencies and municipal electric utilities that serve some of the nation's largest cities, including Los Angeles, Seattle, Austin and Orlando. However, the vast majority of these publicly-owned electric utilities serve small and medium-sized communities in 49 states, all but Hawai'i. In fact, 70 percent of our members are located in cities with populations of 10,000 people or less.

Public power utilities are operated by local governments to provide communities with reliable, responsive, not-for-profit electric service. Public power utilities are directly accountable to the people they serve through local elected or appointed officials, and their primary purpose is to provide reliable, efficient service to their local customers at the lowest possible cost. Like hospitals, public schools, police and fire departments, and publicly-owned water and waste water utilities, public power systems are locally-created governmental institutions that address a basic community need: they operate to provide an essential public service, reliably and efficiently, at a reasonable, not-for-profit price.

Following are APPA's priority issues for the new administration and the 111th Congress:

Climate Change. The issue of climate change is one of the highest priorities of APPA. In June of 2006, the APPA Board of Directors established a CEO-level Climate Change Task Force to help the Association evaluate and ultimately develop policy recommendations on legislative proposals to reduce GHG emissions and to provide practical advice to APPA members on programs and activities they can pursue to reduce GHG emissions in their own communities.

In 2007, APPA's membership approved a policy that expresses support for congressional action to reduce greenhouse gas emissions in order to address climate change and sets out a series of principles to guide congressional consideration of related proposals. The policy asserts that any federal program to address climate change must:

- Be economy wide;
- Consider the financial impact on consumers;
- Protect the ability of U.S. industries to compete in world markets and must carefully consider the international competitive impact on U.S. jobs;
- Allow credit for early actions taken to reduce greenhouse gas emissions;
- Maintain reliability, protect national security and avoid over-reliance on any single fuel by recognizing the importance to the nation of preserving a diverse mix of electricity generation fuels, including coal, nuclear, natural gas, and all renewable energy sources including hydro;
- Place an enhanced and immediate economy-wide focus on energy efficiency for all energy uses;



- Ensure that tax-based or other incentives for the development and deployment of renewable and clean energy facilities and programs are provided on a comparable basis to all electric industry sectors including public power;
- Recognize and address regional differences that could impact the fairness and effectiveness of any program designed to address greenhouse gas emissions;
- Include additional and expanded federal support for research, development and deployment of cost-effective technologies to reduce, capture, transform, transport or sequester greenhouse gases from emission sources throughout the national economy; and
- Ensure that any generation portfolio requirements allow all low-emission technologies.

In 2008, APPA's members refined the above policy to urge that Congress consider carefully all potential solutions for reducing greenhouse gas emissions to address global climate change and, if it chooses to enact a federal cap and trade regime, to ensure that any such program would:

- Achieve the goals established by Congress with the least possible adverse economic impact on consumers of energy and the U.S. economy. Thus, such a program must include a safety valve (which sets a maximum allowance price) or other stringent cost control mechanisms that mitigate price volatility and protect consumers.
- Minimize the initial auction amount to no more than five percent of total allowances to allow time for efficient markets to develop, to protect consumers and ensure continuing reliable operation of the electric system. In addition, the structure and operation of such an auction should be as transparent, simple and straightforward as possible.
- Require the federal government to conduct regular reviews of allocations and auctioning of allowances in order to ensure they do not create windfall profits. This will be a particular problem in deregulated and RTO-run wholesale markets where market-pricing mechanisms could allow generators and other market participants to reap additional windfall profits.
- Provide for effective market oversight, including strong enforcement and penalties, to prevent market manipulation so that costs to consumers are minimized, market participants retain confidence in the market, and that produces the desired environmental benefits in the most efficient and cost-effective manner.
- Allow for all net proceeds generated from auctioning of allowances by federal or state governments to be used only for targeted R&D, energy efficiency, and mitigation of cost impacts on consumers.
- Be designed from the outset to slow, stop and then reverse U.S. greenhouse emissions over a reasonable period of time. This period should be sufficient to maintain the reliability of electricity to consumers and to develop low carbon generation technologies and implement them on a commercial basis. At the outset, the program should provide for allowances sufficient to maintain reliability and to allow time to adapt. Generating units of 25 MW or less should be exempted from mandatory participation in the program.
- Create an integrated national program for carbon reporting and trading that is equitable to all states.
- Establish January 1, 1994 as the appropriate date beyond which credit for early action is allowed.
- Not unduly harm the U.S. economy. Regular reviews of any cap-and-trade program should be conducted to determine if changes to the program are warranted to prevent the transfer



of wealth and jobs to other countries that have not implemented effective greenhouse gas reduction programs.

- Allow for broad availability of greenhouse gas offsets for projects that achieve emission reductions. Qualified offsets should be additional, permanent, independently verified, enforceable, and measurable. In addition, offsets should be available from an expansive set of sectors and activities without arbitrary geographic or quantity limits on the use of qualified offsets to meet cap requirements.
- Provide allowances, offsets or other accommodations to the electric utility sector to protect it from intentional or unintentional fuel switching between economic sectors. These allowances and offsets must accurately reflect the overall reduction in greenhouse gas emissions.

Address Dysfunctional Wholesale Electricity Markets. Federal electricity policies should promote effective competition supplemented by effective regulation in wholesale electricity markets as a means of benefiting and protecting consumers, and should do so in ways that recognize the regional diversity of those markets. In many regions of the country, principally those regions where the wholesale market is administered by a regional transmission organization (RTO) or independent system operator (ISO), these goals are not being met and consumers are being harmed as a result. Problems in these RTO/ISO-run markets include artificially high spot market and other prices; the exercise of market power by generators; the virtual inability to secure long-term power supply contracts at reasonable prices; the lack of sufficient investments in new generation and transmission facilities; high RTO administrative costs; and the lack of RTO accountability to stakeholders or consumers.

The Federal Energy Regulatory Commission (FERC) has the authority and the obligation under the Federal Power Act to address these problems, both directly and through regulation of the RTOs and their market design. However, FERC has failed to do so, citing their belief that these markets are functioning well and benefiting consumers. FERC makes this assertion without providing any supporting data or other information, as documented in a recent report by the Government Accountability Office.

When considering appointments to FERC, therefore, APPA urges the new administration to choose commissioners who are personally committed to restoring the primacy of consumer protection to the agency's mission as required by the Federal Power Act. Successfully addressing global climate change, energy independence, and related issues will likely mean increases in costs for electricity. It is crucial that we not add artificial and unnecessary costs due to lax regulatory oversight and an unwillingness to acknowledge and address dysfunctional market conditions.

Underscoring the need for FERC to address dysfunctional wholesale electricity markets is pending legislative action to mandate reductions in greenhouse gas (GHG) emissions and to establish a federal renewable portfolio standard for electricity generation. While we realize that achieving the goals sought by these initiatives will raise costs, taking these actions in markets that are not functioning properly will only worsen the cost burden unnecessarily and further damage the economy. Therefore, these issues should be considered jointly as the Administration and Congress address this issue in 2009.



Support of Programs to Promote Environmental Stewardship. APPA also continues to support important federal initiatives and programs that will enable public power to reduce greenhouse gas emissions and address other environmental challenges. Specifically, we support:

- Reauthorizing and increasing the cap for the Clean Renewable Energy Bond (CREB) program for investment in renewable resources by public power utilities;
- Funding the Department of Energy's Renewable Energy Production Incentive Program (REPI) at a substantially higher level than has been requested in recent years;
- Ensuring the inclusion of incentives for public power systems for production from other clean resources, including carbon capture and storage projects for coal-fired generation and new nuclear generation projects, whenever incentives are made available to for-profit entities.
- Funding programs to promote the commercially viable production of Flexible Fuel Plug-in Hybrid Electric Vehicles (PHEVs) that will reduce GHG emissions by utilizing off-peak electricity as a transportation fuel.
- Increasing funding for rehabilitation of federal hydropower assets at the U.S. Army Corps of Engineers and the Bureau of Reclamation to prevent unnecessary use of fossil-fuel generation to replace loss of hydropower due to neglected maintenance of these facilities.

Enhance the Electric Transmission Grid. Historically, the challenges to expanding the transmission grid have been obtaining rights-of way, environmental and land use concerns about where the transmission lines are sited, and the sheer complexity of state and local siting procedures. While these challenges still exist, one major positive development has occurred in recent years – the enactment of federal “back-stop” siting authority granted to FERC for certain new interstate transmission lines. This authority was granted in the Energy Policy Act of 2005 (EPAct05) in Section 1221, which added new Section 216 to the Federal Power Act (FPA), but has been challenged in court and by some in Congress who seek its repeal. APPA has intervened on behalf of FERC in court and opposed congressional attempts to repeal this authority, and will continue to do so in the future.

If new electric generation resources, especially renewable resources, are going to be brought to market to meet increasing demand and to address climate-related concerns, substantial new transmission facilities are required. Both the public and Congress must understand the need to balance the concerns of states, landowners and other groups opposing specific transmission projects against the larger public good. As some in the industry have quipped, “if you are going to love renewables, you can’t hate transmission.”

In addition, APPA’s members have long sought the ability to jointly own transmission facilities with investor-owned utilities and rural electric cooperatives where feasible and appropriate, but have largely been rebuffed except in certain limited cases. Also, an onerous tax provision was included in the 1986 omnibus tax policy legislation that prohibits public power electric utilities from using tax-exempt financing (their traditional method of raising capital as units of local government) that would result in use by private entities of more than \$15 million in value on a given transmission project. Given the high capital costs of transmission projects and their use by



multiple entities, this restriction has stifled public power investment in new facilities – both on a stand-alone basis and through joint ownership arrangements -- that could have widespread benefits. Thus, we believe this “private use” restriction should be repealed.

Railroad Competition Is Necessary to Ensure Reliable, Low-Cost Delivery of Coal and other Commodities. Electric utilities must rely on rail transportation to move the vast majority of coal from the mine mouth to the power plant. While domestic coal continues to be a relatively low-cost fuel, its economic benefits for power production are being threatened by the increasingly lower quality and higher costs of rail service resulting in part from railroad industry consolidation and the absence of effective regulatory oversight.

Many electric utilities have no choice but to receive coal shipments from only one rail carrier and are thus subject to monopolistic behavior. As a result, these rail customers do not have the ability to negotiate the terms of their rail transportation in an open and competitive market. These rail customers are charged higher rail rates while those rail customers with competitive options are given competitively-priced rates. Over the past several years, rail customers have also experienced numerous service and reliability problems.

Legislative remedies are required to enhance competitive transportation and improve the rail customer protection mechanisms and enforcement implemented by the Surface Transportation Board (STB). Absent congressional action, electric utilities and the communities they serve will continue to be subject to unnecessarily higher rates and poorer service for coal transportation. In the 110th Congress, APPA supported H.R. 2125, S. 953, H.R. 1650 and S. 772, which would encourage structural and policy changes to promote competitive transportation alternatives for rail customers, improvements in the rail customer protection mechanisms that are implemented by the STB, and remove the antitrust exemptions for the railroads. We will support enactment of similar legislation in the 111th Congress.

APPA has opposed enactment of legislation that would grant a federal investment tax credit for the railroads without these reforms. While the railroads will argue that any rail customer legislation is an attempt at re-regulation, the goal of rail customers is not re-regulation, but rather a national rail policy that will ensure reliable rail transportation and reasonable rates for all rail customers — particularly for those rail customers without access to competitive transportation alternatives.

Other Issues of Interest to APPA:

Support the Ability of Public Power Systems to Offer Advanced Communications Services. Approximately 70 percent of public power systems in the U.S. are located in cities with less than 10,000 residents. Many of these public power systems were established due to the failure of private utilities to provide electrical service to smaller communities or to provide such service at a reasonable price. In these cases, communities formed public power electric utilities to do for themselves what they viewed to be of critical importance to their quality of life and future economic prosperity. Today, public power systems are meeting the new demands of their communities by providing broadband services where no other providers will do so and facilitating competition where service is inadequate or too expensive. However, in a number of



states, units of local government, including publicly-owned electric utilities, have been restricted, or even prohibited, from providing these services. Large, incumbent cable television and telephone companies have successfully pushed legislation in 14 states that prohibit or limit public power systems from entry into the communications and cable television markets.

Units of local government – and in particular communities that also own their own electric utility -- can play a positive role in enhancing economic development and job creation in their communities by providing communications services, particularly high-bandwidth broadband services. APPA supported legislation (H.R. 3281 and S. 1853) in the 110th Congress that would protect the ability of municipalities to provide advanced communications services, and will seek enactment of similar legislation in the 111th Congress. APPA opposes any federal legislation that would prohibit or restrict the ability of public power systems to provide advanced communications services or require public power systems to get the permission of incumbent communications companies to provide such services.

Support the Federal Power Marketing Administrations (PMAs). The federal Power Marketing Administrations (PMAs) provide millions of Americans served by public power and rural cooperative electric systems with low-cost hydroelectric power produced at federal dams operated by the U.S. Army Corps of Engineers and the Bureau of Reclamation. The PMAs market federally-generated hydropower, with a right of first refusal granted to not-for-profit entities including public power systems and rural electric cooperatives at rates set to cover all of the costs of generating and transmitting the electricity as well as repayment *with interest* of the federal investment in these hydropower projects.

Because the PMAs are part of the U.S. electricity market and because they are federal entities, congressional and administrative action has in the last 10 years primarily addressed increased federal oversight of PMA facilities and potential ways in which the U.S. Treasury could receive additional funding from the PMAs and their customers. Most recently, proposals advanced in the federal budget have inappropriately sought to raise rates for the power marketed by the PMAs. APPA opposes these proposals.

Support Narrow Federal Authority over Electric Utilities to Enhance Cyber Security. The electric utility industry, including APPA, as part of its obligation to serve the public, takes its responsibility to maintain a strong electricity grid very seriously. That is why the industry worked together to establish a consensus mandatory reliability regime in the Energy Policy Act of 2005 (EPA05). Partnering with Congress, FERC and the industry self-regulatory reliability organization's, the North American Electric Reliability Corporation (NERC), industry experts are engaged in an ongoing effort to establish and enforce comprehensive reliability standards to strengthen the grid.

Utilities employ various strategies to protect the integrity of their computerized systems, but cyber-security threats still exist. As the grid and, unfortunately, threats to its integrity, evolve, the industry recognizes that new authority is necessary to deal with some emergency cyber threats. Cyber threats are a relatively new issue, but can occur and cause disruptions in the flow of power and other problems if malicious actors send computer signals to the electronic controls used in some electric generation and transmission infrastructure. Therefore, APPA supports carefully



crafted and specific legislation as the basis to deal with the discrete issue of cyber-security emergencies in order to avoid disrupting the mandatory reliability regime that Congress has already required and the electric utility industry has implemented, with the oversight of the Federal Energy Regulatory Commission (FERC).

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