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Municipal Tax Issues

The generation, transmission, and distribution of electricity are highly capital-intensive undertakings. Tax-exempt bonds remain the most important tool available to Missouri River Energy Services (MRES), acting through its financing entity Western Minnesota Municipal Power Agency (WMMPA), and its member communities to finance necessary electricity infrastructure projects – and a vital tool in building our nation's infrastructure. However, MRES and its member communities have on-going concerns regarding continued access to tax-exempt financing, reinstating the ability for advance refunding of bonds, protecting Build America Bond payments from sequestration, and providing comparable incentives for public power investments in renewable and emerging technologies.

Continued Access to Tax-Exempt Financing is Critical

As units of state and local government, MRES and its municipal electric utility members have historically relied on tax-exempt bonds as the primary means of financing new generation and transmission. For example, if tax-exempt financing were not available, the cost to MRES to finance the Red Rock Hydroelectric Project would have been approximately $8 million more per year, or $240 million total over a 30-year bond. Tax-exempt bonds are essential to all state and local governmental entities and to every citizen that depends on the infrastructure these bonds finance. Roads and bridges, water and wastewater plants, schools and hospitals, police and fire stations – all of these public infrastructure projects are built with tax-exempt bonds. In fact, according to The Brookings Institution, 75 percent of all infrastructure in the United States is built with tax-exempt bonds. Yet, proposals to eliminate or restrict tax-exempt municipal bonds are still made on a regular basis.

Eliminating tax-exempt bonds or reducing their attractiveness for investment will raise borrowing costs for MRES and for all levels of government; it would also delay, scale back, or even shelve many critical projects. Additionally, these bonds finance countless projects that produce quality jobs and put in place infrastructure necessary for sustained economic recovery and growth. Restrictions on tax-exempt financing might temporarily improve the federal balance sheet, but would harm the national and local economy and damage deficit-reduction efforts in the long term.

MRES urges the delegation to oppose any effort to restrict tax-exempt financing or to reduce the exemption from federal income taxes of interest on tax-exempt bonds.

Reinstating Tax-Exempt Advance Refunding Bonds Reduces Costs

Again, tax-exempt bonds remain the most important tool available to MRES and its member communities to finance necessary electricity infrastructure projects. While we were pleased in 2017 that Congress chose to keep the tax-exempt status of municipal bonds, the Tax Cut and Jobs Act regrettably eliminated the ability to issue an advance refunding (or refinancing) of municipal bonds. We were disappointed this important tool for lowering costs for financing essential infrastructure was ended. The ability to advance refund outstanding bonds provides substantial savings to taxpayers throughout the country, allowing state and local governments to refinance outstanding bonds at lower interest rates and thereby realize considerable savings on debt service. The elimination of the option for an advance refunding further strains tight budgets for state and local governments.

In 2016, the advance refunding of more than $120 billion of municipal securities saved taxpayers at least $3 billion. In the five years preceding the passage of the Tax Cut and Jobs Act, state and local governments issued $392 billion in advance refunding bonds, generating at least $12 billion in net present value savings. The issuance of advance refunding bonds to take advantage of market conditions would reduce the cost of financing worthy infrastructure projects.

For example, in October 2019, due to historically low interest rates, MRES was able to complete a taxable advance refunding of approximately $285 million of tax-exempt debt, saving MRES members approximately $52 million over the next 26 years. If MRES had been able to do a tax-exempt advance refunding, it is estimated that the savings would have been an additional $50 million, or approximately $2 million more for each of the next 26 years. These savings impact ratepayers, Main Street, and the local economy.

Recently, Rep. David Kustoff (R-TN) introduced H.R. 1255, a bill to amend the Internal Revenue Code of 1986 to reinstate advance refunding of bonds. MRES and its members urge the House delegation to support this bill. Additionally, MRES and its members urge the Senate to introduce and support a companion bill.

MRES and its members urge support of H.R. 1255, which restores the ability to issue advance refunding of municipal bonds.

Protecting Build America Bond Payments from Sequestration

MRES, through WMMPA, issued Build America Bonds (BABs) in 2010. When WMMPA issued the BABs, it did so relying on the Government's promise to pay. Now, that promise has been breached. If BABs payments from the Department of Treasury were eliminated completely, it would cost WMMPA $2.2 million per year, or over $50 million over the term of outstanding bonds. WMMPA has endured an average reduction of over seven percent in BABs payments since 2013. The Government's breach has **cost MRES approximately $1.8 million to date** and would **cost MRES approximately $4.4 million** through the term of the BABs, assuming no additional sequestration increase. BABs were not intended to be subject to budget sequestration and there should be modifications to protect BAB payments from sequestration.

MRES and its members urge Congressional support to protect BAB payments from sequestration and to restore the Government's promise to make the payments.

Protecting Direct Pay for Municipal Electric Utilities

Direct pay, also known as "elective pay," enables tax-exempt entities like municipal electric utilities to qualify for federal clean energy tax credits that are then received as direct cash payments from the IRS. While federal tax credits for clean energy have been around for decades, they were largely unavailable to tax-exempt, not-for-profit entities like municipal utilities. Direct pay now places municipal electric utilities on the same level as for-profit utilities and energy developers.

Historically, tax-exempt entities, including municipal electric utilities, could not directly benefit from energy tax credits for facilities they owned. Instead, municipal electric utilities have been required to enter into agreements in order to receive any benefits from traditional tax credits. Often this entails entering long-term agreements with taxable entities that can claim these credits. The benefit of elective payment has been that municipal electric utilities may claim these credits when the municipal utility directly owns eligible assets. For MRES specifically, the ability to use direct pay for the investment tax credit equates to about $9 million. These savings in turn benefit the ratepayers.

MRES and its members urge Congressional support to protect elective pay.