

---

*Submitted electronically via [www.regulations.gov](http://www.regulations.gov)*

November 28, 2022

Jacqueline Ponti-Lazaruk  
Chief Innovation Officer  
USDA Rural Development

Re: Request for Information and Notice of Public Listening Sessions (RBS–22– NONE–0025)

Dear Ms. Ponti-Lazaruk:

The National Rural Electric Cooperative Association (NRECA) appreciates the opportunity to comment on the Rural Utilities Service's (RUS) request for information regarding implementation of the Inflation Reduction Act of 2022 (IRA).<sup>1</sup> NRECA is the national trade association representing nearly 900 local electric cooperatives and other rural electric utilities. America's electric cooperatives are owned by the people they serve and comprise a unique sector of the electric industry. From suburbs to remote farming communities, electric cooperatives power 1 in 8 people and serve as engines of economic development for 42 million Americans across 56 percent of the nation's landscape. Electric cooperatives own and maintain 2.7 million miles or 42 percent of the nation's electric distribution lines.

Electric cooperatives operate at cost and without a profit motive. NRECA's member cooperatives include 63 generation and transmission (G&T) cooperatives and 832 distribution cooperatives. G&T cooperatives are owned by the distribution cooperatives that they serve. The G&Ts generate, purchase, and transmit power to distribution cooperatives that then provide it to the end of line cooperative consumer-members. Collectively, G&Ts generate and transmit power to nearly 80 percent of the distribution cooperatives in the nation. The remaining distribution cooperatives receive power directly from other generation sources within the electric utility sector. Both distribution and G&T cooperatives share a commitment to serve their members by providing safe, reliable, and affordable electric service.

Electric cooperatives are accelerating energy innovation and powering a brighter future. For example, electric cooperatives lowered carbon emissions by 17% between 2005 and 2021, the equivalent of taking nearly 6.7 million cars off the road. All electric cooperatives share a commitment to serve their members by providing reliable and affordable electric service. This commitment is not without challenges. Electric cooperatives serve 92 percent of the nation's 395 persistent poverty counties, and the sparsely populated and primarily residential communities powered by electric cooperatives are often the most expensive and hardest to serve areas of our country.

---

<sup>1</sup> See Inflation Reduction Act Listening Session, 87 Fed. Reg. 65188 (Oct. 28, 2022).

Electric cooperatives are poised to play a major role in transforming and reducing emissions in the transportation, industrial, agricultural, and other sectors through increased electrification. Electrifying other sectors of the economy, however, will require a three-fold expansion of the transmission grid and up to 170% more electricity supply by 2050, according to the National Academies of Sciences.<sup>2</sup> The increasing role of electrification will place more demands on the electric grid and generation portfolio and measures to enhance grid reliability are essential to maximize emission reductions and keep costs affordable. The IRA provides unprecedented funding for electric cooperatives. Our near century of partnership with the U.S. Department of Agriculture (USDA) has provided untold numbers of jobs and enriched the lives of all electric cooperative members throughout the United States. We make these comments in light of this relationship and our mutual desire to ensure that the promise of the IRA with regard to electric cooperatives is fulfilled.

### **Section 22001: Additional Funding for Electric Loans for Renewable Energy**

The IRA creates a \$1 billion forgivable loan program to fund the deployment of new renewable energy resources, defined as solar, wind, hydropower, biomass, geothermal, or energy storage. This program was originally created by Section 317 of the Rural Electrification Act but has not had a dedicated funding stream. Under Section 317, this program would be open to all clean energy developers, not just electric cooperatives. Eligible projects could receive forgiveness of up to 50% of the total project loan amount. The USDA Secretary also has the authority to forgive the remaining 50% of the loan.

We believe the forgiveness criteria should be based primarily upon affordability metrics to minimize the cost to electric cooperative borrowers in economically distressed areas. These metrics could be based on information from the persistent poverty county database maintained by the Treasury Department.

In order to maximize the savings potential to electric cooperatives, we believe that interconnection and network upgrades should be considered eligible costs which may be subject to loan forgiveness under this program. Interconnection and network upgrades allow for the distribution and delivery of generation from solar, wind, hydropower, biomass, geothermal, or energy storage sources, which may be eligible for funding under Section 22001 of the IRA.

### **Section 22002: Rural Energy for America Program (REAP)**

The IRA contains approximately \$2 billion for REAP projects over the next ten years. The program provides loans and grants for deployment of renewables and beneficial electrification projects in rural areas.

We would request that the definition of “Underutilized Renewable Energy Technologies” be sufficiently broad to encompass any technology that an electric cooperative may wish to deploy under the REAP program.

---

<sup>2</sup> National Academies of Sciences, Engineering, and Medicine. 2021. *Accelerating Decarbonization of the U.S. Energy System*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25932>.

## **Section 22004: USDA Assistance for Rural Electric Cooperatives (AREC)**

The IRA creates a \$9.7 billion financial assistance program at USDA specifically for electric cooperatives to purchase or build new clean energy systems. Funds could be disbursed as grants, loans, loan guarantees, or loan modifications. Under the IRA, all funding is provided to USDA in Fiscal Year 2022 and is available to be spent until the end of Fiscal Year 2031.

***Successful implementation of the AREC requires a focus on all of the program’s objectives, including, as noted prominently in the IRA, resiliency, reliability, and affordability of rural electric systems.***

NRECA believes that RUS’s goal in administering the AREC program should be to realize the statutorily directed purpose of ensuring “*the long-term resiliency, reliability, and affordability of rural electric systems.*”

Because of the IRA’s prominent focus on resiliency, reliability, and affordability, USDA must not lose sight of those factors when evaluating projects. Reductions in GHG emissions are but one element of what makes a project eligible for AREC funding. While the program prioritizes projects that would achieve the “greatest reduction” in GHG emissions, evaluating which projects would achieve the “greatest reduction” must take into consideration the projects’ impact on resiliency, reliability, and affordability. Emissions reduction is but part of the equation; eligible projects must also foster long-term resilience, reliability, and affordability.

**With these things in mind, we recommend the following:**

***USDA should ensure an array of qualified projects are supported to meet the unique needs of electric cooperatives throughout the country.***

Given the diverse nature of electric cooperatives and the members they serve, we respectfully request that USDA design eligibility criteria to ensure that all electric cooperatives have access to benefits under the AREC, including partnerships between distribution and G&T cooperatives as allowed by their power supply contracts.

Congress was deliberate in providing specific projects that it expects to be eligible for financial assistance under this program, including renewable energy, renewable energy systems (storage paired with renewable energy), zero-emission systems (nuclear), carbon capture and storage systems, and energy efficiency improvements for electric generation and transmission systems. USDA should ensure that projects under each of these technologies are eligible and able to receive assistance. Criteria that are too restrictive may be contrary to the statute and may limit the ability of electric co-ops to pursue the broad array of clean energy projects necessary to reduce emissions while maintaining reliable, affordable, and resilient power.

***USDA should establish a clear and transparent process for evaluating GHG emission reductions while allowing applicants flexibility in demonstrating reductions.***

Evaluation of GHG reductions should focus on the proposed project and the reasonably foreseeable GHG reductions or generation and transmission efficiency improvements for the electric cooperative or those that benefit from the project. The evaluation should not favor or focus on any particular technology or emissions reduction strategy but rather consider what would achieve the greatest emissions reduction or efficiency improvement while also advancing resiliency, reliability, and affordability. We believe that USDA should consider not just direct reductions in emissions from a project (such as through installation of emissions control at a unit or reductions in GHG emitting generation) but also the emissions reductions that a project would achieve through meeting a portion of the electric cooperatives' growing energy demands through generation that is lower emitting or more efficient than its resources.

Additionally, in lieu of a resource plan to aid in describing project benefits, USDA should evaluate emissions reduction or efficiency gains based on a comparison of GHG reductions over a project's anticipated useful life. Recognizing that useful life may depend on numerous factors, including the project's size, as well as its anticipated use and design, comparisons should provide for a reasonable baseline of equal length, excluding the GHG reduction associated with the project. Such a comparison should include the GHG reduction associated with the three gases in a CO<sub>2</sub> GHG potency metric. In some circumstances where it may be more appropriate to represent GHG reduction benefits as an emissions rate decrease rather than a tonnage reduction, an applicant should be free to do so in order to demonstrate the benefits of the project. Additionally, an applicant should be allowed to incorporate expected GHG emission reductions or avoidance based on a reasonable assessment of future electric load projections.

Congress emphasized the speed at which it desired the distribution of these funds, requiring USDA to disburse them before the end of Fiscal Year 2031. As a result, USDA must work quickly to evaluate and distribute the funding based on estimated benefits from the project at the time they are proposed. The project should not thereafter be subject to periodic review or measurement. If USDA or RUS believes that subsequent review should be conducted after the project is placed in service, we ask that a reasonable range of variance in GHG emission-based project design criteria be adopted. Revisions to the initial funding amount after commercial operation may introduce significant uncertainty for utility scale projects that could have an impact on the desire of electric cooperatives to avail themselves of the AREC.

USDA should not consider factors that are either so far removed from the proposed project or so speculative that they are not relevant to the proposed application. For example, USDA should not require that evaluations be based on monetizing costs and benefits of a proposed application's GHG reductions from the perspective of global climate change, nor should USDA quantify benefits under a Social Cost of Carbon or Social Cost of Greenhouse Gases. While such approaches may be used at times for agency rulemakings and in economywide evaluations, no such tool is available to assess the impacts of an individual project or decision, and it would not be appropriate to require this for project-specific applications or evaluations.

Finally, the statute does not require that retiring or otherwise restricting the use of a fossil asset is a precondition to receiving funding under the AREC. The addition of new generation to help meet increased

electric load, even with the operation of existing fossil assets at current levels, may result in reduced emissions intensity. USDA should not penalize applicants that continue to use fossil generation for resiliency, reliability, and affordability purposes.

***USDA should ensure that the per eligible entity cap of 10% of total funding allows for multiple loans, grants, and projects for each electric cooperative.***

There are no restrictions in the IRA with regard to an electric cooperative's ability to utilize any of the programs under the statute combined with other USDA programs, nor are there restrictions on the ability of an electric cooperative to use any or all of these in conjunction with the Infrastructure, Investment and Jobs Act (IIJA). We urge USDA not to place any limitations on the ability of an electric cooperative to take advantage of these historic funding opportunities for our members, which may ensure their economic security as they undertake significant clean energy and beneficial electrification projects.

***USDA should avoid prohibitive eligibility rules that could discourage innovative projects.***

There are many new promising technologies under development or on the horizon that may prove to be transformative for our industry. In order to ensure that electric cooperatives can utilize new and emerging technologies, we would request that USDA design the application process in a manner that accommodates new forms of technology and/or combinations of existing and new technologies that RUS may not have financed in the past. Such technology may only become feasible during the pendency of the AREC. So long as there is sufficient time and funding prior to the end of Fiscal Year 2031, we believe USDA should consider funding such projects.

***The term “deploy” should be construed broadly to cover transmission projects considering that beneficial electrification and an increase in renewable generation will require more transmission investment.***

The statute provides “by providing to an eligible entity ... financial assistance ... to purchase renewable energy, renewable energy systems, zero-emission systems, and carbon capture and storage systems, to deploy such systems, or to make energy efficiency improvements to electric generation and transmission systems of the eligible entity after the date of enactment of this subsection ....” We encourage USDA to consider the term ***deploy*** in the broadest possible sense to include necessary transmission investments.

### ***Synergies with Direct Pay and Additional Federal Programs***

***USDA should ensure that there are no administrative limitations placed on an electric cooperative's ability to utilize multiple programs if no such restrictions appear in the IRA.***

There should be no administrative limitations on the ability of electric cooperatives to utilize all facets of the AREC, existing RUS programs (for RUS borrowers), and direct pay tax credits, as well as programs from other federal agencies under the IIJA, considering that no such restrictions exist in the applicable statutes. The synergies available under these programs are essential to achieve the greatest reduction in CO<sub>2</sub>, methane, and nitrous oxide emissions at the lowest possible cost to electric cooperative members. These historic funding opportunities may not be repeated in our lifetimes, and it is imperative that we

make the most of this moment. Using existing funding sources, electric cooperatives could theoretically introduce renewable forms of generation that may only require that 5% or less of the project be financed with the balance paid for with direct pay tax credits and grants. Such a formidable economic engine will drive affordability to our ultimate consumer-members and ensure that electric cooperatives continue to be a vibrant source of energy and economic development in rural America for many years.

***USDA should establish a finding that the 25% grant limitation should apply to total project cost without consideration of sources of other federal financing such as direct pay tax credits or loans or grants from other federal agencies.***

In order to maximize the use of every federal dollar, we urge USDA to find that the 25% limitation on the use of grants under the AREC applies to an electric cooperative's total cost of the project without regard to direct pay tax credits or other federal or state benefits. There are no restrictions under the IRA on the use of AREC grants other than the 25% limitation, and we implore USDA to avoid administratively imposed restrictions where none appear in the statute. We urge USDA to ensure that electric cooperatives receive the maximum value of grants for any project application in order to minimize costs for their members.

***USDA should understand that direct pay tax credits for low-income communities are dependent upon an allocation from the Internal Revenue Service (IRS), so the AREC should have extensive flexibility should IRS guidance change after the beginning of the AREC application process.***

Electric cooperatives serve 92% of all 395 persistent poverty counties in the United States. As a result, the low-income community portion of the direct pay tax credit is of special importance to electric cooperatives. We have asked Treasury and the IRS to conclude that each persistent poverty county is a low-income community under the IRA. This would ensure the broadest possible utilization of the potential bonus credit. Note that the low-income community bonus credit is administered by the Secretary of the Treasury. For these communities, section 48(e) of the Internal Revenue Code provides an incentive for certain solar and wind facilities with a capacity of less than five megawatts (alternating current) for which the IRS may make an allocation of "environmental justice solar and wind capacity." This provision is subject to an annual capacity limitation of 1.8 gigawatts (as measured by direct current). To qualify for a bonus credit under this provision, the wind or solar facility must be either (i) located in a low-income community (as defined in section 45D(e)) or on Indian land (as defined in section 2601(2) of the Energy Policy Act of 1992) or (ii) part of a "qualified low-income residential building project" or a "qualified low-income economic benefit project." A facility satisfying clause (i), based solely on its physical location, may, if awarded an allocation, earn a bonus credit of an additional ten percent added to its available investment tax credit (ITC). Alternatively, a facility satisfying either prong of clause (ii), taking into consideration the location and characterization of the recipients of the financial benefits of electricity produced by the facility, may, if awarded an allocation, earn a 20-percentage point addition to its available ITC. As you will see, the bonus credits described above may be either an additional ten percentage points or 20 percentage points, but not both. If an electric cooperative qualified for the prevailing wage and apprenticeship bonus credit, the domestic content bonus credit, the energy community bonus credit, and the 20-percentage point adder for low-income communities, a maximum ITC of 70% would be possible.

Allocations made by the Treasury Secretary for this new environmental justice incentive program are limited to 1.8 gigawatts (direct current) in each of calendar years 2023 and 2024, with the allowance for any unallocated capacity in 2023 to be carried over into 2024. No allocations will be made afterward unless this provision of the statute is extended by Congress. This impending deadline makes it imperative that USDA act quickly so that electric cooperatives can utilize all the benefits of the IRA for their members who may be located in such counties or communities.

***USDA should ensure that loan modifications can be accomplished quickly and expeditiously.***

Considering the fact that electric cooperatives will likely be using direct pay tax credits as well as grants from RUS as well as other agencies, USDA should have in place a process so loans that were taken out to construct an asset can be quickly paid down if that is the choice of the electric cooperative.

### **Efficient Implementation and Streamlined Process for Applicants**

***A timely and efficient implementation with sufficient staff will be critical to the success of the AREC.***

USDA should consider outsourcing administrative functions to external entities to allow RUS staff to conduct more efficient and immediate processing of applications. RUS should consider whether the costs of external attorneys and consultants can be funded through the administrative funding provided to RUS under the IRA. Given the timelines under the IRA for the AREC, USDA must quickly put in place a mechanism to score applications giving priority to projects that emphasize resiliency, reliability, and affordability.

***The criteria for grants should not be unduly restrictive.***

We believe that electric cooperatives will use grants to lower costs for their members through a wide variety of applications and projects. We hope that USDA will be open and willing to provide grants on a basis that captures resiliency, reliability, and affordability in the application process. RUS should avoid a tiered approach which may not include a thorough consideration of resiliency, reliability, and affordability as described above. This is particularly important for utility scale projects. Considering the size of our potential investments and the related financial impact on our ultimate consumer-members, electric cooperatives need a transparent application process with an expectation of a high level of certainty. Anything less could have an impact on the desire of electric cooperatives to utilize the AREC. USDA should not require a grant recipient under the AREC to provide a security interest in the underlying asset. To the extent additional security is required, USDA should consider other vehicles, such as letters of credit, keeping in mind that any form of such security will raise the cost of the project to electric cooperatives.

***USDA should take a broad view of energy efficiency improvements for G&T cooperative assets.***

Energy efficiency can be derived in a variety of ways. It may include more efficient generation coupled with upgrades in transmission or interconnection assets or demand response programs. We urge USDA to think of G&T energy efficiency in the broadest possible terms.

***USDA should identify opportunities for categorical exclusions for USDA assistance program-financed projects with a minimal environmental impact and prioritize interagency coordination for larger projects that may need more extensive environmental review.***

Because funding under the AREC must be disbursed by September 30, 2031, it is critical that USDA accelerate its environmental review process. USDA's environmental review policies and procedures should be implemented consistently, efficiently, and effectively across the nation. USDA Rural Development environmental staff should be provided uniform direction to ensure consistent and efficient implementation of its environmental policies and procedures under 7 C.F.R. Part 1970. USDA should apply categorical exclusions to actions that do not individually or cumulatively have significant environmental effects and utilize other efficient National Environmental Policy Act practices, such as appropriately scoping reviews and developing and adhering to schedules to accelerate environmental reviews.

Early interagency coordination is critical to shepherd larger projects that may involve multiple agencies through the environmental impact statement or environmental assessment process. For those multi-agency reviews, NRECA encourages USDA to work with other agencies to identify the lead agency as soon as possible; develop a schedule, including establishing milestones, in consultation with the applicant and joint lead, cooperating, and participating agencies; and elevate and resolve issues as quickly as possible. NRECA stands willing and ready to work with USDA to help ensure environmental reviews are effective and efficient so that the AREC can be successful.

***USDA should engage contractors to expedite environmental reviews of projects from applicants to the USDA assistance program.***

RUS has long had the ability to engage consultants to assist specific borrowers with environmental review work with all costs borne by the borrower. Given the time constraints under AREC, NRECA encourages USDA to expand this process to all applicants and to fund it out of any administrative budgetary authority that was granted under the IRA.

***USDA should adopt a straightforward post-loan and grant reporting framework that is not unduly burdensome for our members.***

Budget based reporting would be a reasonable requirement for the duration of the construction phase of a project. We do not believe, however, that once a project is placed in service, there should be any extraordinary metrics or milestones not otherwise present in existing RUS loan documentation.

Our members are going to require certainty in funding, particularly for utility scale projects. With that in mind, post-loan and grant administration processes that could create uncertainty should be avoided.

USDA should have a rigorous program in place to ensure that all funds are distributed to legitimate electric cooperatives. Given the amount of money involved, there may be attempts at fraud. We stand willing and able to assist USDA to ensure that not a single dollar is lost because of fraudulent applications.



### ***Using the AREC for Power Purchase Agreements (PPAs)***

It appears that the wording in the IRA (i.e., “through purchase of renewable energy”) allows funds to be applied to PPAs. We request that funds under this program be available for grants which would cover up to 25 percent of the annual cost of electric cooperative PPAs for energy generated by renewable energy systems. If an electric cooperative modifies or replaces a PPA to achieve lower GHG emissions, the electric cooperative should receive a benefit in the scoring of the application for the reduction of GHGs on its system even though it occurred via contract.

### ***Build-and-Transfer***

We believe that the build-and-transfer of an otherwise allowable project should be eligible for AREC funds. Such a situation could arise if a cooperative purchases a renewable project which it did not construct, with ownership of the project being transferred to the cooperative upon completion of pre-commercial testing (e.g., already synched to the grid for the purpose of testing). In order to maximize the use of AREC funds, USDA should consider such options so long as the project has undergone a satisfactory environmental review.

### ***Interconnection and Related Network Upgrades***

We believe that costs associated with interconnection and related network upgrades for a qualified project should be eligible for funding under the AREC. Such costs are often a necessary element in getting an asset ready for its intended use and its ultimate ability to be placed in service.

Thank you for taking our comments. If you have any questions, please don't hesitate to let us know.

Warm regards,



Russell Wasson  
Senior Director Regulatory Affairs  
NRECA