

## Summary of NRECA Comments on Implementing the Inflation Reduction Act's Clean Energy Tax Incentives

NRECA is working with the White House and Treasury/IRS to implement direct-pay tax incentives that allow electric cooperatives, for the first time, to have direct access to energy tax credits that have previously been available only to for-profit companies. These tax credits apply to carbon capture, nuclear energy, energy storage, and traditional renewables. This is an extraordinary circumstance: while maintaining their tax-exempt status, electric cooperatives now have access to the benefits of energy tax incentives.

### Overview

On October 5, Treasury/IRS issued a set of notices requesting initial input regarding the implementation of key provisions of the Inflation Reduction Act's (IRA) clean energy tax incentives. NRECA submitted comments with significant input from co-op members that can be summarized as follows:

- **Clear Guidance and Easy Access to Credits:** Treasury/IRS should provide clear guidance to allow electric cooperatives straightforward access to the credits and not place restrictions on their ability to use any or all combinations of direct-pay tax credits, the USDA programs under the IRA, or other available loans and grants.
- **Rapid Approval and Refund Process:** Treasury/IRS should adopt a rapid approval and refund process so that electric cooperatives can receive the direct-pay tax credit as near to the placed in-service date of the asset as possible to lower borrowing costs to members.
- **Application Simplicity:** Treasury/IRS should consider an easy-to-use filing form. This will allow Treasury/IRS to expedite the processing of direct pay tax credits.
- **Not Income for Purposes of the 85-15 Test:** Treasury/IRS should rule that the receipt of a direct-pay tax credit by a tax-exempt electric cooperative is not income for purposes of the not-for-profit 85-15 test.
- **Flexible Compliance with Prevailing Wage and Apprenticeships Requirements:** Treasury/IRS should provide a clear but flexible requirement for cooperatives to comply with statutory prevailing wage and apprenticeships requirements. Treasury/IRS should measure prevailing wages once, at the beginning of construction and should use a one-stop, national website listing of prevailing wages by state by county and by job category.
- **Expedited Waiver Process:** Treasury/IRS should provide an expedited waiver process for the apprenticeship requirement if an electric cooperative has made a good faith effort to comply with the requirement. If no response is received within five days, the cooperative can proceed and qualify for the prevailing wage and apprenticeship bonus credit.
- **Safe Harbor for Domestic Content Costs:** Treasury/IRS should expedite exception requests for cases in which domestic content increases the cost of a project by more than 25% or for projects where components are not available from a U.S. source.

- **Clarification of Requirements Related to Commencement of Construction, Placed in Service and what Constitutes a Project or Facility:** Treasury/IRS should clearly define basic requirements such as when construction commences, when a facility is placed in service, and what constitutes a project or a facility, among other things.
- **Property Definition for ITC and PTC:** Treasury/IRS should be clear on what property qualifies for the investment tax credit and/or production tax credit.
- **Low-Income Communities Defined as Persistent Poverty Counties:** Treasury/IRS should conclude that all persistent poverty counties are low-income communities eligible for an additional bonus credit to be determined by the Secretary of the Treasury and should define energy community broadly to ensure multiple opportunities for electric cooperatives to access the bonus credit.