



January 31, 2014

Delivered via e-mail to Tax_Reform@Finance.Senate.gov

Chairman Max Baucus
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510-6200

RE: Energy tax reform staff discussion draft

Dear Chairman Baucus,

Please accept the following in response to your request for comments on the energy tax reform staff discussion draft ("Draft"), released on December 18, 2013. We appreciate the Committee's attention to this issue as well as the opportunity to provide input. Energy-related tax incentives are an important support mechanism for renewable energy development in this country, but the current system is far less effective than it could be.

Boston Community Capital is a community development financial institution based in Boston, Massachusetts. Our mission is to build healthy communities where low-income people live and work. BCC's interest in energy tax reform stems from the work of one of our affiliates, BCC Solar Energy Advantage ("SEA"). SEA is a third party solar developer and one of the largest solar providers for low income communities in the country. SEA has installed more than 12,000 panels, which serve 1,873 affordable housing units and generate 2.7 million kWhs of solar electricity annually. With its next round of solar projects currently under construction, SEA's project portfolio is expanding to more than 4 MWs of solar across 30 Massachusetts projects.

BCC's focus on developing solar projects in low income communities means that, from a policy perspective, we are most concerned with issues of equity and access. It is with these issues in mind that we offer the following comments for your consideration.

Options to claim tax credits

In BCC's view, the Draft proposal is missing a critical opportunity to broaden access to and increase the economic efficiency of energy-related tax incentives for qualified distributed generation installations by not providing the option to claim them as a refundable credit for taxpayers and non-profit entities that file Form 990 tax returns. Renewable energy projects tend to lack the tax liability needed to directly take advantage of production and investment type credits, making them an economically inefficient way to encourage the development of cleaner electricity facilities. At the

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same time, these types of credits cannot be directly accessed by non-profits, affordable housing developments and other entities that lack a tax appetite. While they can access them indirectly through third party financing models, third party financing is complex and the transaction costs are necessarily higher. In addition, tax equity investors require some of the benefit from the credit. This means the net benefit to a project host is lower than it would otherwise be for a taxable entity with the ability to internally subsidize the cost of solar or access financing. Further, many small and medium sized projects are simply too small to cover the costs of third party financing or attract tax equity investors and are therefore excluded from benefiting from tax credits .

The difference in economic efficiency between refundable and non-refundable energy tax credits, from a transaction cost perspective, is readily apparent. As an illustration, in 2009, BCC financed six solar installations, totaling 986 kilowatts, on six non-profit, affordable housing developments using the 1603 grant program. While the 1603 program was not a refundable tax credit, it possessed many of the same characteristics of one. Our total legal and accounting costs related to the financing of these projects was just under \$20,000. By comparison, in our most recent set of projects—1.5 megawatts on eight non-profit and affordable housing developments—used the Section 48 investment tax credit. Our legal and accounting costs for raising the tax equity totaled over \$300,000. These additional costs did not improve the quality of the solar installation, lower development costs, or reduce the overall impact on the federal budget.

For the reasons noted above, it is absolutely essential for the Committee to include a refundable tax credit option, tailored to distributed renewable energy projects, in the reform of federal energy tax incentives.

Encouraging “cleaner” electricity

The Draft proposes to credit electricity producing facilities (“Facilities”) on the basis of their “cleanliness.” The cleaner the electricity, the larger the credit. BCC supports this overall framework and believes that increasing the cleanliness of the electricity sector is an appropriate goal for energy-related tax incentives. But the method by which the Draft proposes to measure the cleanliness of an electricity producing facility is too narrow. This is especially true for Facilities powered by coal, oil and natural gas.

Focusing solely on the greenhouse gas emissions (“GHG”) emanating from a facility’s smokestack turns a regulatory blind eye to non-GHG emissions, which negatively impact the environment and human health. This includes emissions of mercury, sulfur dioxide, ammonia, organic gases, heavy metals and particulate matter. It also misses the upstream and downstream effects of mining, drilling and hydraulic fracturing activities. These and other energy-related activities not only tend to disproportionately burden low income communities but can themselves result in the release of large amounts of methane and other GHGs. For example, while natural gas is often touted as a clean fossil fuel, recent studies indicate that it may have similar or even higher GHG emissions than coal due, in part, to methane that is liberated from shale gas formations during hydraulic fracturing.¹

BCC urges the Committee to consider the issue of cleanliness more holistically. Instead of limiting the definition of cleanliness to the GHG emissions of a facility, the Committee should include the GHG

¹ See e.g., Jacobson, M. et al. 2013. Examining the feasibility of converting New York State’s all-purpose energy infrastructure to one using wind, water, and sunlight. Energy Policy 57: 585-601 (citing Howarth et al., 2011, 2012a, 2012b; Howarth and Ingraffea, 2011; Wigley, 2011; Myhrvold and Caldeira, 2012).

emissions associated with the mining, transport and use of a particular fuel source. That way, the use of energy tax credits as a mechanism to lower the GHG footprint of our electricity sector will be more effective. The Committee should also examine ways in which to account for non-GHG impacts in allocating energy tax credits, to ensure that taxpayer dollars are targeted at the cleanest, most sustainable domestic energy sources available.

Creating a long-term, stable energy tax policy

BCC is very supportive of the Draft's proposal to move away from temporary energy-related tax incentives. The shift to a longer-term, stable clean energy tax policy aligns with public policy goals aimed at increasing domestic energy production, modernizing our electricity grid and bolstering the resiliency and reliability of our nation's energy infrastructure. The credits, however, should exist beyond a 25% reduction in GHG intensity in U.S. electricity generation. In our view, the 25% goal is not material enough to achieve the changes in our electricity system that are necessary to meet our federal and state energy policy and climate goals.

In Massachusetts, for example, the state has a statutory obligation to reduce GHG emissions 80% below 1990 levels by 2050.² This is the same level of emission reductions that the International Panel on Climate Change has determined is needed to avoid catastrophic climate change.³ Achieving this target means Massachusetts will have to, among other things, generate 100% of its electricity from renewable energy resources by 2050, as such reductions can only be achieved by decarbonizing the electricity sector.⁴ BCC thus encourages the Committee to increase the target beyond the 25% to provide a longer-term signal to energy markets that the trajectory of GHG intensity in U.S. electricity generation is downward and declining towards zero.

Thank you for considering our comments.

Respectfully submitted,



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President, BCC Sustainable Energy Advantage

² See, An Act Establishing the Global Warming Solutions Act, 2008 Acts 298.

³ This 2050 target is based on the conclusion that the risks of dangerous impacts rise sharply as planetary warming exceeds 2°C from preindustrial levels. See, IPCC, 2007: Summary for Policymakers. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

⁴ As recognized by the Massachusetts Clean Energy and Climate Plan, 2010. Available at: <http://www.mass.gov/eea/air-water-climate-change/climate-change/mass-clean-energy-and-climate-plan.html>.