



N A R U C
National Association of Regulatory Utility Commissioners

January 25, 2010

Secretary Timothy F. Geithner
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Geithner:

We are writing on behalf of the National Association of Regulatory Utility Commissioners (NARUC). We are concerned that the Department of Treasury and the Internal Revenue Service's determination that the American Reinvestment and Recovery Act (ARRA) Smart Grid Demonstration Project and Smart Grid Investment Grants (Smart Grid Grants) are taxable could result in increased ratepayer costs or preclude the execution of certain smart grid projects.

NARUC is the national association representing the State public service commissioners who regulate essential utility services throughout the country. As regulators, our members are charged with protecting the public and ensuring that rates charged by regulated utilities are fair, just, and reasonable. Our membership evaluates and must approve any cost recovery associated with smart grid projects, including those partially funded by Smart Grid Grants.

ARRA directed the Department of Energy to issue \$3.4 billion dollars in Smart Grid Investment Grants and \$615 million in Smart Grid Demonstration Project Grants. Because ARRA was designed to stimulate the economy, we believe that taxing the Smart Grid Grants is counterproductive and inconsistent with other energy provisions in the Act, such as the non-taxable renewable energy grants that are provided in lieu of investment or production tax credits.

In simplest terms, taxing these funds threatens to add another burden on consumers. The Smart Grid Grants already require recipients to provide a 50% cost share for the projects. The regulated utilities that receive Smart Grid Grants are likely to ask our members, the State Public Utility Commissions, to pass the tax burden (in addition to the 50% cost share) onto ratepayers. The tax burden decreases the capital available for the projects (blunting the stimulus goals) and increases the cost of the investment.


The tax burden associated with these projects changes the cost benefit analysis and may limit smart grid investments. Grant recipients may hesitate to undertake this additional financial burden, and Commissions may determine that passing along the additional cost of the project would not result in just and reasonable rates for ratepayers. If a

Commission does approve the rate increases, these smart grid projects will be more expensive for consumers at a time when these consumers can least afford it.

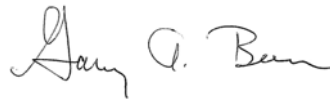
We encourage the Treasury and IRS to communicate and work with the DOE to find a way to quickly resolve this issue and ensure that the Smart Grid Grants are non-taxable.

Thank you for your consideration. If you have any questions or concerns, please do not hesitate to contact Robin Lunt, NARUC Assistant General Counsel at 202-898-1350.

Sincerely,



David C. Coen
President
NARUC



Garry A. Brown
Chairman
NARUC Electricity Committee

Cc: Douglas Shulman
Commissioner
Internal Revenue Service