



## 2017 NEBRASKA POWER ASSOCIATION LEGISLATIVE/REGULATORY POLICY STATEMENT

The Nebraska Power Association (NPA) was established in 1980 to provide a forum for the Nebraska electric utility industry to discuss and coordinate issues among members and respond as appropriate on behalf of all utilities in the state. NPA is a voluntary organization that represents all segments of Nebraska's publicly owned electric utility industry.

The intent of this document is to provide a statement of legislative and regulatory policy adopted by the NPA Board of Directors on behalf of its members. **NPA supports** the coordination of all public power legislation and resolutions through the Association. NPA intends to develop legislative and regulatory recommendations for power industry-related legislation consistent with objectives to ensure adequate and reliable supplies of reasonably priced power.

This Policy Statement will be made public and distributed to members of the Nebraska Unicameral, the Nebraska delegation in the United States Congress, and also to state and federal agencies as necessary, to assure the maximum possible understanding of the issues relevant to the public power industry in the State of Nebraska.

### Climate Change

- **NPA supports** economy-wide solutions to reduce and mitigate greenhouse gas emissions that: a) are based upon sound science; b) are based upon the availability of cost-effective and commercially-available controls and technologies to achieve compliance; 3) provide a reasonable timeframe for compliance; 4) consider the impact on related regulations that may have overlapping or conflicting impacts; and 5) consider the impact on electric grid stability.
- **NPA supports** a comprehensive regulatory approach to climate change that accounts for regional differences and allows for a wide variety of generation and energy efficiency technologies.
- **NPA opposes** any international agreements to limit greenhouse gas emissions unless such agreement includes participation by developing countries and does not result in serious harm to the U.S. economy.

## Coal Freight Rates

- **NPA supports** legislation or regulations that promote competitive pricing and eliminate artificial pricing within the railroad industry to ensure competitive coal freight rates for all shippers.
- **NPA supports** reliability standards for the railroad industry to ensure timely and reliable deliveries of coal to coal-fired power plants to ensure electric reliability.
- **NPA supports** the elimination of anti-trust exemptions for the freight rail industry.
- **NPA supports** legislation to provide for a more reasonable and cost-effective process and methodology for challenging the reasonableness of freight rates at the federal Surface Transportation Board.

## Communications

- **NPA supports** removal of barriers to public/consumer-owned electric utility ownership of infrastructure to be utilized in partnerships with telecommunication carriers or other public and private entities for the provision of telecommunications and information services.
- **NPA opposes** any attempt to create barriers limiting interstate or intrastate communications between utilities.
- **NPA opposes** any attempt to prohibit or limit the use of Nebraska's publicly-owned electric utility infrastructure for the deployment of any broadband delivery technology.
- Chris will provide language regarding underserved areas.

## Economic Development

- **NPA supports** the promotion of economic growth and development in Nebraska. Nebraska's cost-based electric rates represent a major competitive advantage and economic incentive for development in Nebraska.
- **NPA supports** state and federal financial incentives to promote the competitive development of renewable generation in Nebraska to enhance rural economic development.

## Eminent Domain

- **NPA supports** existing eminent domain authority and opposes modifications which weaken the condemnation authority of public utilities.

## Endangered Species Act

- **NPA supports** modifications to the Endangered Species Act to include assurance that adequate peer reviewed data is utilized in the listing designation of threatened and endangered species and requires that recovery actions are developed with public input and implemented with field tested and peer reviewed data utilizing a proper cost benefit analysis.
- **NPA supports** the continued development of a fair and balanced consultation process for federal and state agency review of applicable power related projects as they relate to impacts to threatened and endangered species and their critical habitats. The process must consider species and habitat needs along with reasonable cost-effective alternatives.
- **NPA opposes** changes to critical habitat designations, adverse modifications to critical habitat and implementation of Section 4(b) (2) of the Act.

## Energy Efficiency

- Energy efficiency is one of the most important and cost-effective ways of deferring generation investments and reducing greenhouse gas emissions. Nebraska's electric utilities have been offering energy efficiency programs for many years. **NPA supports** legislation to provide financial and other incentives that make energy efficiency improvements more affordable for customers.
- **NPA opposes** energy efficiency mandates that require utilities to achieve certain levels of load reduction for which compliance depends on changes in consumer behavior.
- **NPA supports** programs that provide for financing of residential energy efficiency improvements through property assessments, but **opposes** mandating repayment of financing through a customer's electric bill.

## Environmental Regulations

- **NPA supports** the development of new standards and regulations, and the modification of existing regulations, to protect air and water resources

and the public health and welfare, provided such standards and regulations: 1) are based upon sound science; 2) are based upon the availability of cost-effective and commercially-available controls and technologies to achieve compliance; 3) provide a reasonable timeframe for compliance; 4) consider the impact on related regulations that may have overlapping or conflicting impacts; and 5) consider the impact on electric grid stability.

- **NPA supports** state legislative and regulatory environmental requirements that are no more stringent than federal requirements, unless it can be demonstrated that federal regulations do not adequately protect public health and the environment.
- **NPA opposes** federal regulation being used to bypass the appropriate Congressional process for the development of a national energy policy.
- See **Appendix A** for NPA positions on specific regulatory issues.

### **Federal Energy Regulatory Commission**

- **NPA supports** reliability standards applicable to the bulk power system that are not onerous to public power utilities.
- **NPA supports** FERC's mandate to ensure workable competitive energy wholesale markets. NPA encourages FERC to take a regional focus in examining wholesale markets and tailoring solutions which properly recognize state law requirements for public power entities.
- **NPA supports** streamlining the hydropower licensing process and to provide a process for "nationwide" type permits to enhance the ability to provide additional renewable hydropower resources.

### **Federal Preference**

- **NPA supports** the retention of preference rights for public entities and cooperatives in the allocation of federal hydropower.
- **NPA opposes** an open auction of the Federal Power Marketing Administration to the highest bidder or a mandate requiring federal hydropower to be sold at market prices. If Congress determines to sell the PMAs, NPA supports only the sale or transfer of the PMAs to current preference customers. **NPA Opposes** expanding the scope and use of the Federal Power Marketing Administration that harms preference power allocations.

### **Generation Technology**

## Hydroelectric Power

- **NPA supports** the continued development of hydroelectric power resources and the inclusion of new and existing hydropower in the definition of renewable resources.
- **NPA opposes** restrictions on hydroelectricity, such as the imposition of surcharges on electricity generated at federally-owned and operated hydroelectric facilities.

## Nuclear Power

- **NPA supports** federal legislation that promotes development of new nuclear plants, including eliminating redundancies and duplication in the licensing process and providing financing options for the large capital investment required, such as federal loan guarantees and tax-related stimulus incentives.
- **NPA supports** the suspension of the nuclear waste fee and supports action by the federal government to be accountable for the safe and cost-effective disposal of radioactive waste.
- **NPA supports** prudent security requirements at nuclear facilities and supports a model for reimbursement of security upgrades.
- **NPA supports** recognition of the benefits of nuclear power in contributing to reductions in greenhouse gases.

## Renewable Energy

- **NPA supports** federal and state incentives for renewable energy development, such as sales tax credits and tax exemptions.
- ~~**NPA supports** the development and export of renewable energy in a manner that does not detrimentally impact Nebraska's public power status, the state's electric reliability, and electric rates.~~
- **NPA** understands the desire for continued development of public and private renewable energy facilities in Nebraska in order to take advantage of Nebraska's renewable resource potential and foster economic growth, but **NPA supports** policies and legislation that include consideration of the impact of additional renewable energy development on retail electric rates, Nebraska electricity markets, and regional electric reliability.
- **NPA opposes** federal or state mandates that would impose minimum levels of renewable energy capacity, such as a renewable portfolio

standard. The NPA believes these decisions should be determined at the local utility level.

- **NPA opposes** legislation requiring utilities to offer feed-in tariffs or similar contracts that provide incentive compensation to customers who install renewable energy facilities on their property. Such incentives or tariff decisions should be left to the local utilities to determine, provided current public assets are not stranded.
- **NPA supports** net metering legislation for customer-owned renewable energy generation that provides an offset for the energy produced while equitably compensating the utility for the remaining fixed costs and customer charges. Net metering laws should provide for the safety of the public and utility employees and ensure the integrity of the distribution system.
- **NPA supports** a definition of renewable energy that recognizes all non-carbon emitting resources as renewable.
- **NPA supports** the development of distributed generation resources in cooperation with Nebraska's public power utilities.
- **NPA supports** continued development of electric vehicle and advanced battery technology and accessibility to vehicle charging stations.
- **NPA supports** private sector entities recovering their associated costs for providing electric vehicle charging equipment as long as the cost is bundled within the total fees charged and not on a per kilowatt-hour or metered basis, which is prohibited by law.

## Public Power

- **NPA supports** continued public ownership of Nebraska's electric power systems and governance by locally elected or appointed boards that are accountable to their customers. NPA will aggressively oppose any attempts to sell, privatize, or forced merger of Nebraska's public power systems.

## Power Review Board

- **NPA supports** a generation and transmission approval process that is based on sound engineering and economic analysis including analysis of applicable environmental regulations, but excluding externalities that are speculative or cannot be verified.

## Rates

- **NPA supports** the Cost of Service methodology for retail pricing of electricity.
- **NPA supports** continued local control and rate setting by electric utility boards.

## Security

- **NPA supports** enhanced infrastructure security, both physical and cyber, in cooperation with federal, state, and local resources based upon prudent and cost-effective measures.
- **NPA supports** legislation to protect critical infrastructure information and to enhance information sharing between government agencies responsible for national or state security and the electric utility sector in order to better understand potential threats to critical infrastructure and to mitigate such risks.
- **NPA supports** legislation that allows public entities to withhold the public disclosure of records, maps, personnel information, and any other information relating to critical physical and cyber assets where such disclosure may pose a threat to the utility or may pose a threat to public safety or security.
- **NPA supports** legislation or regulation regarding the utilization of unmanned aircraft devices (e.g., drones) that prohibits the unauthorized use of such devices near critical utility infrastructure, but also recognizes the benefits that such devices can provide to utilities in the inspection and maintenance of utility infrastructure.

## Tax and Finance

- **NPA opposes** new regulations, legislation, taxes or other surcharges that arbitrarily increase the cost of electricity to consumers in Nebraska and are not related to the generation, transmission or distribution of electricity.
- **NPA opposes** a tax on energy to fund water projects.

- **NPA supports** the continued exemption of non-speculative hedging by electric utilities from the Commodities Future Trading Commission margin and reporting requirements.
- **NPA supports** continuing exemptions from sales and use taxes on utility fuels, transactions between utilities, and services, as well as the exemption from sales tax on construction labor for generation, transmission, and distribution facilities.
- **NPA supports** legislation to assist utility customers whose household incomes are below a certain threshold by providing an annual income tax credit, provided such credit is not administered through utility bills.

### **Tax-Exempt Financing**

- **NPA supports** the removal of private-use restrictions on tax-exempt debt issued for generation and transmission facilities so that Nebraska's public power entities can make maximum use of their electric facilities to the benefit of Nebraska's ratepayer owners.
- **NPA supports** the continuation of tax-exempt financing for public projects.
- **NPA opposes** any new limits that reduce the potential investor market for municipal debt issuance.

### **Transmission**

- **NPA supports** transmission cost allocations that equitably share costs based on long-term costs and benefits.

### **Water Resources**

- **NPA supports** the continued operation of the Missouri River in accordance with the existing master manual that provides for flood control, navigation, and municipal water supply while ensuring the water supplies for steam generation plants located along the river and the maximization of peaking hydropower from the U.S. Army Corps of Engineers hydroelectric system. **NPA urges** the Corps to make water supplies for steam generation plants and hydropower peaking a top priority during the development of the Missouri River Management Plan and the development of management alternatives under the proposed Adaptive Management Plan for endangered and threatened species compliance under the U.S. Fish and Wildlife biological opinion.
- **NPA supports** the continued funding by the Nebraska Legislature for the Water Sustainability Fund to provide the funding necessary to implement



water projects that ensure the sustainability of Nebraska's water resources and compliance with state compacts, decrees and contracts

## APPENDIX A

### NPA POLICY STATEMENTS ON SPECIFIC ENVIRONMENTAL REGULATORY ISSUES

CLEAN AIR	
Reg. Issue	NPA Policy Statement
New Source Review (NSR)	Support NSR reforms to provide for reasonable plant maintenance and regulatory certainty.
Visibility Rule	Support reasonable and cost-effective controls on sources that are determined to be subject to Best Available Retrofit Technology (BART) under the Clean Air Visibility Rule.
Regional Haze	Supports additional controls on sources to address regional haze only when such controls are cost-effective and result in discernible improvement of visibility in Class I areas.
Carbon Rules under Sec. 111(d)	Supports setting carbon emission standards for existing generation sources under the Clean Air Act Section 111(d) provided such standards adhere to the overarching NPA position on environmental regulations and also respect the primacy of the states.
National Ambient Air Quality Standards (NAAQS)	Supports current NAAQS and opposes lowering the Ozone NAAQS to less than 70 parts per billion (ppb).  Supports using air quality monitoring to determine compliance with the one-hour SO <sub>2</sub> NAAQS rather than using air dispersion modeling to determine site-specific compliance.
CLEAN WATER	
Reg. Issue	NPA Policy Statement
Sec. 316(b)	Supports reasonable Section 316(b) regulations that allow the State to develop provisions that provide for both

	protection of the environment and for the reliable, cost-effective operation of power plants.
Best Technology Available	Supports working with the Nebraska Department of Environmental Quality to evaluate Best Technology Available (BTA) on a site-specific basis.
Permits	Supports reasonable federal and state water-related permits with limits and provision that provide for both protection of the environment and for the reliable, cost-effective operation of power plants.
Waters of the US	Opposes expanded designation of “waters of the United States.”
National Pollutant Discharge Elimination System (NPDES) Permit	Supports continued exclusion of releases from dams from NPDES permitting.
<b>HAZARDOUS WASTE</b>	
Disposal	NPA supports interstate cooperation and planning for the safe, orderly, and environmentally-responsible disposal of solid and hazardous wastes.
Coal Combustion Byproducts	NPA supports the regulation of coal combustion byproducts as non-hazardous waste under Subtitle D.
<b>RENEWABLE FUELS</b>	
Renewable Fuels Standard	NPA supports the Renewable Volume Obligations (RVO's) under the 2007 Renewable Fuels Standard.