



## 2022 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 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.
- **NPA supports** proposals to increase access to affordable high-speed telecommunications services commonly referred to as broadband Internet technology in unserved or underserved areas of the state.
- **NPA supports** a definition of broadband that sets a consistent minimum standard that meets or exceeds the current FCC definition for broadband and recognizes the need for a high symmetrical standard that addresses the needs of agriculture and other business.
- **NPA opposes** any attempts to subject public power utilities and electric cooperatives to the jurisdiction of the Federal Communications Commission (FCC) relating to pole attachments, including the rates charged for such attachments. The current FCC formula does not allow all utilities to recover the full cost of pole attachments from communication companies and would result in electric consumers in Nebraska subsidizing these costs.

- **NPA opposes** legislation that mandates statewide access to local public rights-of-way and priority treatment for specific competitive wireless communication technologies (e.g., small cells) and would erode the authority of local governments over these technologies and services.
- **NPA supports** continued local governance of local government infrastructure, rights-of-way, communication technologies and services.
- **NPA supports** expansion of the Nebraska Open Meetings Act to allow public bodies to virtually conduct regular meetings during a pandemic or other emergency where in person gatherings are not allowed or ill-advised and to conduct such virtual meetings consistent with other provisions of the Act with regard to public notice and participation.

### **Customer Service**

- **NPA supports** allowing utilities to set policies at the local level regarding utility disconnects for nonpayment in extreme hot or cold weather.
- **NPA opposes** statewide mandates that preclude electric utility disconnect for nonpayment during specified periods of the year.

### **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.
- **NPA supports** the development of incentives and programs to support the expansion of broadband internet service to all underserved or unserved areas of the state.

### **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.
- **NPA supports** continued research into the responsible disposal, recycling, or decommissioning of waste from emerging or expanding technologies, such as wind turbine blades, solar panels, and electric vehicle batteries, among others.

### **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.
- **NPA supports** the development and use of small modular, advanced nuclear, and micro-reactors for the generation of electricity in Nebraska as a means to reduce carbon emissions while continuing to provide affordable and reliable electricity.

## Renewable Energy

- **NPA supports** federal and state incentives for renewable energy development, such as sales tax credits, tax exemptions, and refundable direct payment tax credits for public power.
- NPA understands the desire for continued development of public and private renewable energy facilities in Nebraska 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 if the cost is bundled within the total fees charged and not on a per kilowatt-hour or metered basis, which is prohibited by law.

### Health and Safety

- **NPA supports** enforcement of safety and health policies, procedures, and practices that comport with the primary, substantive requirements of the Occupational Safety and Health Administration (OSHA); however, the exemption from OSHA requirements for governmental entities should continue.
- **NPA supports** legislation regulating scrap copper sales or increasing criminal penalties for utility copper thefts. Thefts of copper from NPA facilities are not only a monetary loss, but in many instances have created potentially unsafe work conditions for NPA personnel and the public.
- **NPA supports** the inclusion of mission essential electric utility workers in the federal or state designation of “critical infrastructure workers” as it pertains to prioritization of personal protective equipment, vaccines, or other safety measures in response to a pandemic or other federal or state emergency declaration.

### 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 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.

**Adopted January 19, 2022**