

## KEY ELEMENTS OF ELECTRICITY TAX AGREEMENT

The industry agreement on electricity tax issues includes the following components:

- Rules Regarding Financing New Generation.

Public power systems would be able to elect to terminate issuance of new tax exempt bonds for most generation facilities, in return for relief from the application of “private use” rules to facilities previously financed with tax-exempt bonds. Systems that do not make the election would remain subject to private use rules.

- Rules to Promote FERC’s Independent Open-Access Transmission Policies and to Facilitate Retail Competition

Public power systems would be permitted to offer open access transmission and retail access and to join regional transmission organizations consistent with the Federal Energy Regulatory Commission’s electric restructuring policies. Public power systems that provide such open access transmission or retail access would be permitted to make certain sales not subject to private use rules in order to retain wholesale and retail customers, and to mitigate stranded costs by replacing lost wholesale load over a specified time period.

Shareholder-owned utilities would receive tax relief if they sell or spin-off transmission facilities to entities that either are FERC-approved regional transmission organizations (RTOs) or are transmission companies that are independent of any market participant and that join FERC-approved RTOs, consistent with the Federal Energy Regulatory Commission’s electric restructuring policies.

- Rules Regarding New Transmission and Distribution Facilities

Public power systems would continue to use tax exempt financing for transmission to serve their own wholesale or retail “native load”, or as approved by RTOs or State or Federal regulatory or siting agencies. No new limitations are imposed on use by existing public power systems of tax exempt bonds to finance construction of distribution facilities. New public power systems could issue tax exempt financing to construct distribution facilities after they have been in operation for ten years. Existing law restrictions on using tax exempt bonds to acquire existing non-governmental utility distribution facilities are expanded by repealing the current exemption

for state volume cap bonds. As under current law, an existing system's construction of distribution facilities to serve customers of other utilities is governed by state law. No new limitations are imposed on use by existing public power systems of tax-exempt bonds to finance the acquisition of distribution facilities in their qualified service areas and qualified annexed areas as currently provided under existing law.

Customer contributions in aid of construction to shareholder-owned utilities for construction of new transmission and distribution facilities would be excluded from taxable income to avoid distorting distribution competition.

- Rules Regarding Transfer of Nuclear Decommissioning Funds in Competitive Electric Markets

Current tax laws designed to assure adequate financing of nuclear decommissioning activities in a traditional rate regulation context would be modified to continue to provide such assurances in a competitive, restructured electric industry. In addition, the transfer of a nuclear decommissioning fund would be accomplished without incurring new tax liability.