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Alternative Co-ops Take Flight

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Opportunity Knocks for Clean Renewable Energy Bonds

While energy use in the United States continues to increase, most consumers have been indifferent to the sources of that energy as long as electric power is safe, affordable and readily available at the flip of a switch. The recent oil spill in the Gulf of Mexico might put a dent in that indifference. While oil drilling is not a major fuel source for generators of electricity, cooperatives may well receive an increasing number of questions from members about the use of "clean energy."

"IN 2008 CONGRESS CREATED A NEW CLEAN RENEWABLE ENERGY BOND PROGRAM—CALLED THE NEW CREB PROGRAM—THAT OFFERS LOWER-COST FINANCING FOR UP TO $2.4 BILLION IN RENEWABLE ENERGY PROJECTS."

Learn More About Energy Tax Credits

Autry Horton & Cole's energy tax credit page:

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Electric cooperatives have played a central role in promoting and utilizing clean energy sources. This leadership has not, however, resulted from the traditional financial incentives available to other electric utilities. In fact, tax-exempt cooperatives generally receive no direct benefit from the renewable energy tax credits available to taxable entities. The result is that many electric cooperatives have limited financial incentive to develop renewable energy projects.

Renewable energy project developers currently may receive several financial incentives from the federal government, including tax credits, loans, and grants. Many states offer renewable energy certificates and various forms of tax benefits, such as state income tax deductions and credits, sales tax exemptions, and property tax exclusions.

Unlike for-profit investors and certain investor-owned utilities, electric cooperatives generally do not directly benefit from such incentives because they are usually Section 501(c)(12) organizations, and normally have no tax liability to offset with tax credits and deductions. And tax-exempt entities are expressly precluded from receiving some renewable energy grants. Further, cooperatives in states that do not offer renewable energy certificates do not receive this financial reward for production of clean energy.

Incentives for Electric Cooperatives' Clean Renewable Energy Projects

While electric cooperatives might not directly benefit from a number of traditional incentives, the tax code has not entirely excluded them. For instance, the Energy Tax Incentives Act of 2005 introduced the Old CREB program, which offered up to $800 million to finance renewable energy projects. Under the program, electric cooperatives could issue tax credit bonds for the construction of certain renewable energy projects.

The bonds were beneficial to electric cooperatives because they bore no interest, but entitled the holder to receive tax credits in an amount that would have been paid in interest. In 2006, Congress increased the limit to $1.2 billion. Out of this pool, electric cooperatives received $143 million to finance 14 wind projects, four landfill gas facilities, six hydropower facilities, one solar array and one open-loop biomass plant.

In 2008 Congress created a new clean renewable energy bond program—called the New CREB program—that offers lower-cost financing for up to $2.4 billion in renewable energy projects. New CREBs are just like Old CREBs except that they qualify holders for tax credits of only 70 percent of the amount they would have received in interest. More recently, Congress modified the program to provide this benefit as a direct subsidy, in lieu of providing tax credits to bondholders. These incentives have offered electric cooperatives an opportunity to take an even greater leadership role in renewable energy production.

To qualify for the program, project owners must spend 100 percent of the bond proceeds on qualified projects within three years from the date of issuance. Qualified projects include facilities that generate power from renewable resources including wind, biomass, geothermal or solar energy, landfill gas, hydropower and tides.

Money Left on the Table

Cooperatives have historically taken the lead in providing goods and services that for-profit companies could not or would not offer. The fiscal responsibility of cooperatives and their at-cost operation make cooperatives the leaders in such markets. It is, therefore, not surprising that electric cooperatives have played a leading role in the development of renewable energy.

However, the Internal Revenue Service reported that for 2009, electric cooperatives—unlike governmental entities and public-power providers—did not utilize all available CREBs. Each category was eligible to receive one-third of the total $2.4 billion limit. But out of the $800 million available to them, electric cooperatives applied for just over $609 million. Cooperatives may still have an opportunity to issue New CREBs because, according to a recent informational alert, the IRS plans to hold another round of allocations for the approximately $200 million left unallocated by the first round.

Members and the public at large are increasingly interested in the use and development of clean energy. Electric cooperatives should be aware that New CREBs currently provide a low-cost alternative to traditional sources of debt financing of clean energy. And when the IRS announces the next round of New CREB allocations, electric cooperatives should strongly consider submitting an application. cbj

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