

1 **NORTHWEST PUBLIC POWER ASSOCIATION**

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3 **11-06 Archived Resolution**

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5 **SUPPORT FOR TAX-EXEMPT FINANCING**

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7 Tax-exempt financing is the cornerstone of public infrastructure
8 programs and an important resource for public power systems. The ability of
9 community-owned utilities to finance projects with tax-exempt bonds has been
10 called into question by other suppliers as the nation moves toward a more
11 competitive marketplace. The interest from these bonds is exempt from federal
12 taxation and the ability to issue these bonds allows communities to finance the
13 furnishing of necessary local services, such as electricity, water, waste
14 treatment, and advanced communications. Challenges are often framed by talk
15 of a “level playing field,” failing to acknowledge the tax advantages available to
16 other suppliers and the inherent differences between suppliers. Each electricity
17 supplier, whether private or community-owned, receives benefits in the tax code
18 based on their “corporate” structure. These benefits are roughly equal;
19 therefore, changes to the tax code for any sector need to be done judiciously so
20 as to not undermine this fragile balance resulting in anti-competitive
21 consequences.

22 NWPPA, therefore, reaffirms its support for the continued ability of public
23 power systems, as units of local government, to issue tax-exempt bonds.
24 NWPPA also opposes any proposals that would unduly restrict or eliminate
25 public power’s use of tax-exempt bonds to serve its communities.

26 In addition, NWPPA supports efforts to eliminate tax barriers, for both
27 municipal and cooperative utilities, that may hinder public power's ability to
28 open transmission lines under FERC order 888, participate in Independent
29 System Operators ("ISO's") and negotiate tailored energy supply contracts with
30 existing or replacement customers. On September 19, 2002, the Internal
31 Revenue Service (IRS) released final “private-use” regulations that provide
32 flexibility to municipal power systems that wish to fully participate in a
33 restructured electric market without facing severe tax penalties. NWPPA
34 support these regulations.

35 On the other hand, Congress still needs to address tax barriers,
36 commonly referred to as the “85/15 test,” that relate to the rural electric
37 cooperatives. Permanent modifications must be made to the tax code to exclude
38 from the definition of income certain revenues (such as revenue derived from
39 providing open access transmission services) which have resulted from
40 restructuring changes made in the energy industry. NWPPA supports making
41 permanent the elimination of the “85/15 test” through legislation similar to the
42 legislation passed in the 108th Congress (Public Law 108-357/HR. 4520) to allow
43 electric cooperatives to function openly and fairly in a restructured marketplace.

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47 Origination Date: 1997

48 Revised: March 2005

49 Archived: