



May 1, 2012

The Honorable Dave Camp
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Pat Tiberi
Chairman
Subcommittee on Select Revenue Measures
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard E. Neal
Ranking Member
Subcommittee on Select Revenue Measures
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairmen Tiberi and Camp and Ranking Members Neal and Levin:

Plug Power Inc. recognizes the Committee's desire to review temporary tax provisions in the U.S. Tax Code to ensure continued efficacy. Our company, as a leading U.S. fuel cell manufacturer and supplier located in upstate New York, would like to comment about several provisions that have been useful in ensuring American manufacture, and even export, of fuel cell systems.

As you may know, fuel cells and hydrogen energy technologies deliver clean, reliable power to leading edge corporate, academic and public sector customers, and are helping to transform our energy, economic, and environmental future. The US currently leads the world in the manufacture of fuel cell technology. Plug Power has also begun exporting our fuel cell products abroad. Continuing to find early domestic markets for fuel cells will ensure that manufacturers do not move overseas to be located closer to their markets, generally in Asia and South America.

Located in Latham, New York, Plug Power has been developing and manufacturing fuel cells since 1997 and we became publicly traded in 1999. Though it is difficult to find commercial markets for disruptive technologies, Plug Power has started to find commercial success with the fuel cell industrial vehicle (fork truck) market. With our material handling partners, Plug Power manufactures and services fuel cell systems for use in fork trucks at warehouse and distribution operations throughout the United States. Companies such as Walmart, Sysco Foods, Coca Cola, BMW, Bridgestone Tires, Whole Foods, Proctor and Gamble, Central Grocers and several others

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have purchased fuel cells to replace inefficient and environmentally toxic incumbent technologies.

The American fuel cell industry is well ahead of the rest of the world in addressing this market, and Plug Power has recently signed an international agreement for export of our fuel cells for material handling applications. We have grown our operations substantially over the past several years and have suppliers and customers in over 40 states. Our customers take advantage of the various tax provisions for fuel cells as they get comfortable with this new technology, the adoption of which brings inherent public benefits such as reduced energy costs and a less polluting footprint, as well as inherent corporate benefits such as quick refueling, no degradation in power output and productivity improvements.

Within the context of the review the Committee is undertaking, the 1603 Grant In Lieu of Taxes provision is the one that has had the most impact on Plug Power in recent years

1603 Grant-In-Lieu of Taxes

This program, which allows the election of a grant instead of the tax credit under Section 48, has been very effective for the fuel cell industry (as well as other clean energy industries). Almost all of the sales for material handling fuel cells have taken advantage of the program. Looking forward, the loss of 1603 cannot be underestimated. Due to the nature of the disappearance of a viable tax equity market, Plug Power has several projects that cannot move forward without the aid of the 1603 grant, including: Safeway in Tracy, CA, a facility with 1000 jobs, Amricold in multiple states with 300 employees, Bosch in Dorchester County, SC with 50 employees, Ford in Avon Lakes, OH with 75 employees and Wakefern based in Keasbey, NJ with 600 employees.

The equity market has not bounced back from the recession, particularly not for smaller projects, which fuel cells for material handling tend to represent. We foresee approximately a third fewer U.S. sales going forward because the option to lease the systems will be off the table without that equity. This makes us glad to have signed an international agreement recently, but we must all recognize that fuel cells, if there is not a market here in the United States, may go the way of many other technologies: offshore, to be closer to markets. Plug Power suggests:

- Extend the 1603 program through 2013 so that we can be sure that capital markets are recovered and there are investors for fuel cell projects. These projects tend to be smaller than with other technologies eligible for the program and therefore will rebound more slowly than capital flow for large scale projects.

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The Grant-In-Lieu is only available for PTC and ITC eligible credits and the continuation of the underlying Section 48 Fuel Cell Investment Tax Credit through its sunset of January 2016 is critical to Plug Power and the fuel cell industry at large. This credit was put in place in 2005 in order to spur U.S. market introduction of American made fuel cell systems. The credit of 30% up to \$1500 per half a kilowatt currently extends through 2016 and has been significantly underutilized until very recently. In some sense, this was a reflection of the enthusiasm for fuel cells, both in the industry and among policy makers that was slightly ahead of true market viability. The credit, however, has now begun to be used a bit more robustly, particularly in the industrial vehicle, stationary and back up power markets.

Plug Power was involved in the original Section 48 credit in 2005 when it was written to be broadly applicable to a range of fuel cell applications. As we gain commercial experience, we have discovered potential improvements to optimize the intent behind this legislation. The current structure of this credit does not cleanly fit the industrial vehicle fuel cell market. As fuel cell systems become increasingly more integrated within fork trucks, it becomes more difficult for customers to distinguish fuel cell property from fork truck property. As a result, this confusion has stunted, and not spurred, market introduction in this sector. These sorts of ambiguities have influenced potential customers' interest in moving forward with fuel cell technology. Plug Power therefore:

- Strongly supports continuation of the Fuel Cell Tax Credit through its current sunset in 2016.
- Advocates for better delineation of how the Section 48 credit is calculated for material handling applications. H.R. 1659 and S.1417, the Industrial Fuel Cell Vehicle Act modifies the existing credit to allow them to more smoothly apply to the motive market, while retaining a similar crediting level.

Section 30B Fuel Cell Vehicle Tax Credit

This credit has been in statute since 2005 and suffered an automatic reduction, written into the original statute, bringing the core credit from \$3000 to \$1500. This reduction, written in 2005, was premised on the idea that fuel cell vehicles would be commercially available. Unfortunately, like other fuel cell systems, fuel cell vehicles are not being widely purchased and commercial introduction is not planned until 2014-2015. However, there is starting to be some commercial use of material handling fuel cells. Plug Power therefore suggests:

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- Modify the credit to allow industrial vehicles to claim the credit, as set forth in H.R. 1659 and S.1417.
- Extend the credit until 2016 or until tax reform has occurred and we have developed more simplified and technology agnostic means by which to ensure continued American leadership in fuel cell technology.

Section 30C Hydrogen Infrastructure Credit

While the Alternative Fuel Infrastructure Credit does expire in the time frame being considered by this Committee, the Hydrogen Infrastructure credit does not expire until December 31, 2014. This credit applies to on-road alternative fueling infrastructure and is currently capped at \$30,000 per system, regardless of whether it's an ethanol refueling, natural gas refueling, or hydrogen refueling system. This level of funding is robust for some systems and negligible for others, particularly hydrogen, refueling for which can cost upwards of \$1,000,000 and even more with onsite reforming. This cost is expected to come down significantly, but not without significant volume, which would be assisted by a useful tax credit. Plug Power suggests:

- Increase the cap for hydrogen systems significantly or eliminate the cap for all refueling property so that the relative benefit is the same for all types of infrastructure. This will encourage an "all of the above" approach to alternative fuel vehicles and infrastructure and allow locales to decide on their approach based on their unique needs and resources.
- Include installations for material handling fuel cell equipment, such as fork trucks in warehouses, since these systems are precursors to a large scale refueling infrastructure and can help in early stage build out of such infrastructures.
- Extend the credit through 2016 to line up with the fuel cell tax credit and to better reflect the commercial realities of the fuel cell vehicle market, which isn't expected to start selling commercially until 2014-2015, and even then at fairly small numbers.
- Extend the credit to apply to material handling, off-road vehicle applications.

We would like to emphasize that when a fuel cell and hydrogen project for industrial vehicles is undertaken it is done as a package that includes a suite of fork truck vehicles, as well as the infrastructure to fuel them. Customers require both parts of the equation to be available at a nominal incremental cost, which is reduced by the availability of the infrastructure credit and the

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Grant-in-Lieu. As costs for new technologies are reduced, these credits will no longer be necessary.

In conclusion, we again want to thank you for taking the initiative to thoroughly review tax extenders as we all begin to think about preserving American international leadership in the context of a more simplified tax system in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read "A Marsh".

Andrew Marsh
President and CEO

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Title of Hearing: Select Revenue Review of Certain Expiring Tax Provisions

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