SUMMIT POWER

Summit Power Group, LLC
83 S. King Street, Suite 200
Seattle, WA 98104
206.780.3551 phone
www.summitpower.com

Submitted by email to: tax.reform@mail.house.gov

April 15, 2013

The Honorable Kevin Brady, Chair
The Honorable Mike Thompson, Vice Chair
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Re: Energy Tax Reform Working Group

Dear Chairman Brady and Vice Chair Thompson:

As you continue to deliberate over comprehensive tax reform, we write to respectfully request your support in clarifying the non-taxability of certain federal grants made to non-corporate entities.

Under current law, federal grants are generally tax-exempt when awarded to traditional corporations. Yet non-corporate entities are required to report these same grants as taxable income. The omission of LLCs and partnership agreements from non-taxability is not because of a federal bias against non-corporate entities. It is simply the result of the relevant 1954 law making specific mention only of corporations, at a time when LLCs did not yet exist and partnerships were uncommon as grant recipients. However, now is the time to update the tax code and take into account the modern financing techniques and structures that reflect today's economy and the types of grants that Congress has since created.

One specific example that I am familiar with is the disparate treatment of grant awardees under the Clean Coal Power Initiative (CCPI). The CCPI grant, which is administered by the Department of Energy (DOE), supports the development and deployment of clean coal technologies in new and existing power generating plants.

Among its grantees, DOE awarded Summit Power a CCPI grant for the Texas Clean Energy Project (TCEP), located near Odessa, Texas. The TCEP incorporates integrated gasification combined cycle (IGCC) and carbon capture, utilization and storage (CCUS) technology in a first-of-its-kind commercial clean coal power plant that will capture 90 percent of its carbon dioxide, which will be used for enhanced oil recovery (EOR) in the West Texas Permian Basin. Expected to create over 2,000 construction jobs and 150 full-time, high-paying jobs when the plant is operational, TCEP will be a major economic driver in the region.

Unfortunately, the full economic benefit of the grant, including innovation and job creation are in jeopardy due to an outdated provision in the tax code. Under current law, fully 35% of the CCPI award for TCEP will need to be paid to the Treasury as federal taxes.

We urge you to remedy this disparate treatment by clarifying that grants, awards, and other allowances paid under the CCPI are excludable from income by the recipient, without regard to the corporate or other form or recipient entity. This proposal will end a tax code anomaly that has delayed the investment of billions of dollars and the creation of thousands of jobs. It is worth noting that this same technical fix was given to solar and wind projects in the A.R.R.A. It is also worth noting that the IRS does not object to this change, and that the net impact on the Federal Treasury under current "scoring" methods should be zero. This is because the "loss" of tax revenue to the IRS on the grant will be exactly matched by the "gain" to the IRS of the project not being allowed to take tax deductions for depreciation in the amount of the grant – which is exactly the case for corporate recipients of grants today.

I appreciate the opportunity to submit these comments to the Energy Tax Reform Working Group and we urge Congress to consider revenue neutral amendments that would clarify the tax treatment of grants made to LLCs or partnerships and specifically, amending the federal income tax laws so that non-corporate entities are treated equally with respect to CCPI grants.

If you have any questions about these comments or need any additional information please do not hesitate to contact me.

Sincerely,

Eric Redman
President & CEO
Summit Power Group, LLC

cc: The Honorable Dave Camp, Chairman
The Honorable Sander Levin, Ranking Member