



May 25, 2016

The Honorable Charles Boustany (R-LA)
Chairman
Ways and Means Tax Policy Subcommittee
1431 Longworth House Office Building
United States House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal (D-MA)
Ranking Member
Ways and Means Tax Policy Subcommittee
341 Cannon House Office Building
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Boustany and Ranking Member Neal:

The Alliance for Industrial Efficiency (hereinafter, “The Alliance”) appreciates the opportunity to comment on the House Ways and Means Tax Policy Subcommittee’s Member Day Hearing on Tax Legislation. The Alliance is a diverse coalition that includes representatives from the business, environmental, labor and contractor communities, and has members in every state. We are committed to enhancing manufacturing competitiveness and reducing emissions through industrial energy efficiency, particularly through the use of clean and efficient power generating systems, such as combined heat and power (CHP) and waste heat to power (WHP). We write now to urge the subcommittee to support policies that would help advance the deployment of these important clean-energy technologies.

We commend the House Ways and Means Tax Policy Subcommittee for holding a Member Day Hearing on Tax Legislation on May 12, 2016. We recognize the importance of providing opportunities for both sides of the aisle to present their ideas to improve the tax code and particularly applaud the subcommittee for discussing tax bills specifically related to energy issues. Our comments support two similar bills that were discussed during the hearing: (1) the Technologies for Energy Security Act (H.R. 5167), introduced by Representative Tom Reed (R-NY-23) and (2) H.R. 5172, introduced by Representative Patrick Meehan (R-PA-7). Both of these bills extend the existing Section 48 investment tax credit (ITC), as was done for the solar tax credit last winter. As elaborated below, we urge the subcommittee to expand these proposals to include a modest amendment to support WHP deployment. We also support complementary proposals that would benefit CHP and WHP, including the Power Efficiency and Resiliency Act (the “POWER Act,” H.R. 2657) and the Master Limited Partnership Parity Act (H.R. 2883).

I. CHP and WHP offer economic, reliability, and environmental benefits.

CHP and WHP are proven and effective energy resources that can help address current and future global energy needs and enhance manufacturing competitiveness while reducing environmental impacts. By generating both heat and electricity from a single fuel source, CHP dramatically lowers emissions and increases overall fuel efficiency – allowing utilities and companies to effectively “get more with less.” CHP can operate using more than 70 percent of fuel inputs. As a consequence, CHP can produce electricity with roughly one-quarter the emissions of an existing coal power plant. WHP can generate electricity with no additional fuel



and no incremental emissions. Due to its scale, a single CHP or WHP investment can achieve significant emission reductions.

Investment in CHP and WHP systems stimulates the local economy both directly and indirectly. By dramatically reducing electric power demand (and related energy costs) for industrial sources, CHP can directly make U.S. manufacturing more competitive. For instance, the ArcelorMittal steel facility in East Chicago, Indiana, reports \$20 million in annual energy savings from its CHP facility. The company found that these cost savings made the plant's steel more competitive by effectively lowering the production cost by approximately \$5 per ton.¹ Further, industrial companies with CHP, such as ArcelorMittal, can use the money they save on energy to expand production and employment. Such savings are already being realized at thousands of locations nationwide (though, as noted below, the opportunity is far greater).

CHP and WHP projects create direct jobs in manufacturing, engineering, installation, operations, and maintenance, which in turn, increase the economic competitiveness of companies that install the systems and receive the energy savings benefits. Individuals employed as a result of CHP and WHP installations are able to spend their income on goods and services within their local communities, while businesses can reinvest the energy bill savings they receive from those systems into other goods and services as well. For example, businesses may use the money they save on their energy bills energy bill to support facility expansion or other capital projects or to hire and/or retain workers. These activities create and retain jobs and induce economic growth in local communities.²

A 2013 Natural Resources Defense Council issue paper states that each gigawatt of installed CHP capacity may be reasonably expected to create and maintain between 2,000 and 3,000 full-time equivalent jobs throughout the lifetime of the system. These jobs would be in manufacturing, construction, operations and maintenance, as well as indirect jobs from redirection of industrial energy expenditures and the spending of commercial and residential energy bill savings on other goods and services.³

What's more, because CHP projects can operate independently of the grid, they can increase the reliability of our power sector, by ensuring that manufacturers, universities and hospitals "keep the lights on" during extreme weather events that can compromise the electric grid.⁴ As a testament to the power resiliency of CHP systems, during both Hurricane Katrina in 2005 and Hurricane Sandy in 2012, facilities with CHP continued to have access to power and thermal amenities, including several hospitals that were able to continue serving patients.⁵ Indeed, while more than eight-million residents in the Mid-Atlantic lost power during Hurricane Sandy in

¹ Center for Clean Air Policy, Jul. 2013, "White Paper: Combined Heat and Power for Industrial Revitalization: Policy Solutions to Overcome Barriers and Foster Greater Deployment," at 10 (http://ccap.org/assets/White-Paper_Combined-Heat-and-Power-for-Industrial-Revitalization_CCAP_July-20131.pdf).

² Natural Resources Defense Council, Apr. 2013, "Combined Heat and Power Systems: Improving the Energy Efficiency of Our Manufacturing Plants, Building, and Other Facilities," at 6 (<http://www.nrdc.org/energy/files/combined-heat-power-ip.pdf>).

³ *Id.*

⁴ U.S. Department of Energy, U.S. Department of Housing and Urban Development, U.S. Environmental Protection Agency, Sep. 2013, "Guide to Using Combined Heat and Power for Enhancing Reliability and Resiliency in Buildings," (https://portal.hud.gov/hudportal/documents/huddoc?id=energy_chp_for_rc.pdf).

⁵ NRDC, *supra* note 2.



October 2012, CHP systems helped several large energy users — including New York University, Long Island’s South Oaks Hospital, Co-op City in the Bronx and New Jersey’s Bergen County Utilities Authority — stay warm and bright.⁶ These islands of power acted as places of refuge for emergency workers, displaced people, and evacuated patients from medical facilities without power.⁷

Across the country, nearly 83 gigawatts of CHP capacity exist at more than 4,400 industrial and commercial facilities, representing over 12 percent of annual U.S. power generation.⁸ However, significant potential remains. In fact, this spring (March 2016), Department of Energy (DOE) published a new report finding that across all CHP categories,⁹ there is an estimated 149 gigawatts of remaining on-site technical potential within the U.S.¹⁰ Realizing this potential would create jobs in the design, construction, installation and maintenance of equipment; reduce fuel use and energy costs; and lower greenhouse gas emissions.

Unfortunately, CHP and WHP deployment to date fall far short of this technical potential. Despite the substantial long-term economic benefits, projects require a significant up-front investment with a multi-year payback period. CHP capital costs, which vary depending on the prime mover and the capacity of the installed system, range from \$1,200 to \$4,000 per kilowatt depending on technology, size and site conditions.¹¹ CHP system owners report payback periods ranging from 1.5 years to 12 years, with a large number of opportunities anticipating payback between 5 to 10 years.¹²

Financial incentives for CHP and WHP can help reduce the initial cost for these projects, shrinking the payback period. It is imperative that appropriate incentives exist for CHP and WHP to support widespread deployment and realize the full suite of CHP and WHP’s economic, reliability and environmental benefits. Fortunately, policy solutions with strong bipartisan support exist to allow this.

II. The Alliance urges the House Ways and Means Tax Policy Subcommittee to support H.R. 5167 and H.R. 5172.

At the Member Day hearing, Representative Tom Reed (R-NY) promoted the Technologies for Energy Security Act ([H.R. 5167](#)) and Patrick Meehan (R-PA) promoted a similar bill, [H.R. 5172](#).

⁶ Pentland, William, Oct. 31, 2012, “Lessons From Where The Lights Stayed On During Sandy,” *Forbes*

(<http://www.forbes.com/sites/williampentland/2012/10/31/where-the-lights-stayed-on-during-hurricane-sandy/#efe1e20731b3>).

⁷ See, e.g., U.S. EPA, June 18, 2014, 79 Fed. Reg. 34830, 34899, “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units” (noting that CHP “reduce[s] demand for centrally generated power and thus relieve[s] pressure on the grid.”)

⁸ U.S. Department of Energy, Mar. 2016, “Combined Heat and Power (CHP) Technical Potential in the United States,” at 5 (<http://energy.gov/sites/prod/files/2016/04/f30/CHP%20Technical%20Potential%20Study%2031-2016%20Final.pdf>).

⁹ Includes traditional topping cycle CHP, WHP CHP (sometimes referred to as bottoming cycle CHP), and district energy CHP.

¹⁰ U.S. DOE et al, *supra* note 8.

¹¹ U.S. EPA, Sept. 2014, “Catalog of CHP Technologies,” at Table 2-4, (reporting capital costs ranging from \$1,200 to \$4,300/ kW – small microturbine on the small side, large gas turbine on the high side of range – dependent on prime mover and size), (http://www.epa.gov/chp/documents/catalog_chptech_full.pdf).

¹² AGA, May 2013, “The Opportunity for CHP in the United States,” at Table ES-1 (reporting approximately 35 GW of projects with a payback between 5 to 10 years compared to 6.4 GW with a payback of less than 5 years given current technology costs and electricity prices), (https://www.aga.org/sites/default/files/sites/default/files/media/the_opportunity_for_chp_in_the_united_states_-_final_report_0.pdf).



Both bills extend the existing Section 48 investment tax credit (ITC) for all technologies to property, the construction of which begins before January 1, 2022. Similar incentives were secured for solar energy in December of 2015. Accordingly, these bills provide needed policy parity for other section 48 clean-energy technologies, including CHP.

The Alliance strongly supports these bipartisan bills and believes the extensions they propose are needed to encourage continued growth of the clean-energy economy. By extending the ITC for all Section 48 technologies, these bills would help improve the energy efficiency and competitiveness of America's manufacturing sector and enhance the country's energy independence and security.

In order to further strengthen these bills, the Alliance strongly encourages Congress to clarify that the existing Section 48 ITC for CHP includes WHP as well. In February 2016, the Senate Finance Committee approved bipartisan legislation making a technical correction to Section 48 and clarified that WHP is a qualifying technology ([S. 913](#)). We applaud this action by the Senate Finance Committee. S. 913 addresses the unique attributes of WHP that distinguish it from CHP, and provides critical parity with other power sources eligible for the ITC. Accordingly, we urge the House to incorporate this common-sense amendment into H.R. 5167 and H.R. 5172 to ensure that *all* clean-energy technologies benefit.

By expanding the Section 48 tax credit to WHP (as reflected in S. 913), the subcommittee would reduce the cost of WHP technologies, diversify our nation's energy mix, create on-site power while lowering fuel use and emissions, and promote enhanced competition among all of our nation's energy sources. We therefore urge Congress to include this simple clarification in any additional energy tax legislation this year.

III. The Alliance urges the House Ways and Means Tax Policy Subcommittee to support additional legislation that promotes CHP and WHP.

As the House Ways and Means Tax Policy Subcommittee considers proposals to improve the U.S. tax system, we would also urge adoption of the Power Efficiency and Resiliency Act (POWER Act), which would provide a 30-percent tax credit for the installation of CHP and WHP systems – the same incentive given for deploying other clean-energy technologies, such as wind and solar power. The POWER Act has been introduced in both the House ([H.R. 2657](#)) and the Senate ([S. 1516](#)) and enjoys strong bipartisan support. In fact, there are now 46 cosponsors for the POWER Act in the House (26 Republicans and 20 Democrats). Congress should include this ambitious proposal in any comprehensive efforts to improve the tax code.

We also support enactment of the Master Limited Partnerships (MLP) Parity Act ([H.R. 2883](#)) introduced by Representatives Poe (R-TX-2) and Thompson (D-CA-5). The Alliance has long supported this bicameral, bipartisan proposal. The expansion of MLPs for the U.S. energy sector will enable greater parity in the tax code, encourage technology diversity, spur private investment, enhance national security, and protect the environment.

MLPs are investment vehicles taxed as partnerships but whose ownership interests trade like corporate stock. They provide access to large amounts of low-cost capital for traditional energy projects – primarily oil and gas pipelines – with a current market capitalization of more than



\$450 billion. Bipartisan, bicameral legislation has been introduced in multiple sessions of Congress that would open up MLPs to a broader set of energy technologies from wind, solar, and storage to carbon capture, energy efficiency, and cogeneration. We urge Congress to include, and support enactment of, the MLP Parity Act as part of any legislation aimed at improving the U.S. tax system. This will allow all clean-energy technologies to benefit from favorable financing.

In conclusion, the Alliance encourages the Congress to swiftly enact the extension of the CHP investment tax credit as proposed in H.R. 5167 and H.R. 5172, and clarify that WHP is also eligible for the investment tax credit. We also ask that the Subcommittee include the POWER Act and Master Limited Partnerships Parity Act as part of its tax reform agenda. CHP and WHP provide a scalable, cost-effective approach to increasing manufacturing competitiveness, enhancing electric reliability, and reducing emissions. Unfortunately, limitations in existing tax policy has prevented manufacturers from realizing these benefits. We look forward to working with the House Ways and Means Tax Policy Subcommittee to explore policy options to help realize the full potential of CHP and WHP.

Thank you for the opportunity to comment.

Sincerely,

Jennifer Kefer
Executive Director
Alliance for Industrial Efficiency