




## National Rural Electric Cooperative Association

A Touchstone Energy® Cooperative 

### 2010 Issues Committee Report and Proposed Resolutions

The Issues Committee met on June 18 and 19, 2010 at NRECA in Arlington, Virginia.

The Issues Committee conducted its discussions aware that electric cooperatives are part of an industry in transition. Today, a much wider array of issues affect electric utilities and our 42 million consumer-owners. Throughout the two days of discussions and the preparation of this report, the Committee considered how cooperatives will adapt to the changing world of energy policy and maintain our ability to provide consumers with affordable and reliable electricity.

The Committee recognized that many energy industry companies and coalitions have the ability to invest heavily in developing grassroots organizations to aid their advocacy efforts. Electric cooperatives have a great heritage of being proven grassroots organizations, but we have fallen out of practice and become too comfortable relying upon our managers and directors. Today's challenges call for a stronger voice. To compete against those with deep pockets and well-funded grassroots campaigns, we must go beyond our leadership and redevelop our own grassroots movement by encouraging electric cooperative consumer-owners to join our political efforts.

The Committee reviewed all submissions received from NRECA's membership. One proposal called for support for fiscal responsibility relative to the federal deficit. Although the committee had no overall objections to the intent of the resolution, the committee felt this topic extended beyond the scope of NRECA's resolutions. The Committee also reviewed recent federal legislation titled *The Equal Access to Justice Act* and had no objections to the overall idea but also felt a proposed new resolution would be beyond the scope of the NRECA resolutions process which covers very pointed issues affecting electric cooperatives.

In addition, the Committee reviewed a proposed resolution in support of NRECA's Rural Electric Safety Accreditation Program (RESAP). The Committee reviewed the current RESAP resolution and found it to be appropriate.

In conclusion, the Issues Committee offers these 12 proposed resolutions as a starting point for NRECA's members to consider during this fall's Regional Meetings. Active attention and involvement on the part of NRECA's members is essential to best defining our grassroots policy. We invite that participation.

*Ordean "Lars" Nygren*  
Chair

## 2010 Issues Committee Members

### *Issues Committee Chair*

#### **Member & Public Relations**

Lars Nygren, General Manager  
Capital Electric Cooperative, North Dakota  
Email: larsn@capitalelec.com  
Phone: (701)223-1513

#### **Community & Economic Development**

Gary Stooksbury, Chief Executive Officer  
Aiken Electric Cooperative, South Carolina  
Email: gstooksbury@aikenco-op.org  
Phone: (803)649-6245

#### **Management Issues**

John Hewa, General Manager  
Talquin Electric Cooperative, Florida  
Email: jhewa@talquinelectric.com  
Phone: (850)627-7651

#### **Power & Generation (Vice-Chair)**

John Prescott, President & CEO  
PNGC Power, Oregon  
Email: john\_prescott@pngcpower.com  
Phone: (503)288-1234

#### **Resolutions**

Fred Guyer, Secretary-Treasurer  
Benton Rural Electric Assn., Washington  
Email: frdrguy@hotmail.com  
Phone: (509)786-2913

#### **Region 1 Representative**

##### **Insurance & Employee Welfare**

Wayne Miller, President & CEO  
Valley Rural Electric, Pennsylvania  
Email: waynemiller@valleyrec.com  
Phone: (814)643-2650

#### **Region 5 Representative**

##### **Insurance & Employee Welfare**

Robert Inman, President  
Southern Illinois Electric Cooperative, Illinois  
Email: grinmantwo@gmail.com  
Phone: (618)634-2583

#### **Region 8 Representative**

##### **Marketing & Energy Services**

Michael Heinen, General Manager  
Jefferson Davis Electric Co-op, Louisiana  
Email: mjhcoop@yahoo.com  
Phone: (337)824-4330

### *Issues Committee Vice Chair*

#### **Legislative**

Dave Wheelihan, Chief Executive Officer  
Montana Electric Cooperatives' Association, Montana  
Email: davew@mtco-ops.com  
Phone: (406)761-8333

#### **Insurance & Employee Welfare**

Randy Ewell, General Manager  
Mt. Wheeler Power, Nevada  
Email: mwprandy@mwpower.net  
Phone: (775)289-8981

#### **Marketing & Energy Services**

Doug Miller, President  
Logan County Co-op Power & Light Assn., Ohio  
Email: dmiller@loganrec.org  
Phone: (937)592-4781

#### **Power & Water Resources**

Jeff Nelson, General Manager  
East River Electric Power Cooperative, South Dakota  
Email: jnelson@eastriver.coop  
Phone: (605)256-4536

#### **Telecommunications**

David Pierce, Director  
Amicalola EMC, Georgia  
Email: dpierce@elijay.com  
Phone: (706)253-5200

#### **Region 3 Representative**

##### **Marketing & Energy Services**

Carol Fraley, President & CEO  
Grayson RECC, Kentucky  
Email: carol.fraley@graysonrecc.com  
Phone: (606)474-7684

#### **Region 7 Representative**

##### **Management Issues**

Mark Farnsworth, General Manager & CEO  
Highline Electric Association, Colorado  
Email: markf@hea.coop  
Phone: (970)854-2236

#### **Region 10 Representative**

##### **Community & Economic Development**

George Biel, Director  
Sierra Electric Cooperative, New Mexico  
Contact: Ofelia Melendez (co-op staff)  
Email: ofie@secpower.com

### **Proposed New Resolutions:**

- (1) Commitment to Electric Cooperative Transition Planning & Communication
- (2) Reasonable Avian Mitigation Requirements in Cooperative Work Plans
- (3) Opposition to Environmental Protection Agency Proposed Coal Ash Regulations
- (4) Carbon Capture and Sequestration
- (5) Electric Thermal Storage Programs
- (6) Reasonable Rules for Green Hydropower Certifications to Prevent Undue Transfer of Federal Benefits

### **Proposed Amendments to Existing Resolutions:**

- (7) Oppose Existing Clean Air Act Programs to Reduce CO2 from Stationary Sources (10-G-7), p. 68
- (8) Cooperative Support for Renewable Energy and Environmentally-Favorable Energy (08-G-2), p. 70
- (9) Mandatory Electric Reliability Standards (10-G-6), p. 68
- (10) Bulk Commodity Rail Transportation (05-D-3), p. 34
- (11) Support for the Rural Utilities Service (RUS) and its Mission (06-D-5), p. 32
- (12) Support for the Federal Financing Bank Guaranteed Loan Program for Base Load Generation (07-D-1), p. 29

## (1) – Proposed New Resolution

### **Commitment to Electric Cooperative Transition Planning & Communication**

The electric industry is in a period of transition and will encounter increasing challenges in the foreseeable future. While electric cooperatives need to increase our grassroots strength now more than ever, we should also consider additional proactive innovative strategies to address such challenges in the coming decade. Potential risks include increasing power cost, insufficient base-load generation, access to affordable capital, and adverse regulatory or legislative mandates, which may result in higher rates, loss of local control, member unrest, board and staff turnover and pressure to sellout. Recognizing one size does not fit all, it is essential that every electric cooperative commits to meeting these challenges. As a means to meet these challenges, cooperatives should develop and implement a “Comprehensive Energy Action Plan” addressing three critical areas:

- Availability of reliable electric power;
- Affordability of electric power; and
- Applications of viable energy supply and end-use solutions.

In addition, “Comprehensive Energy Action Plans” should address how we as member-owned electric cooperatives:

1. Will manage member relations by anticipating and addressing member expectations rather than reacting to their demands.
2. Will develop staff and programs to be recognized by members as their trusted energy information specialist.
3. Will commit to Board and management leadership development to capably and effectively lead their systems through the ongoing transitions of the electric industry.
4. Will implement new technologies to enhance system operations and efficiencies and recruit, train and retain qualified employees to operate systems in a member-centric and safe manner.
5. Will undertake developing new alliances with others who have a mutual interest in energy industry issues including proactive work with community leaders.
6. Will approach future power supply planning from the standpoint of incorporating retail-side options to secure adequate energy supply.
7. Will develop Financial Plans that address the future financing needs for new generating sources, application of new technologies and competition for human resource talent.
8. Will position cooperatives as concerned and effective stewards of the environment and develop Environmental Plans that demonstrate such stewardship.
9. Will further leverage the strength of a national network of nearly 1,000 electric cooperatives and the 42 million Americans we serve.

Member confidence and trust in their cooperative is vital to the future success of the cooperative. Undertaking the development and implementation of such planning requires that every electric cooperative Board of Directors and their management demonstrate the highest degree of integrity in their decision making and actions. It further requires providing ongoing and open communication on all issues confronting electric cooperative members and being forthright in communicating cooperative actions being considered and undertaken. Such actions and communication should enhance the credibility of the electric cooperative model among members and public officials and demonstrate that members’ interests always come first in all that we do.

We urge NRECA to provide the resources necessary to support member-system development and implementation of such planning.

(2) – Proposed New Resolution

### **Reasonable Avian Mitigation Requirements in Cooperative Work Plans**

Recently, in some areas of the country, the U.S. Fish and Wildlife Service (USFWS) has delayed approval of environmental portions of cooperative construction work plans until the cooperative agrees to take mitigation measures that are economically unreasonable or ineffective. In addition, USFWS requirements for protecting migrating birds are vague and vary by types of distribution line and by regions.

Electric cooperatives recognize the value of developing plans to address avian welfare concerns and the need to develop and implement avian action plans. However, to ensure that such work plans are effective and can be reasonably implemented, the USFWS must make its rules and requirements for such work plans clear, reasonable, consistent, cost-effective and cognizant of regional differences in migratory bird patterns. We urge NRECA to work with USFWS toward improvements of its rules and requirement.

### (3) – Proposed New Resolution

#### **Opposition to Environmental Protection Agency Proposed Coal Ash Regulations**

On May 4, 2010 the U.S. Environmental Protection Agency (EPA) released two competing proposals for regulating coal ash from power plants. Disposal rules are currently set by states.

One proposal would regulate ash as a hazardous waste, phase out disposal in wet storage ponds and set new requirements for storing and monitoring the waste in dry landfills. The other would classify the waste as nonhazardous, allowing EPA to set federal guidelines for state disposal.

Coal ash has been extensively studied in government and academic research. Based on that research EPA stated in 1993 and 2000 that regulation of coal ash under Subtitle C of RCRA is “*unwarranted.*” In 2006, EPA stated that mercury is “*strongly retained by Coal Combustion Products (CCPs) and is unlikely to be leached at levels of environmental concern.*”

The U.S. Geological Survey ruled in 1997 that coal ash is no more radioactive than other common concrete additives, like granite or red brick. Additionally, the leachate – the chemicals retained in water after it has passed through coal ash – is very near to meeting, or in most cases meets, current drinking water standards.

Using and recycling CCPs conserves natural resources by replacing materials that would otherwise have to be mined. Each ton of recycled fly ash offsets a ton of cement production, which eliminates the release of a ton of CO<sub>2</sub>. A 2009 EPRI study demonstrated that the beneficial reuse of fly ash in concrete production reduced U.S. GHG emissions by 11 million tons, reduced energy consumption by 162 trillion BTUs, and reduced water consumption by 32 billion gallons in 2007. The industrially recycled CCPs reduced landfill-related energy needs by a further 3.7 trillion BTUs.

NRECA opposes the EPA proposed regulation that would classify coal ash as a hazardous waste and supports the EPA proposed regulation that would classify coal ash as a non-hazardous waste.

#### (4) – Proposed New Resolution

### **Carbon Capture and Sequestration**

Electric cooperatives are actively engaged with efforts to make carbon capture and sequestration (CCS) technology a viable choice, as soon as possible, for complying with eventual greenhouse gas emission restrictions. In order to solve the technological challenges that prevent CCS from becoming a reality, we must ensure that cooperatives can effectively mitigate their financial risks along a lengthy and complex transaction chain and a stable regulatory environment. To do so, we call for:

- A federal structure for liability.
- Federal support for Enhanced Oil Recovery.
- The Rural Utilities Service (RUS) to be allowed to lend for CCS projects, including support for associated baseload energy projects.
- Continuation of the federal Clean Coal Power Initiative (CCPI).
- States to increase monetary support for CCS projects.
- Elimination of federal or state limitations on CCS projects that require international cooperation.
- Enhancements to the tax credits at Section 45Q of the Internal Revenue Code (IRC), including:
  - Enabling their effective use by not-for-profit cooperatives or research and development organizations without profits to use them effectively.
  - Allowing developers to take the credit in the form of a grant.
  - Making credits available to projects without geographic limitations.

Various legislative proposals to constrain CO<sub>2</sub> emissions have included consideration of CCS issues. Any such legislation should:

- Include bonus and early action credit for CCS developers.
- Ensure that any reverse auction provide some certainty as to project support prior to project approval.

### **Electric Thermal Storage Programs**

For over 25 years, many electric cooperatives have promoted Electric Thermal Storage (ETS) water heating programs. These programs incorporate “controlled” large capacity electric resistance water heaters with readily available, low-cost, off-peak electricity. The demand response strategy enables the heating and storing of hot water at times when overall electric demand is low, such as during late night and early morning hours. Today, over 100 electric cooperatives have installed over 150,000 controlled ETS water heaters in twenty states, which reduce an estimated 500 megawatts of daily peak usage.

“Stored” energy in the form of hot water benefits electric cooperative members by delaying the construction of expensive power plants and transmission lines to meet peak demand. These programs also help save consumers money and protect the environment by enabling a storage mechanism for wind energy, which often blows the strongest and produces the most energy at the same time the water heaters are being charged. Several generation and transmission cooperatives across the nation are exploring an innovative grid-interactive control technology coupled to ETS water heaters to provide such services.

In March 2010, the Department of Energy (DOE) issued a new energy conservation standard for residential water heaters. The new standard for electric water heaters requires that water heaters with a storage capacity larger than 55 gallons must utilize a heat pump in order to reach an efficiency of 200 percent. It is effectively a ban on large electric resistance heaters.

While DOE’s intent is to create energy savings nationwide by making millions of newly installed water heaters more efficient, it essentially terminates the ETS programs electric cooperatives have implemented to such great benefit.

Without the ETS water heater program, electric water heaters will be installed without any demand response capability for the electric cooperative. Such uncontrolled electric water heaters, which have an average peak demand of 1 kW, will increase the need for more peaking generation, just as other public policies ask electric cooperatives to reduce generation. The use of load management/demand response is a central strategy for Smart Grid application and this DOE initiative is in direct contradiction to such a strategy.

Therefore, we urge DOE to exempt electric cooperatives from the ban and allow electric resistance water heaters over 55 gallons in size to remain an integral part of utility-sponsored electric thermal storage applications. NRECA should seek legislative solutions if DOE does not grant a sufficient exemption.

(6) – Proposed New Resolution

**Reasonable Rules for Green Hydropower Certifications to  
Prevent Undue Transfer of Federal Benefits**

The federal government has recently recognized the many positive aspects of hydropower in a Memorandum of Understanding (MOU) among the Department of the Interior’s Bureau of Reclamation, the U.S. Army Corps of Engineers and the Department of Energy.

However, the MOU also promotes a disturbing trend in federal hydropower policy – the transfer of public benefits to private entities.

This transfer is occurring when “sustainable hydro” projects gain access to Bureau of Reclamation areas and receive preferential treatment to develop “green” or “sustainable” hydropower projects. We are concerned that the new projects are not paying their fair share of the costs at these sites, which have been developed over the years from rates collected by electric cooperatives, municipal utilities and other preference power customers.

We urge NRECA to work with the American Public Power Association and other preference power customer groups to keep these projects from creating additional cost burdens for existing federal hydropower customers.

(7) – Proposed Amendment to Existing Resolution

**Oppose Existing Clean Air Act Programs to  
Reduce CO<sub>2</sub> from Stationary Sources (10-G-7), p. 68**

Pursuant to the U.S. Supreme Court decision in *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007), EPA has begun promulgating rules to regulate greenhouse gases (GHGs) from motor vehicles. Regulation of greenhouse gas emissions under the motor vehicle provisions of the Clean Air Act (CAA) could result in a cascade of new regulations affecting stationary sources like power plants as well as commercial and industrial facilities.

Many have recognized that the Clean Air Act was never intended or designed to regulate carbon dioxide and other greenhouse gas emissions. One of the law’s primary authors, Rep. John Dingell (D-MI) has famously said that using the CAA to address GHGs would result in “a glorious mess.”

Given the fact that the Clean Air Act is unsuitable for controlling greenhouse gas emissions and was never intended to do so, NRECA is urged to work with Congress, the Administration, and other organizations to ensure that the EPA does not use **inappropriate provisions of** the CAA to regulate greenhouse gases from stationary sources.

**Cooperative Support for Renewable Energy and  
Environmentally-Favorable Energy (08-G-2), p. 70**

Electric cooperatives support power developed from renewable resources that naturally replenish, utilize residual materials or recycle waste. Renewable resources range the gamut, including all hydro (both low-head and high-head), landfill methane, coal bed methane, geothermal generation, manure digesters, municipal solid waste, wind, solar, biomass, wood and others. Electric cooperatives also support power developed from environmentally-favorable atypical fuels like waste coal, oilfield-stranded gas, gas derived from gasification of solid fuels, and other salvageable btu resources that are low cost domestic sources of energy that can be used to efficiently generate electricity while eliminating environmental blight. Prudent use of renewable and environmentally-favorable resources can bolster the economies throughout much of rural America, create value for cooperative member-owners and help put the nation on a course towards a sustainable energy strategy.

Electric cooperatives throughout the country will make a collective effort to enable development of and inclusion of new cost-competitive and technically proven renewable energy resources into the energy portfolio available to meet the electric energy requirements of their consumer-owners.

***Establishing Policy Goals for Successful Implementation and Use of Renewables and Environmentally-Favorable Energy***

The use of renewable and environmentally-favorable resources is beneficial to the environment and can assist rural economies throughout much of the U.S. Locally-grown, locally-based electric cooperatives are acutely aware of the renewable resources available in their communities. The fact remains, however, that resources native to one territory or region of the country may not be available in others. A federally-mandated one-size-fits-all policy will not translate into developing the most effective, thriving or dynamic use and application of the inherent resources that are available to different segments of this country.

The responsibility and the decisions on which renewable and environmentally-favorable resources will best serve and benefit the majority of a cooperative's consumer-owners, should reside with that cooperative, working in close coordination with its power supplier.

Further, NRECA should participate in the development of a national energy policy and pursue appropriate legislation that will:

- Provide appropriate funding for research, development and demonstration projects for renewable and environmentally-favorable energy and cutting edge technologies for coal, wind to hydrogen conversion and other energy resources;
- Include incentives to fully utilize domestic resources that are available to all segments of the industry on an equitable basis. Investor-owned utilities receive federal tax credits for the production of electricity using renewable resources. Rural electric cooperatives and municipals, being not-for-profit entities, cannot use these tax credits. In order to encourage increased use of clean and renewable fuels for cooperatives and municipals and to lower the price to consumers of electricity produced from such resources, legislation must extend and expand the Clean Renewable Energy Bonds program to provide incentives to cooperatives and municipal utilities to develop renewable energy resources; and,
- Classify demand-side management, energy efficiency, waste-heat recovery, air source and geothermal heat pumps and hydroelectric power from projects, both large and small,

existing and future, as renewable resources for state and federal Renewable Portfolio Standards and with respect to credits towards the provision of “green power” to members.

Such policy and legislation should not impose mandates on electric utilities if they would undermine local board control of power supply decision-making, threaten system reliability, or unduly raise the cost of electricity for members.

NRECA should also encourage all cooperatives to support research and development to promote the economic utilization of clean and renewable and environmentally-favorable fuels. Further, NRECA should make available to policymakers and the membership accurate information on the economic and technical viability of renewable energy generation and energy conservation.

In addition to federal policies on the use of renewable resources, many members are expressing an interest in renewable energy and many states and local entities are also passing laws requiring or encouraging the use of renewable resources. Such laws and regulations frequently include tax and cash incentives for renewable resources, funding for research and development, state renewable portfolio standards, net metering requirements, community benefits charges for renewable resources and many others.

While rural electric cooperatives support the responsible development and use of cost effective renewable resources, care must be taken in the design of these state and local laws in order to preserve the safety, reliability and affordability of power that cooperatives provide to their consumer-owners. Thus, cooperatives should work with their wholesale power suppliers, state association and state representatives to develop legislation that promotes the responsible and appropriate development and use of cost effective renewable energy in their states.

In addition, rural electric cooperatives are encouraged to develop appropriate policies on member-owned generation, including renewable energy. These policies should include procedures and contracts for the safe and reliable interconnection of member-owned generation, rates for retail service to members with their own generation, and a policy governing the rates the cooperative will pay for energy produced by member-owned generation. Cooperatives are also encouraged to develop outreach programs to educate state policymakers, local communities and members about renewable and environmentally-favorable energy and the policies required to integrate such energy into the system consistent with each cooperative’s obligation to provide safe, reliable, and affordable energy to consumer-owners.

**Mandatory Electric Reliability Standards (10-G-6), p. 68**

**Cooperatives are committed to providing reliable, safe and economical electricity to our consumers. We strongly support a national policy goal of ensuring reliability of our nation’s electricity grid.**

With enactment of Section 215 of the Energy Policy Act of 2005 and consistent with NRECA Resolution (00-G-5), “Support for NERC’s Independent Self-Regulatory Organization,” electric reliability standards developed by the North American Electric Reliability Council (NERC) (as the designated Electric Reliability Organization), and approved by the Federal Energy Regulatory Commission (FERC) have become mandatory for all users, owners and operators of the bulk power system. Under Section 215, these mandatory reliability standards are enforceable by NERC and subject to penalties of up to \$1 million per day for serious violations of approved standards.

Currently a significant number of G&Ts and distribution systems are registered in the NERC compliance registry and are required to comply with such standards. NRECA staff should continue to work with NERC and FERC to ensure that the cooperative structure, size and role in the bulk power system is well understood and appropriately taken into consideration in the development of such standards. NRECA should also continue to advocate that materiality to the reliability of the Bulk Electric System must govern cooperative registration on the NERC Compliance Registry, and that audits of compliance with standards be consistent among entities and regions. Overly broad definitions of bulk power system are detrimental to the core mission of protecting reliability. The concept of aggregate impact of systems must be defined so that it is not an arbitrary criterion for inclusion in the NERC compliance registry.

NRECA should also continue its efforts to assist cooperatives in developing effective NERC compliance plans, and to inform, educate and coordinate efforts by affected members to comply fully with mandatory reliability standards in a manner that improves reliability without causing unreasonable cost or inappropriately impacting the operation of cooperatives. This should include programs to inform members of up-to-date audit and compliance “lessons-learned,” reliability “hot topics,” and, as appropriate, regional differences related to standards and compliance audits.

NRECA staff should also continue to encourage and coordinate cooperative participation in the NERC standards development and other NERC audit, evaluation, and committee processes through the continued facilitation of the review of and comment on proposed NERC standards by affected members, and should continue to encourage the voting on proposed NERC standards by all members. **Cooperatives, particularly those inside the Western Electricity Coordinating Council (WECC) region, have been exposed to financial penalties that do not bear a reasonable relationship to the seriousness of the violations and potential consequences to the Bulk Electric System Reliability.**

**NRECA (and its members) should work toward reforming NERC sanction guidelines to narrow the range of potential penalties, limit the application of daily penalties and require more empirical rigor in the application of mitigating and aggravating factors relevant to the application of penalties.** Further, NRECA staff should work to ensure that reliability standards that impact cooperatives for the first time include appropriate transition times prior to enforcement penalties becoming effective.

**Bulk Commodity Rail Transportation (05-D-3), p. 34**

The nation's consumer-owned utility power plants are primarily dependent upon coal as a fuel for the generation of electricity. The cost of fuel at these power plants represents the second-largest expense after capital costs, and often, the rail transportation cost component of coal delivered to these plants is greater than the price paid for the coal at the mine. One of the main customer groups of consumer-owned utility power plants, America's farmers, also depend on rail shipments to move their grain and other bulk agricultural products to market, and along with other bulk commodity shippers, over the last decade have experienced unacceptable deterioration in the availability, quality and price of service provided by railroads. Shippers of bulk commodities, like grain and coal, are very often captive to the railroads because of their lack of economically viable transportation alternatives, and they are frequently captive to a single railroad either at the point of origin or destination, or both.

We believe that the Surface Transportation Board (STB) should be authorized and required by act of the U.S. Congress:

- To establish trackage rights - within and for an appropriate distance outside terminals and interchanges - in order to encourage rail-to-rail competition, in cases where injury to competition can be shown or where service has been denied or is materially impaired;
- To establish reciprocal switching within, and for an appropriate distance outside of, terminals in order to encourage rail-to-rail competition where injury to competition can be shown or where service has been denied or is materially impaired;
- To require railroads that hold a customer captive to provide that customer a fair and reasonable rate for moving its traffic either to or from a competing railroad;
- In reviewing and conditioning railroad mergers, to affirmatively promote rail-to-rail competition where practicable and when it is in the public interest; to give strong weight to matching rates produced when actual rail-to-rail competition exists;
- To require carriers to timely respond to rate requests from a shipper when they are made, and the STB should be authorized to prescribe a maximum rate for a movement to a captive shipper so that the rate prescription is available when the shipper has to move the traffic;
- To set rail rates that provide fair and reasonable return on investment determined by the actual costs of the railroad to provide the requested service to any shipper where meaningful competition does not exist. Any rates so set should be subject to judicial review to determine that the cost upon which rates are based are supported by evidence in the record of the proceeding before the STB; and
- To authorize, when petitioned, the removal of agreement provisions that prevent short-line railroads from delivering traffic to any railroad.
- **NRECA opposes efforts by railroads to embed acquisition premiums into the regulatory rate base, artificially increasing rates for shippers without any appreciable benefit. The STB is the only federal agency that permits passing these premiums onto rate payers. Congress should adopt legislation excluding acquisition premiums from the regulatory rate base to protect shippers from higher rates.**

We also believe that the statutory provisions that exempt railroads from the antitrust injunctive actions, as well as the judicially developed Keogh Doctrine that limits antitrust damage remedies, should be repealed by act of Congress.

**Support for the Rural Utilities Service (RUS) and its Mission (06-D-5), p. 32**

The electric cooperatives of the nation express strong support for the RUS and continuation of the agency's mission for the building of essential electric infrastructure through financing of generating resources, electric transmission and distribution lines and other facilities needed to furnish affordable and safe electric service.

The very small federal investment in the RUS electric loan programs over the years, coupled with efficient management of the cooperative businesses make the electric cooperative infrastructure strong, stable and dependable today.

Although some cooperatives have seen a portion of their service territories transformed into urban areas, for the most part electric co-ops are the sole providers serving far-flung, sparsely populated areas with below-average income levels. In addition, co-op infrastructure was built to withstand exposure to harsher elements and weather-related disturbances that are common to sparsely populated areas of this country.

The high quality of the electric co-op infrastructure is due largely to the uniform engineering standards established by the federal government. For these reasons, RUS's mission for financing new and maintaining existing electric infrastructure in rural America must be maintained.

For these and other reasons, the electric cooperatives and their member-owners express strong support for RUS and its mission for supporting the building of essential electric infrastructure and correspondingly, local economic development projects. Furthermore, NRECA is instructed to seek adequate resources for overall staffing for the agency, from top to bottom, so that the agency can review, approve, process and disburse loan funds in a timely and efficient manner.

We encourage RUS and the U.S. Department of Agriculture (USDA) to recruit and retain competent personnel as authorized, and to fully employ available contract resources necessary to meet their mission.

We recommend that NRECA work with RUS and the USDA to obtain funding for support for adequate RUS staffing. **Over the years, RUS staffing levels have consistently declined, leaving RUS today at crisis staffing levels. Many current staff are long past retirement eligibility. Staffing levels are a central reason that many loans and countless other essential actions required to be completed by RUS, such as the transfer of assets deemed critical to the nation's transmission grid between RUS borrowers, are processed months, if not years, behind schedule. NRECA staff is directed to work to restore RUS staffing levels to allow RUS to meet its obligations for the federal government and to all electric cooperative borrowers.**

We call upon Congress and the Administration to continue a commitment to long-term financing for the nation's electric cooperatives. We urge Congress to maintain RUS direct loans at adequate levels. We also urge Congress to authorize sufficient loan guarantee levels, which have minimal cost to the government.

**Support for the Federal Financing Bank Guaranteed Loan  
Program for Base Load Generation (07-D-1), p. 29**

Previous Administrations have proposed the elimination of the Federal Financing Bank (FFB) Guaranteed Loan Program for all base load generation. ~~We urge NRECA to vigorously oppose such efforts.~~ We urge NRECA to continue to vigorously oppose OMB's decision and any other efforts to limit the use of RUS lending programs for baseload generation and environmental upgrades. The current Administration proposed, in its FY 2011 Budget, to further restrict RUS from making loans for natural gas and environmental upgrades to existing coal plants. The RUS 100 percent electric loan guarantees are absolutely essential for rural electric power supply financing ~~and are~~ . ~~The RUS loan guarantees are~~ uniquely advantageous in providing financing for essential power supply facilities for rural consumers.

Due to the significant uncertainty regarding the timing of power supply project financing, it is extremely difficult to project a precise level of required funding. We urge Congress to legislatively ensure that adequate financing will be made available for power supply facilities to the extent that needs are documented in applications for both new starts and deficiencies consistent with the intent of Congress. We further urge that RUS process these applications on a timely basis.

We urge RUS to continue to make 100 percent electric loan guarantees in the full amount of the project and not reduce it by any particular basis or arbitrary percentage. Furthermore, RUS financing must continue to be made available for capital improvements (including pollution control upgrades) to existing base load generating facilities.

We urge Congress to maintain the availability of the Federal Financing Bank funding of RUS electric loan guarantees and oppose any effort to restrict the FFB participation.