Jonathan M. Weisgall
Vice President
Legislative and Regulatory Affairs

April 10, 2015

The Honorable Orrin G. Hatch
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

Subject: Business Income Tax - Business@finance.senate.gov
Community Development & Infrastructure - CommunityDevelopment@finance.senate.gov

With our roots in renewable energy, Berkshire Hathaway Energy is an $80 billion portfolio of locally managed businesses that share a vision for the energy future. These businesses deliver affordable, safe and reliable service each day to more than 11.5 million electric and gas customers and end-users around the world and consistently rank high among energy companies in customer satisfaction. Berkshire Hathaway Energy is headquartered in Des Moines, Iowa.

As part of comprehensive tax reform, Berkshire Hathaway Energy supports a reinstatement and responsible, multi-year phase-out of the §45 wind production tax credit ("PTC")[1], coupled with a similar phase-out of all energy tax provisions, and culminating in a lower corporate tax rate.

Congress should not debate the wind PTC in a vacuum, without regard for the many nearly 100-year-old permanent federal incentives and subsidies that exist for other sources of domestic energy. For example, the oil and gas industry continues to benefit from tax preferences that benefit only its industry, such as:

- Expensing for intangible drilling costs
- Deduction for tertiary injectants
- Percentage depletion for oil wells
- Special amortization for geological costs

Nuclear energy is another example. The first nuclear power plant came on-line in the United States in 1958 – 57 years ago. Nuclear energy receives special tax treatment for income from decommissioning trust funds. Congress also created a PTC for this mature industry in 2005, which is available for

[1] See, 26 U.S.C.A. § 45 Electricity produced from certain renewable resources, et cetera.

facilities placed in service through 2020.[2] The nuclear industry also benefits from the federal liability insurance provided by the Price-Anderson Act, which Congress provided as a temporary measure in 1958 – but which has been renewed through 2025.

Some opponents of the wind PTC claim it enables wind operators to use the tax code to distort power markets by artificially lowering wholesale electricity prices. Owners of merchant nuclear plants are particularly vocal on this subject, but we believe the primary drivers of their concerns are low natural gas prices, which are suppressing wholesale power prices, and the nuclear industry's inability to respond quickly to changes in demand within a local market. Killing the wind PTC will not change this. One solution is new transmission investment, which would allow excess power from all fuel types, including merchant power plants, to flow to markets willing to pay for it. An excellent example of this can be found in Texas, which created a "Competitive Renewable Energy Zone" project, which added over 3,500 miles of transmission lines to its system and virtually eliminated negative hourly West Hub pricing. Texas today generates the most wind power by far of any state and electricity flows across Texas to where it is needed most.[3]

Berkshire Hathaway Energy, which operates regulated utilities in 11 states, has made substantial investments in domestic wind energy utilizing the wind PTC in combination with accelerated depreciation. When current projects are completed, we will have invested approximately $8.0 billion in our wind energy portfolio among our regulated utilities, with $2.5 billion invested just since 2012. These investments have made us the nation's largest utility owner of wind energy projects, and by relying on the wind PTC and passing on the benefits to our utility customers, we are able to provide wind energy as a lower cost resource and a hedge against future fossil fuel price volatility and carbon/environmental policy risk.

In addition to these projects' environmental benefits, the billions of dollars of capital investment have already created hundreds of jobs, jump-started local and rural economies, and resulted in the payment of millions of dollars in local taxes and landowner lease payments. Moreover, over the next 10 years, these existing wind projects are expected to pay another $557 million in state and local property taxes and an additional $247 million in local landowner lease payments.

Our unregulated subsidiary, BHE Renewables, produces energy for both the wholesale electricity market and for customers under long-term power purchase agreements. Like our regulated utilities, BHE Renewables has invested in wind energy utilizing the PTC, but it has also made major investments in wind and utility-scale solar energy utilizing the §48 business energy investment tax credit.[4] When current projects are completed, we will have, within a five-year period, invested approximately $8.0 billion in our unregulated wind and solar energy portfolio.

In the absence of federal tax incentives for domestic renewable energy projects, many of these significant investments in rural economies would not have been economic. We plan to continue to invest in renewable energy if Congress acts to provide more certainty and continuity with respect to renewable energy tax policy. In our view, extensions of federal tax credits with multi-year phase-outs represent the

[2] See, 26 U.S.C.A. § 45J Credit for production from advanced nuclear power facilities.
[3] See, http://www.eia.gov/todayinenergy/detail.cfm?id=16831.
[4] See, 26 U.S.C.A. § 48 Energy Credit.

best policies Congress can enact in order to encourage the continued development of renewable energy resources at lower costs for customers.

Berkshire Hathaway Energy also supports continuation of the longstanding deductibility of interest expense on debt used to finance energy facilities, which serve customers who have come to expect and depend upon reliable energy, the cost of which is reduced by the tax benefit of the interest deduction.[5]

Thank you for considering our views. We would be pleased to visit with you at any time to discuss these issues in more detail. Please feel free to contact me at [redacted] [redacted] or [redacted]

Regards,

Jonathan M. Weisgall
Vice President, Legislative and Regulatory Affairs
Berkshire Hathaway Energy

[5] *See*, 26 U.S.C.A. § 163 Interest (general deductibility of interest expense) and 26 U.S.C.A. § 263A Capitalization and inclusion in inventory costs of expenses (capitalization of interest incurred during construction).