

Testimony of

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**U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Tax Policy**

**Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018**

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, thank you for the opportunity to testify and to share the Business Council for Sustainable Energy's views on federal tax policy issues at today's hearing to evaluate recently expired tax provisions.

My name is Lisa Jacobson, and I serve as the President of the Business Council for Sustainable Energy, or BCSE. On behalf of the Council, I would like to express our appreciation for the steps Congress has taken to enact the Tax Cuts and Jobs Act and the Bipartisan Budget Act of 2018. Of note, the Bipartisan Budget Act included some important measures that have been long-supported by the Council and our members, including the extension of a number of clean energy tax measures. Thank you. And while these actions have been very positive for many of our industry members, I need to highlight that there are still some technologies from industry sectors that are now at an even larger competitive disadvantage. As Congress continues its work on budget and tax issues, perhaps as early as this week, the Council encourages you to maintain the positive momentum that has been achieved recently and use it to achieve parity for the other clean energy industries our country needs.

BCSE is a coalition of companies and trade associations representing the energy efficiency, natural gas and renewable energy sectors. Its membership includes project developers, equipment manufacturers, independent electric power producers, investor-owned utilities, public power and energy and environmental service providers. Founded in 1992, the Council advocates for policies that expand the use of commercially-available clean energy technologies, products and services. These industries together support over 3 million jobs spread across every state and congressional district in the United States. The coalition is united around the revitalization of the economy and the creation of a secure and reliable energy future in America.

BCSE members have a wide range of tax policy interests. As a broad-based coalition of business interests, not all Council members take a position or endorse the views offered in this testimony.

It is critical that Congress formulate and enact stable, long-term tax policy frameworks that will support investment and job creation. Tax incentives in the energy sector should be structured such that benefits are provided to all qualifying technologies in accordance with the energy, environmental and other public benefits they generate. Additionally, it is important that tax policies are established over a sufficient duration to provide investors with the confidence they need to proceed with major investments.

As such, BCSE urges Congress to support legislation that provides durable tax policy that is equitable across eligible technologies. Current law provides a mix of tax incentives for the production of energy and for investment in plant property for a range of technologies. It also includes incentives in the areas of sustainable transportation and energy efficiency. While Congress has made significant inroads on tax policy, much remains to be done in these important sectors.

Renewable energy, energy efficiency and natural gas deliver jobs, increased economic growth, greater energy productivity and fewer emissions for the United States. Statistics from the 2018 edition of the *Sustainable Energy in America Factbook*¹ recently released by BCSE and Bloomberg New Energy Finance document these trends:

- Consumers devoted a smaller share of their spending in 2017 towards electricity than at any time ever recorded, and the total share of household expenses dedicated to energy costs also hovered near an all-time low;
- Electricity off-takers secured renewable energy at ever cheaper price points;
- Renewable energy generation now accounts for 18 percent of U.S. electricity generation, nearly on par with the nation's nuclear fleet;
- Natural gas accounts for another 32 percent of electricity generation, making it the number one source of U.S. electric power;
- American economic growth is picking up steam without a parallel jump in energy consumption, and the United States remains competitive globally for energy-intensive industries thanks to low industrial power prices;
- The renewable energy, energy efficiency and natural gas sectors employed approximately 3 million Americans in 2016.

This market dynamism and success is partly credited to tax policy frameworks that have benefitted some, but not all, clean energy technologies. For example, the FY16 Omnibus Appropriations bill enacted at the end of 2015 included a five-year extension of the Production Tax Credit (PTC) for wind power and a five-year extension of the Investment Tax Credit (ITC) for solar, with gradual ramp-down of these credits, as well as language that permitted them to be used when construction is started on projects. Having stable tax policy for these industries has helped to provide predictable market conditions that has enabled them to deploy at a significant rate, reduce costs, attract investment and create jobs.

Importantly, the Bipartisan Budget Act provided a long-term extension for the non-solar ITC technologies, which includes fuel cells, combined heat and power, small wind, and geothermal. The Council commends the Committee for this action.

However, other technologies have not benefitted from the same long-term tax policies. Thus, the tax code is currently structured in a manner that puts otherwise competitive technologies at a

¹ Please see: <http://www.bcse.org/sustainableenergyfactbook/>

disadvantage in the marketplace. In the renewable energy sector, these technologies include: biomass, geothermal, landfill gas, waste to energy, hydropower, marine and hydrokinetic.

While these technologies provide valuable renewable energy 24/7, they also take longer to reach construction, typically three to seven years or more. Consequently, these non-wind PTC (Section 45) technologies cannot take advantage of tax credits that are only extended for a few weeks or a year at a time. This uncertainty has created adverse market conditions. It is much more difficult for projects of expired technologies to secure financing because banks value the security of investing in projects with a long-term tax credit. It can also be difficult for new and existing projects of expired technologies to secure power purchase agreements when the extended technologies can offer a better value. The issue isn't that these projects aren't attractive to build without the tax credit. This has to do with equal access to financing and being able to sell renewable energy competitively.

Representative Stefanik has introduced H.R. 4137, the Renewable Electricity Tax Credit Equalization, which would address the inequity for these non-wind PTC technologies: biomass, geothermal, landfill gas, waste to energy, hydropower, marine and hydrokinetic.

A range of energy efficiency credits and several alternative fuel vehicle credits were similarly extended only through the end of 2017 and should be granted an extension. In the transportation sector the §30B Fuel Cell Electric Vehicle Credit and the §30C Alternative Fuel Vehicle Infrastructure Credit both provide important incentives for deployment of electric drive vehicles and should be extended. These incentives contribute to U.S. leadership in EV technology, which is critical to our global competitiveness, and job creation. China and other nations see the future of transportation and are pursuing dominance in electrification. Promoting investment in electric drive helps ensure that the U.S. does not lose its competitiveness in a market that we built. Businesses large and small have made investments based on these policies, as have their competitors around the world. Allowing them to achieve their intended goals is vital to maintaining U.S. leadership in the transportation sector and securing the attendant job creation.

Extensions and modifications should also be considered to update energy efficiency credits including §179D Energy Efficient Commercial Building Tax Deduction, which promotes energy efficiency in commercial and multifamily buildings. Last congress, Congressman Reichert introduced H.R.3507 which would extend and make refinements to the existing 179D tax deduction. Enhancing 179D legislation along the lines of H.R. 3507 would be a helpful addition to the code.

Additionally, extension and modification should be made to §25C Nonbusiness Energy Property Credit that incentivizes homeowners for efficiency upgrades and equipment purchases such as weatherizing or installing new windows or more efficient heating and cooling equipment, and §45L Energy Efficient Home Credit.

Furthermore, modifications to the tax code are needed to clarify that the entire portfolio of energy storage (i.e., grid batteries, pumped hydro, compressed air/liquids) qualifies for a §48 tax credit as a stand-alone, eligible clean energy technology. Energy storage eligibility for §48 tax credits is presently contingent on its pairing with solar energy projects. Natural gas plants, wind power, and other resources should have equal opportunity to benefit from pairing with storage.

The “Energy Storage Tax Incentive and Deployment Act” H.R. 4649 sponsored by Congressman Costello (PA) and Congressman Doyle (PA) has been introduced to address this issue.

Similarly, legislation has been introduced that would allow commercial geothermal to qualify for the same §48 tax credit commercial solar can utilize. Absent this change, it is unlikely commercial geothermal will be able to compete. S. 1409, the “Technologies for Energy Security Act” (and its companion H.R. 1090), specifically Sections 3(a) and (c), as well as S.2256, the “Tax Extenders Act of 2017,” specifically Sections 311(a) and (c), included this modification.

To maintain a diverse portfolio of beneficial energy technologies it is critical that Congress formulate and enact the stable, long-term tax policy framework that will support the deployment of the full scope of clean energy technologies in a meaningful way. These measures span power generation, building efficiency and transportation and can provide significant public benefits in the areas of energy reliability and security as well environmental, economic and jobs benefits.

BCSE looks forward to working with you to achieve these objectives. For questions or further information, please contact Ruth McCormick on the Council’s staff at rmccormick@bcse.org.