

Congress of the United States

Washington, D.C. 20515

March 28, 2024

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Yellen,

We are writing to underscore the importance of carbon-free nuclear energy as a vital source of energy that can help meet our clean energy goals.

The Inflation Reduction Act (P.L. 117-169) recognizes the integral role of nuclear energy with the creation of a Zero Emissions Nuclear Power Production Tax Credit (section 45U of the Internal Revenue Code) to incentivize utilities to make investments to expand clean nuclear energy.

In our home states of Arizona, Michigan, and North Carolina, regulated nuclear units produce carbon free electricity to over 10.5 million homes and businesses. In addition to providing clean and reliable electricity, these reactors provide 6,350 high-paying jobs and are major taxpayers and economic contributors in the communities where they are located.

The goal of the tax credit was to ensure these reactors, the associated jobs, and the tax base they create are around for years to come. This is why a well-functioning production tax credit for regulated nuclear reactors is essential. The credit is intended to incentivize the efficient operation of nuclear reactors to continue to create reliable, affordable, and carbon-free energy. In the regulated energy markets in our states, those benefits will be realized by electricity customers across the regions they serve.

The Treasury Department will play an important role as you and your colleagues work to develop guidance for implementing this credit. To ensure regulated nuclear facilities which operate in a cost-efficient manner receive the zero-emission nuclear power production credit incentives as Congress intended, it is important that the Treasury Department does the following in developing guidance under Section 45U:

In the case of a rate-regulated nuclear facility with output sold at prices included in customer rates which are established or approved on cost-of-service, rate-of-return basis by a public utility commission,

1. define “gross receipts” under Section 45U(b)(2)(A)(ii)(I) by reference to the established or approved cost-of-service, rate-of-return revenue requirement attributable to owning and operating such nuclear facility during the tax year for which the credit is claimed.

The establishment or approval of rates by public utility commissions generally requires balancing safety, reliability, and cost-efficient operations. The definition for rates established or approved by a public utility commission is consistent with the definitions under Sections 7701(a)(33) and 163(j)(7)(A)(iv), which acknowledge the uniqueness of these rate-regulated dynamics that have existed in numerous areas of federal income tax law for decades.¹

Similar to Sections 45J and 468A,

2. provide that each nuclear power reactor located on a multi-reactor site is a separate facility for purposes of Section 45U.

Thank you for your consideration of these suggestions.

Sincerely,



Alma S. Adams, Ph.D.
Member of Congress



Donald Davis
Member of Congress



Ruben Gallego
Member of Congress



Wiley Nickel
Member of Congress



Deborah K. Ross
Member of Congress



Haley Stevens
Member of Congress

CC: Aviva Aron-Dine, Acting Assistant Secretary (Tax Policy), Department of Treasury

¹ Merchant and a limited number of rate-regulated nuclear facilities sell into organized markets where market sales may be determinative of “gross receipts.” Such market data is irrelevant, and in some cases not available, for the numerous rate-regulated nuclear facilities that instead sell directly to consumers. For these rate-regulated facilities, the determination of “gross receipts” must be defined.