

**RESOLUTIONS
ADOPTED BY THE MEMBERS OF
BASIN ELECTRIC POWER COOPERATIVE**

November 3, 2020

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STATEMENT OF PURPOSE

The Basin Electric Resolutions Committee shall review all resolutions before presentation to the membership at each Annual Meeting, and that all resolutions are subject to change by the membership at the Annual Meeting.

STATEMENT OF IDEALS AND OBJECTIVES

This statement was initially adopted by the Membership at the 1967 Annual Meeting.

It has been reviewed and readopted by the Membership at each subsequent Annual Meeting, and was last revised in 2020.

Basin Electric Power Cooperative (the Cooperative) was organized by its member systems in the Missouri River Basin to provide an adequate wholesale supply of dependable, low-cost electric power under democratic member control, consistent with the public interest.

We believe:

1. That an adequate, universally available and safe supply of affordable electricity is a vital ingredient for maintaining and improving the economy and the people's standard of living. We commit to ensuring that our generation and transmission resources are used for the benefit of the Cooperative and its member-owners, now and in the future, through cooperation with our power-supply partners.
2. That a clean and healthy environment, which we all need and enjoy, must be maintained and that the energy industry should minimize impacts to the environment.
3. That the Cooperative is dedicated to supporting a healthy agricultural economy, which is essential to the greater development of rural areas and the nation's general welfare. Furthermore, our commercial and industrial consumer-members are similarly important to cooperative health and should be encouraged.
4. That the Rural Utilities Service program of providing long-term, low-interest loan funds and loan guarantees to rural electric cooperatives is a vital element in providing low cost electricity for the social and economic benefit of people, and is one of the most beneficial programs ever undertaken by our federal government, and that this program should be continued as an important device to foster the economic development of rural areas and to help improve the standard of living of its consumer-owners.
5. That federal hydropower is an important renewable energy resource in the region, providing competitive cost-based rates to the membership. The long-standing statutory and contractual relationship between the membership and the federal government for preference power from these facilities should continue uninterrupted.
6. That the benefits of the development of our national resources should accrue to the people and that the federal government has the principal responsibility for establishing and maintaining programs and policies to protect the public interest in the multipurpose development, conservation, and utilization of our water and power resources.
7. That the Cooperative was established for all its members and the benefits of its operation should accrue to them on a consistent and uniform basis.

8. That people have the right to organize themselves to provide needed goods and services; that cooperatives and their associated entities can provide a yardstick of costs which benefit all consumers; and that they are consistent and help preserve our private enterprise system.

We pledge:

1. To provide our members with an adequate supply of wholesale electric power and high-quality service at the lowest-possible cost by:
 - a. Supporting use of the federal hydroelectric generating plants so these facilities continue to serve as the backbone of a region-wide power supply system.
 - b. Encouraging prudent development of clean and efficient power technologies, legislation, and research in the fuels and energy fields as it affects our lives and environment.
 - c. Operating the Cooperative's energy production facilities in the most efficient, productive, and safe manner possible consistent with moral and legal obligations to protect civilization and the environment.
2. To maintain a competent staff of dedicated employees by establishing policies which provide challenging careers and fair compensation, and which recognize their rights and responsibilities.
3. To conduct the business affairs of the Cooperative as trustees for the interest of the members on a basis of honesty and equity.
4. To help promote area development throughout the Cooperative's service area by working with member systems in the planning and execution of programs to help develop the natural, human, and economic resources within the region, and to encourage conservative and efficient use of electrical energy.
5. To conduct a vigorous communication and education program to promote the Cooperative's policies, plans, and progress among its employees, members, and the general public.
6. Whenever requested and feasible, to aid other rural electric cooperatives, public agencies, and consumer-controlled organizations to obtain adequate wholesale power at the lowest-possible cost.
7. To encourage development of and work with consumer-owned and other organizations having similar objectives.

CONTINUING RESOLUTIONS

Resolution 1 - Federal Hydropower

Basin Electric Power Cooperative (Basin Electric) supports federal hydropower as an important generation resource for Basin Electric and its members. Hydropower is the largest producer of renewable energy in the United States, and should be treated at the state and federal level as a renewable resource in any energy policy decision.

Basin Electric remains committed to the principle of preference as originally outlined in the Flood Control Act of 1944. Preference should be given to cooperatives and public power entities for all hydroelectric generating capacity, including capacity which may evolve as additional generation facilities are added.

Basin Electric also opposes any policies that would undermine the long-standing statutory rights of preference customers to federal hydropower at cost-based rates. This includes any proposal to sell or otherwise transfer from federal control by the federal power marketing administrations or their assets or policies that would require payment of non-reimbursable costs at federal multipurpose water projects by power and water consumers.

Background:

Federal dams were constructed by the federal government to provide flood control, navigation, recreation, irrigation, and hydroelectric production. Energy generated at federal hydroelectric facilities of the Pick-Sloan/Missouri River Basin (Pick-Sloan) program is essential to thousands of rural consumers, including farms, businesses, and industries within the nine states of Basin Electric's service area. The members of Basin Electric hold direct power supply contracts for a substantial portion of the Pick-Sloan power supply resources.

An important element in maintaining this resource is a preference right to federal power resources by the consumer-owned and public power entities. Basin Electric's membership and other consumer-owned and public power entities have a statutory and contractual right to federal hydropower through the preference clause.

The federal investment and ongoing operation and maintenance in these hydropower facilities is being systematically repaid, on schedule, with interest, to the United States Treasury by these federal preference power customers. Power and water consumers have historically accepted and agreed with the division of costs and repayment structure where they are required to pay for those costs and investments allocated to their specific benefit, but are not required to pay those costs which benefit the general public, such as flood control, navigation, recreation, and fish and wildlife.

Non-reimbursable costs are defined as mandated studies and miscellaneous items which are repaid out of the Federal Treasury without reimbursement by a project beneficiary.

Resolution 2 - Protection of States' Water Rights

Basin Electric Power Cooperative (Basin Electric) favors due protection of the water rights of individual states, with emphasis that the well-being of the entire region be given adequate consideration.

Background:

Basin Electric's membership recognizes the tremendous importance of water to the functioning of a way of life as well as the viability of the nation. Decisions concerning the utilization of this water must involve all the people of an area who could possibly be affected by physical, economic, social, and political changes.

Resolution 3 - Control and Use of Missouri River Basin Waters

Basin Electric Power Cooperative (Basin Electric) urges strict adherence to the intent of the Flood Control Act of 1944, which states that downstream navigation should not interfere with upstream uses for domestic, municipal, stock water, irrigation, mining, recreation, or industrial purposes. Basin Electric believes any changes in the management of the Missouri River should be undertaken only with the full recognition of the potential impact on consumer-member power users.

Background:

Changes in water releases from Missouri River reservoirs could have a substantial impact on the value and amounts of power delivered by the Western Area Power Administration (WAPA) to preference customers and on residents along the river corridor. Hydroelectricity must be preserved for preference customers, and any changes in river operations should ensure there is no financial or other detrimental impact on hydropower or on property along the river corridor. Any financial impact resulting from changes in river operations must be borne by all of the country's citizens and not just the hydroelectric users of the region.

Resolution 4 - Environment

Basin Electric Power Cooperative (Basin Electric) supports the care and utilization of our natural resources. We believe that is best accomplished through 1) clear and easily interpreted environmental laws and regulations; 2) single, efficient, and predictable permitting processes; and 3) local oversight of compliance that ensures needed interpretations take into account the realities of the environment and local interests are being fairly considered.

Background:

Basin Electric has provided leadership, resources, and efforts in research to advance state-of-the-art conservation measures, including land reclamation and significant development of renewable generation sources from its inception. Basin Electric, its membership, and member-consumers are committed to maintaining a clean and healthy environment for ourselves and our communities. We also recognize the economic realities that dictate both an achievable environmental standard be maintained while providing satisfactory balance between protecting the environment and sustaining the economy.

Resolution 5 - All-Additional-Requirements Contract

An all-additional-requirements provision should be the standard for all Class A members except in unusual circumstances as determined by the Board of Directors. Wholesale power contracts are a bond and a pledge among cooperatives to work jointly together, as a group, on behalf of all their retail member-owners. If any member system were to break away from its power

contract obligations, there could be serious negative consequences to the remaining member systems and their retail member-owners.

Background:

By pooling their power requirements, member cooperatives have established an effective method of regional wholesale power planning. The all-additional-requirements contracts between Basin Electric Power Cooperative (Basin Electric) and its members constitute the financial backbone of Basin Electric, as its members enable them to finance generating and transmission facilities on a long-term basis over the useful life of those assets. This is vital to maintaining low rates and reliability. Such contracts are essential to the overall wellbeing of the Cooperative, but the Cooperative recognizes such contracts may, in certain instances, accommodate specific arrangements on a cooperative-by-cooperative basis.

Resolution 6 - Discretionary Powers of State and Federal Governments

Basin Electric Power Cooperative (Basin Electric) urges state legislatures and Congress to ensure that appropriate risk evaluation standards are incorporated into all legislative and regulatory initiatives so the laws take into consideration the impact of their work on citizens, businesses, private property, employment, and state and local government revenue. Congress and state legislatures should refrain from imposing costly mandates without providing some form of financial compensation.

Background:

In its operations, Basin Electric and its member systems must deal with local, state, and federal agencies, which have the power to affect operations and play a significant part in affecting the survival of a cooperative. Many state and federal laws outline regulations for environmental, health, and safety reasons without the benefit of an evaluation prior to enactment, which identifies the level of risk involved as well as the anticipated level of risk reduction expected through the law's implementation.

Without an appropriate state and federal "prior enactment" risk assessment and cost-benefit evaluation incorporated into the decision-making process, businesses, industries, and individuals affected by the laws are frequently required to comply with regulations that have minimal beneficial effect, but are extremely costly.

Resolution 7 - Capper Volstead Act

Basin Electric Power Cooperative (Basin Electric) reaffirms its staunch support of the time-tested and valuable Capper Volstead Act.

Background:

The Capper Volstead Act of 1922 has historically enabled consumers to form cooperative organizations in America and farmers, ranchers, and dairy operators have especially seen their ability to compete in the marketplace enhanced by this Act.

Resolution 8 - Rural Communications Systems

Basin Electric Power Cooperative (Basin Electric) urges Congress to continue to provide financial support through loans, grants, and universal service mechanisms to rural communication systems to ensure a high-quality communication system in rural America.

Congress, the federal government, state legislatures and state governments, rural electric and telecommunication cooperatives, and private communication systems should work diligently together wherever possible to ensure the continued development of an affordable and efficient communication system throughout rural America.

Background:

Rural cooperative telecommunication services play an integral part in the social, economic, and political viability of rural America. Sparsely populated rural areas need the same access to advanced telecommunication services and technologies as more populated areas. This includes access to satellite service from privately owned companies, improved television service, and two-way data and voice satellite communications as provided by the National Rural Telecommunications Cooperative (NRTC).

Resolution 9 - Employee Safety and Health

Basin Electric Power Cooperative (Basin Electric) supports the continuous improvement process and activities that create a strong safety and health program and pledges to devote the necessary resources to do so.

Background:

The employees of Basin Electric are a valuable resource and Basin Electric appreciates the efforts of its employees to work safely and protect their fellow employees. Basin Electric's safety and health program uses a continuous improvement process to maintain a safe and healthy work environment, provide hazard awareness, and encourage proactive action and involvement among its employees. The processes, workplace safety policies, and procedures are implemented to reduce exposure and increase productivity.

Resolution 10 - Economic Development in Rural America

Basin Electric Power Cooperative (Basin Electric) and its member systems pledge to continue their efforts to more fully realize the tremendous potential of the Upper Great Plains region for sustained and manageable growth as a vehicle for a renewed economic vitality in rural America.

Background:

Basin Electric was established in response to the need for a dependable power supplier in the Missouri River Basin that would understand and be responsive to the energy needs of the people working, producing, and living in the region. In order to spur economic development in the region and in America, Basin Electric developed a program of electrical power marketing, which involves promoting the efficient use of electricity.

As part of this program, Basin Electric offers dependable, high-quality electrical energy and other services needed by today's technologically advanced homes and businesses. Basin Electric and its member systems have aggressively been working to enhance community and economic development opportunities by utilizing their own human and financial resources in

coordination with private individuals, businesses, local governments, state governments, National Rural Electric Cooperatives Association, and the Rural Utilities Service.

Resolution 11 - Land and Wildlife Mitigation Efforts

Basin Electric Power Cooperative (Basin Electric) urges federal and state agencies to refrain from purchases of private land for wildlife habitat and direct their management efforts toward the better use of the land already under their control. Basin Electric opposes any mandatory requirements to mitigate the effects of energy facility construction on private land through the purchase of comparable land elsewhere in the state.

Background:

Basin Electric maintains a viable outdoor environment, including the preservation and protection of habitat for fish and wildlife. Although permitting of Basin Electric facilities may require investments in environmental mitigation, existing federal, state, and voluntary programs to improve the quality of available habitat for wildlife should be considered prior to additional purchases of land.

Resolution 12 - Private Property Rights

Basin Electric Power Cooperative (Basin Electric) fully believes no person should be deprived of the use of private property without due process of law and no private property should be taken, damaged, or reduced in value by government action without just and fair market compensation.

Background:

Basin Electric was created by farmers and ranchers and is still represented by people with a deep and abiding faith in the rights of property owners as protected by the Fifth Amendment to the United States Constitution. In some cases, the taking of private property for governmental purposes has created an uncertainty and burden on property owners through lengthy and costly litigation, which many cannot afford, and rights to realize value from their property are inhibited or denied by environmental regulations or other laws.

Resolution 13 - Standing Bylaw Review Committee

The standing Bylaw Review Committee consisting of one director and one manager from each Basin Electric Power Cooperative (Basin Electric) district shall conduct an annual review of the Basin Electric bylaws.

Background:

The member cooperatives' needs are constantly changing to better serve their membership and the rate of this change is ever increasing. Basin Electric bylaws will need to address any changes the membership is experiencing.

Resolution 14 - Touchstone Energy Brand

Basin Electric Power Cooperative (Basin Electric) endorses and supports the promotion of a unified brand, Touchstone Energy, as an essential part of a comprehensive strategy to position electric cooperatives as superior energy and service providers. The largest possible amount of electric cooperatives belonging to Touchstone Energy will result in the strongest enhancement of local and regional consumer-owned electric systems' efforts to market energy and provide superior customer service – all Basin Electric member systems that are not present members of Touchstone Energy are strongly encouraged to join.

Background:

A critical challenge for electric cooperatives is how to capitalize on the strength of their network to develop and market a single, identifiable image of competitive, high-quality energy services. The ability to achieve unity and market strength rests on the determination of the entire electric cooperative family to operate as a unified network with common goals and a sense of mission that transcends its diversities.

The majority of the nation's rural electric cooperatives and a majority of Basin Electric's member systems joined in creating Touchstone Energy as a unifying identity under which the electric cooperatives' energy and services may be marketed through a nationwide, locally owned network. Generations of experience, as well as extensive consumer research, shows that being in touch with consumers and the community and offering consumers a voice in their cooperative's operations are competitive advantages.

The Touchstone Energy brand was established to clearly communicate the attributes that consumers want in their energy supplier, and is controlled by the cooperatives providing financial investments with support from the National Rural Electric Cooperative Association (NRECA).

Resolution 15 - Commendations

Basin Electric Power Cooperative (Basin Electric) commends the Statewide Rural Electric Cooperative Associations throughout its service area, National Rural Electric Cooperatives Association, Mid-West Electric Consumers Association, and Western Fuels Association for their collective efforts to protect and promote the rural electrification program, and all of its recipients throughout the country.

Basin Electric's members commend and extend their thanks to the Board of Directors and CEO and General Manager for their leadership, courage, and guidance to Basin Electric and the member-owners, and to the employees for their dedication and commitment to Basin Electric and the member systems.

CURRENT RESOLUTIONS

Section A - Energy Policy

A-1 - Energy Policy

Basin Electric Power Cooperative (Basin Electric) supports an all of the above energy policy that includes technologies that enable a diverse, reliable, and resilient energy supply mix. Basin Electric supports the responsible development of the region's natural resources and the expansion of generation and transmission infrastructure that may help maintain the reliable, affordable flow of electricity on which Basin Electric's members have come to depend.

Fossil fuels continue to fill an essential role in supplying the needs of our member-consumers. Fully dispatchable resources, such as many hydroelectric facilities and those fueled with coal, natural gas, oil, and uranium should remain a viable choice for the future.

Markets

Basin Electric encourages federal energy regulators and regional transmission organizations to eliminate disparities in the market that penalize dispatchable power by failing to recognize the resiliency and reliability it brings to the grid through spinning reserves and standby power. The wind doesn't always blow, and the sun doesn't always shine, yet wind and solar are given an unfair advantage in the market through significant tax subsidies that make it harder for dispatchable plants to compete, and leads to stranded costs.

All classes of consumers must be treated fairly and energy providers must be subject to the same standards. When regulatory or market policies cause costs to be stranded, the entity that caused them to be stranded must be required to cover those costs. State and federal energy policy should promote efficiency improvements at existing electrical generating facilities by eliminating the current disincentives to those efficiency improvements.

Basin Electric also encourages the development of an organized electricity market in the West with strong public power governance to facilitate efficiencies in electricity markets that will help integrate and optimize generation resources, bring down electricity costs, and increase the reliability and resilience of the grid.

Incentives

Basin Electric believes that a national energy policy based on a tax policy that picks winners and losers is not sustainable, and Congress and the states need to ensure the economic impacts of incentives for energy generation are uniform when applied to different technologies and taxpayers (e.g., public power utilities, rural electric cooperatives, and others).

Research and Development

Basin Electric supports the research, development, and demonstration of technologies to ensure commercial alternatives that take advantage of our natural resources and support our nation's energy independence are available to our industry. The development of new technologies should be supported through state and federal financial incentives that will expedite deployment of pilot and commercial-scale carbon capture technologies as well as advanced fossil fuel energy generation and storage technologies.

Background:

Basin Electric and its members believe that the cooperative-owned and controlled segment of the electric utility industry has been and will continue to be a reliable and competitive supplier to its members. State and national leaders should consider the unique structure and role of rural electric cooperatives in setting energy policy.

Basin Electric is greatly concerned with efforts at the state and federal level to overregulate the country's electric utilities and manipulate energy markets to further selected social agendas. Overregulation of the energy sector affects Basin Electric's ability to develop power generation facilities, control fuel costs, develop and expand the transmission system, and comply with environmental regulations. This also affects our ability to market power, provide stable rates for our membership, hire and retain a reliable work force, and maintain a commendable rating by finance agencies.

The price volatility associated with commodities like natural gas, the availability of hydropower, wind and solar, and weather can challenge the reliable and economic supply of electricity to our members, which demands a diverse portfolio of generation assets and a robust, redundant transmission system. Intermittent energy sources like wind and solar currently require back-up generation through baseload or peaking power, including the development of dependable and affordable long-duration power storage devices in order to be a reliable source of electricity.

Basin Electric's baseload and intermediate generation units have been and continue to be impacted by market forces that fail to adequately compensate baseload resources for their role in providing essential electric service in the wholesale power markets. Dispatchable generation should be compensated for the essential service it provides to the stability of the electric grid, while some ancillary services (such as assets in reserve) are currently compensated, the value of "ramping up" in operating units is not.

Coal units cannot cycle on and off on a daily basis like natural gas generation. So when loads are moderate or low and wind and solar are significantly high on a given day (resulting in very low or negative market prices for energy), coal units are backed down to their minimum generation levels and incur financial losses. These units cannot be taken offline for short periods of time because they may be needed to supply energy in the market later in the current or the very next day when wind drops to very low levels or loads increase.

While wind and solar are subsidized through tax incentives, the federal government provides no compensation for coal generation to remain on standby as an offset to the losses incurred when the wind blows and the sun shines. Additionally, wind and solar levels can abruptly fluctuate throughout the day, forcing other generation, primarily fossil fuel-based, to start up or "ramp up" from lower generation levels.

Federal regulations regarding existing power plants are a significant deterrent to power plant upgrades that would provide the efficiency improvements that lead to economic and environmental benefits. Many coal-based power plants operated by cooperatives today, including Basin Electric, were built at a time the federal government prohibited the use of natural gas as a fuel for electric generation, and required state-of-the-art pollution controls. This shows how policies that discriminate against or promote specific fuels can hinder, rather than encourage, diversification in the utility industry. State and federal policies should give utilities the

flexibility to make fuel decisions based on sound business practices and their obligation to serve electric consumers.

A-2 - Renewable Energy

Basin Electric Power Cooperative (Basin Electric) supports renewable energy resources by investing in or committing to green projects and for continuing the strong legacy of environmental stewardship upon which Basin Electric was built. Basin Electric will continue to evaluate potential renewable energy projects to include a variety of sources on a case-by-case basis. Congress and the states should ensure incentives for energy generation are applied uniformly to cooperative utilities as they are provided to other utilities.

Background:

Basin Electric's members already receive a portion of their electricity from federal hydropower facilities. Basin Electric encourages the development of other renewable energy projects by and within its member electric cooperative systems. Basin Electric has encouraged renewable energy development by expanding the amount of wind, solar, and recovered energy generation in its generation mix.

Basin Electric assists its member systems by providing a variety of other renewable energy options to their consumers, including, but not limited to, waste heat recovery, solar, and biomass by reviewing projects on an individual basis, their business viability, and potential markets.

A-3 - Public Utility Regulatory Policy Act (PURPA)

Basin Electric Power Cooperative (Basin Electric) urges Congress to completely repeal the qualified facility purchase mandate under PURPA and ensure that cooperative utilities are able to receive full reimbursement for existing obligations incurred under PURPA. No utility should be required to purchase power it does not need from an electric generator simply because the generation is from a renewable source, especially if that generating facility would operate within the same open market as the utility and has equal access to that market.

Background:

The Public Utility Regulatory Policy Act of 1978 (PURPA) was designed to assist in the development of alternative energy sources, especially the utilization of renewable resources. Basin Electric has voluntarily moved forward with the development of renewable energy for its membership for nearly two decades.

However, Section 210 of PURPA contains a mandate for utilities to purchase the output of alternative energy from renewable energy resources. The intent of PURPA was, in part, to ensure that the output of renewable facilities would be incorporated into a utilities fuel mix, but this requirement is no longer valid in an operating wholesale market.

A-4 - Net Metering

Basin Electric Power Cooperative (Basin Electric) only supports net metering policy if the net metered generator compensates the cooperative system for services used by the net-metered generator, this includes distribution and transmission infrastructure and backup services required by the net-metered generator and supplied by the retail cooperative. Basin Electric

opposes net metering and feed-in tariffs if costs are shifted to other consumers in order to provide services to the net-metered customer.

Background:

A number of legislative proposals have been considered over the years to require subsidies, such as net metering or feed-in tariffs, for consumers with small renewable energy facilities. Many supporters of renewable energy advocate the use of net metering or feed-in tariffs for these facilities.

Both net metering and feed-in tariffs result in shifting of costs to other consumers, wherein the other consumers bear the cost burden of providing services to the net-metered consumer, such as standby power, transmission, and distribution, which should rightfully be charged to the net-metered consumer. Feed-in tariffs also create added power costs to other consumers; as the tariff may be several times the cost of traditional sources.

A-5 - Retail Choice

Basin Electric Power Cooperative (Basin Electric) opposes efforts to restructure the electric utility industry to impose mandatory retail choice requirements on utilities or authorize retail choice that negatively impacts incumbent utilities, their investments in electric infrastructure, and their ratepayers. Such efforts, whether on a state or national level, threaten to undermine both member-owners and their cooperatives, and make it difficult for cooperatives to continue to provide their remaining members with safe, reliable, and affordable services.

Basin Electric opposes legislative or regulatory initiatives with respect to distributed generation, feed-in tariffs, and net metering that would increase member-owners' rates, degrade reliability or safety, impose other undue economic costs on electric cooperatives, or interfere with the power supply or other contractual relationships between cooperatives.

Background:

The future of distributed or dispersed generation is an important issue for electric cooperatives. This technology may provide benefits in some applications, but prove to be a safety, cost, and reliability burden in others. As member-owned utilities, we are concerned by efforts on both the state and national levels to restructure the electric industry without providing appropriate safeguards for all member-owners. Any federal or state rules regarding retail choice, distributed energy, cost allocations, affiliate transactions, and separation of functions should recognize electric cooperatives' unique size, member-ownership, and not-for-profit characteristics.

A-6 - Protecting Cooperative Service Areas

Basin Electric Power Cooperative (Basin Electric) supports its member systems in their efforts to retain the right to serve the areas they have previously served and are presently authorized to serve. Basin Electric supports territorial integrity legislation for cooperatives and will oppose any legislative, regulatory, or other effort to abolish or weaken territorial integrity laws. Exclusive distribution service areas must be maintained and duplication of electrical facilities should be avoided.

Congress should prohibit the use of federally subsidized tax-exempt securities to finance the acquisition of facilities of rural electric systems and adopt uniform rules regarding territorial

integrity, ensuring that no distribution cooperative is forced to relinquish territory or consumers without fair and adequate compensation.

Basin Electric opposes the taking of rural electric cooperative customers, facilities, and service territory by municipal utilities. Municipal utilities should only be permitted to acquire rural electric cooperative facilities or property to serve annexed areas through mutual agreement between the utility and the cooperative. Any municipal utility should be required to provide fair and adequate compensation for the acquisition, including the cost of investments at replacement or market value, whichever is greater, made in such facilities, as well as consideration for loss of future revenues.

Background:

Rural electric cooperatives initiated service because other utilities refused to provide electric service to rural areas due to the high cost of serving the low number of consumers per mile, which limited their profitability. The rural electric program is being undermined by the erosion of service territory and existing and future loads in and around the towns and cities within Basin Electric's service territory. Retention of cooperative territory is fundamental to the rural electrification program that the Rural Utilities Service (RUS) depends on for rate stability and loan repayment. The problems incurred through the loss of these firm boundaries include weakened credit worthiness of the systems, waste of natural resources, and needless duplication of existing utility generation, transmission, and distribution systems.

Basin Electric's member systems serve all persons in their service areas. The cost of providing this service in sparsely settled rural areas has been high while the returns have been low. In recent years, growth has taken place in some areas served by rural electric systems surrounding urban centers, which has prompted municipalities to attempt to seek control of these growing sections of the rural electric systems through annexation.

Attempts by these utilities to take over distribution cooperative property and serve cooperative members leads to loss of revenue, restrains growth, and endangers the continued economic viability of some distribution cooperatives and their power supply cooperatives. Several states have enacted policies that protect cooperatives when this occurs, but the threat remains throughout the region.

A-7 - Federal Coal Leases

Basin Electric Power Cooperative (Basin Electric) believes the federal coal leasing program needs to be improved and streamlined, not hindered. The federal government, through its land agencies, has a statutory obligation to develop public resources, assist in providing affordable and reliable power, and guarantee that taxpayers are receiving a fair market return on this resource.

Basin Electric supports a robust federal coal leasing program and opposes any changes that would arbitrarily increase the cost of securing federal coal leases and, in turn, adversely increase the cost of electricity purchased by our member-owners.

Basin Electric is committed to reasonable reforms to the federal coal leasing program that protect the ability of coal producers to access federal coal tracts in a timely and economic manner that works in concert with the development of adjacent non-federal coal resources.

Background:

Basin Electric and its members rely on coal from both North Dakota and Wyoming for a significant portion of their generation. The mining of coal from federal leases is an important part of our fuel suppliers' ability to maintain a reliable and economical supply of coal.

The current federal coal leasing process serves as a barrier to producing federal coal, with many coal producers having to wait years and undergo costly analysis with little guarantee of permitting federal coal. Environmental groups have sued in federal court to order the Department of Interior to reopen its 1979 programmatic environmental impact study of federal coal leasing programs to account for the social costs of greenhouse gas emissions when federal coal is mined and combusted. Many of these efforts are being pushed by environmental groups, which have stated goals of bringing an end to federal coal leasing and coal mining in general.

A-8 - Support for the Rural Utilities Service

Basin Electric Power Cooperative (Basin Electric) supports the Rural Utilities Service (RUS) Program and believes RUS should continue to be a source of low-cost financing for rural electric cooperative infrastructure, and urges Congress to find a bipartisan solution that will maintain the role of RUS as a primary cooperative lender.

Background:

The rural electric cooperatives within the Basin Electric region and other rural electric cooperatives across the country are investing funds to either build new or update aging electrical systems, working with their communities in rural economic development, and helping develop the rural infrastructure in areas of rural water, communication, broadband internet access, and other services.

The RUS provides universally available programs at low-cost funding for electrical system improvements, engineering guidelines and standards for construction and operation of the electrical systems, and zero-based loans through the Rural Economic Development Loans and Grants (REDLG) that promote economic development and job creation, all which support building rural infrastructure.

Cooperatives face the challenges of increased load growth as well as actions that threaten to undermine the ability of cooperatives to provide affordable, reliable electricity to their member-owners. With aging electrical facilities in need of replacement at many distribution cooperatives; with distribution cooperatives retaining the responsibility for serving sparsely populated rural areas; with rural cooperative consumers continuing to pay higher rates for electricity; there still exists a need for a strong RUS.

A-9 - Energy Efficiency and Conservation

Basin Electric Power Cooperative (Basin Electric) supports cost-effective energy conservation policies while striving to provide reliable and efficient electrical power generation.

Background:

Basin Electric supports a clean environment, and the members of Basin Electric recognize the need to use energy more efficiently to hold down the cost of producing additional energy and to conserve our natural resources. The cost of energy has increased in recent years due to a

variety of factors including growth; demand fluctuations in fuel supplies and price; and economic, regulatory, and political pressures.

Basin Electric has taken steps to conserve power at its facilities, and many of Basin Electric's member cooperatives have implemented load management programs so large loads can be reduced to diminish demand and conserve power during peak periods.

Section B - Member Support

B-1 - Electric Vehicle Policies

Basin Electric Power Cooperative (Basin Electric) supports policies and investments by the membership to develop and deploy electric vehicle (EV) programs, and further develop charging infrastructure within the cooperative service territories. We are supportive of policies that remain favorable to cooperatives regarding sale of energy, utility rate development, and appropriate fees that recoup lost gas tax revenues for road infrastructure and maintenance.

Background:

Several states within the Basin Electric service territory have considered legislative and regulatory initiatives related to the deployment of EVs and associated infrastructure. Issues that have surfaced with these discussions include clarifying the definition of public utility so electric vehicle charging station owners are not regulated as public utilities or cooperatives, as well as ensuring that EVs pay revenues in lieu of gas tax for road construction and maintenance.

Currently most utilities, including Basin Electric, would agree with the following positions:

- 1) Charging stations should not be regulated as utilities as long as the purchased energy that is being resold is from the incumbent utility;*
- 2) The utility has the ability to determine the rate charged to these entities including demand and time of day rates;*
- 3) The utility line extension policies remain applicable; and*
- 4) The utility also has the ability to own the charging stations.*

Several states have enacted legislation that implements adequate registration fees for EVs to compensate for the reduced use of fuel and the associated tax revenue.

B-2 - Basin Electric Power Cooperative Growth

Basin Electric Power Cooperative (Basin Electric) believes growth of member loads and the membership may provide long-term benefits to Basin Electric and should be encouraged.

Background:

Since Basin Electric's incorporation in 1961 and its subsequent construction of the Leland Olds Station, Basin Electric has grown as a result of both the increase in the electrical requirements of the membership, as well as the addition of new members signing all additional-requirements contracts. While growth has provided challenges, it has also been the catalyst in the evolution of Basin Electric, propelling the development of the scope and sophistication of its facilities and services.

Membership load growth is a sign of prosperity in the service territory, and the generating equipment constructed to serve load growth enhances energy security of the entire membership. Interest by other non-profit power suppliers in joining Basin Electric is a vote of confidence in the organization and is consistent with the principles upon which Basin Electric was established.

B-3 - Member Strategic Planning and Organizational Structuring

It is imperative that Basin Electric Power Cooperative (Basin Electric) and its member systems prepare to deal with the ever-changing electric utility marketplace by planning for the future. Basin Electric supports the efforts of its member systems to improve their competitive position, and thereby Basin Electric's competitive position, by continuing to support member strategic planning efforts and voluntary organizational restructuring through available means.

Background:

The farm economy and changing demographics of rural and urban areas place considerable pressures on electric cooperatives to reduce costs, increase efficiencies, and add value for the consumer. Basin Electric encourages member strategic planning and organizational restructuring of rural electric cooperatives to improve competitive positioning, eliminate duplication, reduce costs, and provide power at competitive rates for the consumers of rural electric cooperatives.

B-4 - Electric Heating and Other Incentive Rates

Basin Electric Power Cooperative's (Basin Electric) members support the use of efficient heating and cooling systems to promote energy efficiency and conservation. Basin Electric's members support the use of incentive rates that encourage load growth and diversity of loads within the member cooperatives.

Background:

Basin Electric and its member systems want to provide affordable electric power to their member-owners in the most efficient way possible. Compared to direct-fueled systems, electric systems convert 100 percent or more of the energy in the electricity to useable energy. Geothermal and air-source heat pumps are some of the more popular, cost-effective, and efficient ways to provide residential heating and cooling. Electric water heaters provide valuable benefits to cooperative members by providing off-peak electric thermal storage, and many cooperatives use these types of heaters as part of their demand-response programs.

Basin Electric has established special rates for member systems to make efficient electric heating and cooling systems more attractive and affordable to their consumers. As loads change and new loads emerge, such as electric vehicle charging, it is important to consider these and other incentives that will support member cooperatives' efforts to promote and market electricity as the fuel of choice to their member-owners.

Section C - Agriculture Policy

C-1 - Support for Biofuels

Basin Electric Power Cooperative (Basin Electric) supports the production of biofuels, including ethanol, which will enhance the economy, the environment, and national security.

Background:

A successful national program to promote the availability and use of diverse fuels and technologies for diverse energy needs will be of significant value in moving the country away from dependence on foreign sources of energy along with the resultant periodic rises in the cost of petroleum.

Maximizing the use of biofuels derived from agricultural products and renewable feedstocks will improve the farm and rural economy, thereby supporting rural electric cooperative consumers. Development of biofuels and other diverse fuels, especially ethanol, is responsible for creating numerous jobs and increasing household income and much-needed agricultural income in rural America.

C-2 - Maintaining a Viable U.S. Farm Economy

Basin Electric Power Cooperative (Basin Electric) encourages the United States Congress to work in a bipartisan effort to enact sound policy and provide adequate funding to ensure a strong agricultural economy continues well into the future.

Background:

Basin Electric's membership believes a healthy agricultural economy is an essential part of rural America and the nation. Legislation such as, the farm bill, which is reauthorized every five years, has provided farmers and ranchers with an important safety net by extending and expanding many key programs for commodities and livestock.

Past farm bills have established a Beginning Farmer and Rancher Development Program to help farmers and ranchers just starting out, as well as other credit and financial assistance programs for new and existing farmers and ranchers. The farm bill also promoted stewardship of the land through conservation programs, rural development, and expanded rural energy development.

Section D - Environmental

D-1 - Carbon Management

Basin Electric Power Cooperative (Basin Electric) reaffirms the environmental and economic principles laid out in its Statement of Ideals and Objectives and Continuing Resolutions. Basin Electric is committed to reasonable carbon management solutions that are technologically and economically achievable; that give utilities a realistic timeframe to comply; and that provide opportunities to develop and deploy carbon management technology so we can continue to provide our members with reliable, affordable power.

Any carbon management policy, including regulations under the Clean Air Act, a carbon tax, carbon pricing in wholesale electric markets, or clean energy standard, should not prohibit (directly or indirectly) the continued use of fossil fuels as part of the country's generation mix. In order to do so, carbon management policies need to recognize existing investments in fossil generation, and not reduce the remaining life of such assets by imposing increased costs or otherwise require a premature shutdown. Further, policies should include adequate incentives to develop electric generation technologies that significantly reduce or eliminate carbon emissions. Incorporating these elements into carbon management policy are necessary to maintain grid reliability as well as protect ratepayers.

Background:

Basin Electric's strong record of environmental stewardship and land reclamation shows that we can have a robust energy industry and a clean environment, with reclaimed lands virtually indistinguishable from unmined lands. Basin Electric has a history of developing highly controlled fossil fuel-based energy generation facilities, using state-of-the-art pollution controls and operating with exemplary compliance records. We can have reliable, affordable energy in the United States and a clean environment, as long as industry is part of the solution and provides the time, flexibility, and resources necessary to respond.

Long before the debate over regulating carbon dioxide (CO₂) evolved into what it is today, Basin Electric was capturing CO₂ emissions by installing the first-in-the-nation carbon capture system on the Great Plains Synfuels Plant. Additionally, Basin Electric has partnered with the State of Wyoming, Tri-State G&T Association, National Rural Electric Cooperative Association, and the Wyoming Municipal Power Agency to build the Integrated Test Center, a state-of-the-art carbon research facility, at the Dry Fork Station in Gillette, Wyoming.

Basin Electric continues to invest time and money in advancing research into other carbon capture, carbon sequestration, and advanced fossil fuel energy generation technology projects to further develop these technologies, as well as diversifying our electricity mix through renewable energy and natural gas-based generation.

Basin Electric supports the development of an appropriate mix of all energy supply technologies, including fossil fuels, renewables, nuclear, and advanced fossil-fuel technologies, to ensure we are able to continue providing the membership with reliable, affordable electricity.

D-2 - Regional Haze

Basin Electric Power Cooperative (Basin Electric) has been committed to meeting its Regional Haze reduction goals in a timely, cost-effective manner. Any future reductions sought through

State Implementation Plans (SIPs) should not be the sole responsibility of utilities, which have already committed to reductions. North Dakota, Wyoming, and other states should continue to exercise their discretion in any Regional Haze SIP for the facilities under their jurisdiction, and Basin Electric urges the Environmental Protection Agency (EPA) to continue to defer to the states as they exercise their discretion in making Regional Haze determinations. States should also work with EPA to take into account international and non-anthropogenic sources and adjust goals accordingly.

Background:

The EPA's Regional Haze Rule requires industries to reduce haze-forming pollution in order to return visibility in the nation's parks and wilderness areas to pre-industrial levels by 2064. The first round of these regulations required certain facilities to install Best Available Retrofit Technologies (BART), as determined by the states.

Under these regulations, states develop SIPs by considering technology availability, the costs of compliance, energy and non-air environmental impacts, existing controls at the source, the remaining useful life of the source, and potentially, the visibility improvement that can be reasonably expected from controlling the emissions. The federal courts have determined that EPA must afford substantial deference to regulatory decisions, including BART and SIP determinations, made by the states pursuant to their authority under the Clean Air Act.

Basin Electric has upgraded its power plants to comply with Round 1 of the Regional Haze SIPs by installing Selective Non-Catalytic Reduction (SNCR), Selective Catalytic Reduction (SCR), scrubbers, and other technology on its power plants in North Dakota and Wyoming, where appropriate, in order to meet the goals agreed to by the states, EPA, and Basin Electric.

At times, the EPA unfairly substitutes its own judgment for the states' decisions, leading to protracted litigation and unnecessary delays in responding to the rules. The Regional Haze Rule anticipates a lengthy process with a goal of reducing haze and improving visibility from numerous sources and industries over multiple decades rather than a few years, and therefore states and utilities should be granted the time and resources necessary to respond in a manner that does not adversely affect electric consumers or reliability of the electric grid.

D-3 - Coal Ash Regulation

Basin Electric Power Cooperative (Basin Electric) supports efforts to modify the existing Environmental Protection Agency's (EPA) Coal Combustion Residuals (CCR) rule to make it more flexible and less onerous. Basin Electric supports efforts to permanently classify CCRs as non-hazardous waste and to place CCR regulation solely under state control.

Background:

Using and recycling CCRs conserves natural resources by replacing materials that would otherwise have to be mined, and each ton of recycled fly ash offsets a ton of cement production, which eliminates the release of a ton of CO₂. The EPA appropriately regulates CCRs as a non-hazardous waste under Subtitle D rather than as hazardous waste under Subtitle C of the Resource Conservation and Recovery Act. (RCRA)

The rule has been under review by the Trump Administration to provide more flexibility in state permitting programs. Recent court decisions have caused uncertainty for many utilities, and

would place onerous requirements on some existing coal ash disposal sites. States should be granted flexibility to develop disposal and monitoring regulations that reflect the unique situations in each state.

D-4 - Clean Air Act

Basin Electric Power Cooperative (Basin Electric) believes the Environmental Protection Agency (EPA) should not use the Clean Air Act to implement wholesale regulation of the entire electric industry, and instead should focus on the primary intent of the Clean Air Act. EPA should focus on standards for emissions from individual point sources based on technologies that are adequately demonstrated, available on the commercial market, cost-effective, and allow the energy requirements of the nation to be considered and met.

Regulations should be based on sound scientific methods, including the use of monitors and other empirical methods to determine the real-world impacts of air pollutants and programs to reduce emissions; should be flexible and take into account regional differences; maintain fuel diversity; and give utilities sufficient lead time for compliance.

Basin Electric supports legislative efforts to reform New Source Review to allow utilities to install technologies that reduce emissions or increase efficiency without forcing power plants to undergo a wholesale environmental review that would result in unachievable, onerous expenses that have little or no effect on air quality.

Background:

The Clean Air Act regulates hazardous and “criteria” pollutants by doing scientific studies and assessments and setting appropriate standards based on those studies. Since the enactment of the Clean Air Act in the 1970s, the nation’s air has seen substantial reduction in the criteria pollutants of sulfur oxides, nitrous oxides, and particulates; the removal of which also captures significant amounts of trace metals and other potential pollutants.

Basin Electric has taken the initiative to diversify its generation portfolio with renewable generation, such as wind, solar, and waste heat generation, which has resulted in the displacement of millions of tons of air pollutants. The New Source Review program, as it is currently administered, places burdens on companies that seek to maintain their facilities in an efficient way by categorizing routine maintenance projects as significant projects that require retrofitting of units with exorbitantly expensive emissions controls.

D-5 - Clean Water Act

Basin Electric Power Cooperative (Basin Electric) opposes an overreaching definition of “Waters of the United States (WOTUS)”. Basin Electric supports its farmer-rancher consumer-members, whose livelihoods could be severely impacted by this definition, and supports efforts by the current Administration to repeal and replace the regulatory definition. Congress should pass common-sense legislation that ensures the goals of the Clean Water Act are met without imposing cumbersome regulations on farmers, ranchers, and agriculture.

Background:

The Clean Water Act defines "navigable waters" as "Waters of the United States, including the territorial seas." State and local governments, businesses, environmental groups, the courts, and federal officials have long grappled with the question of how far federal jurisdiction extends to waters not generally considered "navigable" by traditional means, such as isolated wetlands and prairie potholes.

The U.S. Supreme Court has limited federal jurisdiction over some wetlands and waterways, but did not resolve the longstanding question over the extent that small, intermittent streams or wetlands are subject to federal jurisdiction.

Wetlands provide essential habitat for migratory birds and other wildlife, and provide an invaluable resource for recreation, including hunting. Farmers and ranchers have a vested interest in clean water, and have long taken voluntary land conservation and improvement measures. Regulations from the Environmental Protection Agency and the U.S. Army Corps of Engineers to define "Waters of the United States" should follow the statutory limits of the Clean Water Act while recognizing private property rights, balanced development of infrastructure, and the agriculture industry.

Section E - Special

E-1 - Great Plains Synfuels Plant

Basin Electric Power Cooperative (Basin Electric) resolves to continue to make the necessary business decisions in order to eliminate Dakota Gas' adverse financial impacts on the Basin membership.

Background:

The plant began operating in 1984 at an original construction cost of \$2.1 billion. The Synfuels Plant gasifies lignite coal to produce valuable products. Located adjacent to Antelope Valley Station, the two plants share coal handling and water facilities, boosting efficiency in the operation of both plants and reducing waste. When Basin Electric acquired the plant in 1988, its future was uncertain.

Basin Electric has invested heavily in the facility to bring it into environmental compliance, improve efficiency, and diversify the product slate. It is continually seeking opportunities to expand into new markets, and currently produces many coproducts, including synthetic natural gas.

For decades, these coproducts provided a fraction of the plant's revenue. Due to the volatility in the price of natural gas, the plant has spent years diversifying and developing new products to use as a hedge against low natural gas prices. When gas prices are down, production focus shifts to the coproducts, such as fertilizer, rare gases, tar oil, and fuel additives. In 2000, the plant began selling carbon dioxide (CO₂) to oil producers in Saskatchewan, Canada. To date, nearly 40 million tons of CO₂ have been permanently sequestered. In 2013, a second 30,000-ton anhydrous ammonia tank was constructed to allow the Synfuels Plant to sell more anhydrous ammonia into the regional agricultural market and permit year-round operations.

The plant added a urea production plant to produce urea, liquid beverage-grade CO₂, and Diesel Exhaust Fluid. Today it is one of the most advanced fertilizer and chemical plants in the world, however it continues to face serious financial challenges due to low natural gas prices and fluctuation in commodity markets.

E-2 - Regulatory Reform

Basin Electric Power Cooperative (Basin Electric) supports research, legislation, and environmental mitigation efforts at the state and federal levels, which will maintain a clean and healthy environment, minimize economic and social disruptions to the population, and encourage economic development in rural areas.

Regulatory actions must be scrutinized on an appropriate cost/benefit basis that ensures verifiable integrity of the assumptions used, compelling value is returned to those who must pay the cost of meeting the regulation, and that America's competitive interests are preserved or enhanced by the adoption of these direct or indirect regulations.

Basin Electric urges Congress to judiciously exercise its oversight of the Environmental Protection Agency (EPA) and other regulatory agencies through appropriate legislation and other actions to provide transparency, encourage public participation in the regulatory process, and ensure current and proposed environmental regulations adhere to the aforementioned goals.

Background:

Basin Electric and its members have been confronted routinely with escalating regulatory requirements that include interpretations of existing and proposed rules with respect to the production of electricity, especially environmental emissions and the use of fossil fuels. These rules, many proposed by agencies such as the EPA, would increase the costs of electricity and uncertainty in resource planning, affect the efficient operation of coal-based power plants, or adversely affect our rural communities, as well as individual consumers, farmers, and ranchers by adding additional and costly burdens on their operations, and uncertainty in resource planning.

Basin Electric and its members have always been committed to striking an appropriate balance between maintaining a clean and healthy environment and sustaining the economy by ensuring that proposed regulations are reasonable, cost-effective, and achievable. For instance, current law requires that proposed regulations be evaluated on a cost/benefit basis.

E-3 - Utility Policies on Tribal Lands

Basin Electric Power Cooperative (Basin Electric) and its member cooperatives support a reliable and efficient utility delivery system both on and off reservation lands, and work with area tribes to maintain existing and support new utility infrastructure for the benefit of all cooperative members. Any terms for tribal rights-of-way for infrastructure necessary to improve the cooperative's service of electric power should be reasonable and fair.

Background:

Basin Electric, through its member cooperatives, serves American Indian tribes and recognizes tribal sovereignty. Tribal cooperative members are eligible to vote in cooperative elections, and are eligible to serve as directors of their local rural electric cooperatives.

Some tribal governments are in the process of developing their own tribal utility programs. Rural electric cooperatives have already invested in the infrastructure necessary to provide tribes and tribal members with electricity on the reservations, and duplication of these services is not in the best interest of cooperative members.

The process to obtain and retain utility rights-of-way across trust lands administered by the Bureau of Indian Affairs (BIA) is cumbersome and results in considerable delays, and, in some cases, the BIA agency has resisted the granting of easements even though allottees may be eager to receive utility service and support the granting of the easements. Rural electric cooperatives like Basin Electric have a fiduciary duty to provide their member cooperatives with electric service at the lowest-possible cost, and fees for rights-of-way access proposed by some tribes would result in increased electric rates to all members.

E-4 - Endangered Species Act

Basin Electric Power Cooperative (Basin Electric) supports reforming the Endangered Species Act to provide fair, reasonable, science-based decision making with respect to the protection and recovery of threatened and endangered species.

Background:

A diverse natural ecosystem should be protected for future generations, and it is essential that officials find a reasonable balance between protecting threatened and endangered species, while allowing for continued economic growth and prosperity.

The Endangered Species Act of 1973 (ESA) was a landmark environmental law designed to protect endangered and threatened animals and plants. Unfortunately, it has been subject to intense debate since its implementation. Federal officials have debated reauthorization of ESA for more than a decade, focusing on changes to make the ESA more efficient, effective, and less costly.

E-5 - Legal and Judicial Reforms

Basin Electric Power Cooperative (Basin Electric) supports judicial and legal reform efforts that ensure the interests of consumers are fairly and transparently represented, including:

- Tort reform legislation that provides balance in our judicial system that has been overburdened with costly lawsuits.
- Legislation to modify federal agency procedures that allow for what is commonly called “Sue-and-Settle” citizen lawsuits to allow all stakeholders the opportunity to be informed and heard throughout the process.
- Tracking and reporting requirements for all Equal Access to Justice Act (EAJA) reimbursements to attorneys and creation of a searchable, online database of all EAJA payments.

Background:

Tort Reform legislation would include addressing an increasing trend of climate change litigation where citizens pursue litigation against the federal government for its alleged failure to address climate change and local governments pursue litigation against companies that produce fossil fuels for their alleged contributions to climate change. Plaintiffs have requested courts to allow them to recover damages for future economic damages or non-economic damages that can be difficult or impossible to calculate.

“Sue-and-settle” citizen lawsuits are increasingly used by environmentalists and other organizations, wherein these groups sue federal agencies to force out-of-court settlements as a tool to advance their agendas. These lawsuits sometimes result in changes to laws, rules, and policies under federal environmental acts such as the Clean Air Act, the Clean Water Act, and the Endangered Species Act.

The EAJA was enacted to help individuals and groups with limited financial means seek judicial redress against federal government actions, and was intended to allow individuals to recover attorney's fees and costs if they prevail in a lawsuit. Plaintiffs need not win in court to be eligible for EAJA payments, since out-of-court settlements also qualify. In recent years, large environmental groups with vast independent financial resources have repeatedly used EAJA to

finance their own lawsuits against the federal government. There is no known tracking of how the funding is distributed or administered despite the requirement for annual reports to Congress on the program's expenditures.