

C O M M E N T

COMMENT ON DEALS IN THE HEARTLAND: RENEWABLE ENERGY PROJECTS, LOCAL RESISTANCE, AND HOW LAW CAN HELP

by Christopher McLean

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What I found so compelling in this article was the human factor—the authors could have written the same article about what is going on in solar, biodigesters, hydro projects, or trash-to-energy projects. There is a good amount of research that could be done as to why this has cropped up recently. The human stories in the article are heartbreaking—this issue is dividing families, and people are being effectively excommunicated from their churches because of what side they are on.

The slides I want to share give context as to why I am so worried about this trend and what we are trying to do at the U.S. Department of Agriculture (USDA) to address some of these issues. This includes investments we are making under the Inflation Reduction Act (IRA), such as requiring community benefit planning that includes community engagement and an expression of the benefits that are outside the scope of particular projects. Secretary Tom Vilsack, in particular, is interested in farmer benefit planning to show how we can use clean energy to increase farm income.

Federally funded projects must go through environmental review under the National Environmental Policy Act, the Endangered Species Act, and Section 106 of the National Historic Preservation Act.¹ Those reviews can get very complicated and take a long time. It is sometimes frustrating for those of us who want to build and finance projects, but the reviews do have an element of public

engagement, which is very, very important, including consideration of protecting prime farmland.

Cooperative leadership is also something that our agency focuses on. We work a lot with rural electric cooperatives, for example, and their business structure is unique. I encourage the students in the audience to study the cooperative business structure because it is consumer-owned.

The Rural Utilities Service (RUS) is the successor agency to the Rural Electrification Administration. We begin our origin story here in deference to the good people of Vanderbilt by starting in 1933 with the Tennessee Valley Authority Act. The RUS Administrator, Andy Berke, is the political appointee who runs our agency. He is from Tennessee and has experience with municipal electric systems as a former mayor of Chattanooga.

George Norris was the author of the Tennessee Valley Act, which was the inspiration for the Rural Electrification Act (REA), which he authored. President Franklin Delano Roosevelt created the REA by executive order in 1935. Norris was a Republican who supported the New Deal and was from the great state of Nebraska. In 1936, the U.S. Congress enacted the REA. President Harry S. Truman, in 1949, signed into a law the amendments that expanded the agency's jurisdiction to telecommunications. Also in this era, USDA started to finance water infrastructure in rural areas.

When the REA was rolling out electricity in 1935 to rural areas, 10% of American farmers had electricity, and there was a lot of fear about electricity. The REA used to have tent shows and go to communities to say that electricity is safe, it's not going to make your cows produce less milk, and it's not going to electrocute you.

The latest chapter in our story is the IRA, which is the greatest investment in rural electrification since the New Deal. It is an extraordinary piece of legislation. I encourage everyone to look at the New Deal for inspiration. If you want to talk about man-made climate change, look at the Dust Bowl—poor farming habits, overgrazing, lack

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1. 42 U.S.C. §§4321-4370h, ELR STAT. NEPA §§2-209; 16 U.S.C. §§1531-1544, ELR STAT. ESA §§2-18; 54 U.S.C. §300106.

of science, and lack of crop rotation—man-made climate change. And how did that get solved? It was with man-made science—from USDA and its Extension Service combining research, education, and outreach. Rural America in the 1930s was about as third-world as you could imagine. And for women, there was no movement in rural America more important than rural electrification, because it was an absolute liberation from the drudgery of having to haul water to cook with coal or wood.

We are so excited about the IRA. Congress gave Rural Development, which includes the RUS, \$1 billion for partially forgivable loans for clean energy investments. Partial forgiveness will be at the rates of 20% forgiveness, 40% forgiveness, and 60% forgiveness, depending on the communities served. If you are in an energy-dependent community or a disadvantaged community, you could get up to 40%; if you are a tribal community or one of the territories, you can get up to 60% loan forgiveness. Congress also gave the RUS \$9.7 billion for clean energy loans and grants. Grants can support up to 25% of an eligible clean energy project. As a result, that \$9.7 billion will leverage billions of dollars of more investment.

Our sister agency, the Rural Business and Cooperative Service (RBCS) has the Rural Energy for America Program (REAP), which Prof. Christiana Ochoa mentioned in her article. That program is for farm operators and rural businesses to invest in energy efficiency and renewable power to reduce their costs. Congress upped the funding for REAP to \$1.05 billion—it is a tremendous program. At the RUS, we are on the wholesale side financing electric infrastructure and renewable and energy efficiency. REAP is on the retail side, the consumer and rural business areas.

It is also really important that the IRA provides for direct pay tax credits for the first time for co-ops, municipalities, and nonprofits. This is another tremendous opportunity to address some of the issues that were raised in the article, because those tax benefits, instead of going to developers and Wall Street investors, can go to communities, to cooperatives, and really make this power extremely affordable for consumers. There are also consumer tax credits for a host of energy-efficiency measures. Other federal agencies like the U.S. Department of Energy and the U.S. Environmental Protection Agency have energy benefits as well.

Soon after the IRA passed, there was a lot of skepticism, particularly from the biggest carbon-producing cooperatives saying, “We’re not sure if this is for us. We’ve got to worry about reliability.” Those of you in Tennessee, you know we were fresh off of Winter Storm Elliott, during which, for the first time, the Tennessee Valley Authority had brownouts across its service territory. In the previous year, Winter Storm Uri in Texas caused deaths due to loss of electricity, and consumers are going to be paying for years for the cost of their power.

This concern about electric reliability is a big deal for utilities and not only for rural utilities that have limited resources. For many years, the United States plateaued in terms of energy consumption as energy efficiency went into place. Now, we are coming out of the pandemic and demand for energy use is going up for things like benefi-

cial electrification, electrification of the transportation segment, and data centers (which use huge amounts of energy and can be located in rural communities).

As we went through the summer promoting these programs’ forgivable loans and grant support, you could feel the earth move. It just changed through the summer. When we first got this program, we were thinking, “Maybe we don’t have to worry about scoring because we’re not going to get enough applications to be able to use this money.” We got 300 letters of interest for the Powering Affordable Clean Energy (PACE) program, a billion-dollar program that is a lot of money, but we kind of stopped counting at around 12 times the amount of interest. The tragedy of this is actually that we are not going to be able to fund really good projects that are in the queue. The New Empowering Rural America (New ERA) program provides \$9.7 billion statutorily focused exclusively on rural electric cooperatives. RUS received about 160 letters of interest. So for that \$9.7 billion, the interest was at least four times as great as the money that we had to offer.

Secretary Vilsack just announced the first five PACE Awards and we are now moving to process the New ERA applications.

The important thing about REAP (\$1.6 billion in grants and loans since the start of the Joseph Biden-Kamala Harris Administration) is that there is \$800 million available until 2025. The RBCS is going to roll out \$200 million per year from 2025 to 2027. The REAP application cycle is a quarterly cycle, and if you apply for the program and you don’t get it, you can try again. There is a set-aside for \$144 million for underutilized technology, which currently means anything but solar. There’s a wind opportunity, there’s a hydro opportunity, and there’s a biomass opportunity.

Our standing REA activity is also robust. RUS can finance everything that a rural utility would need, whether it’s infrastructure or project financing. We have a small high-energy cost grant program that typically goes to places like Alaska. We can make operating loans. We can make smart grid loans. We even provide financing to others who finance rural electric utilities. And we have an energy-efficiency program. RUS will lend money at 0% interest to a utility to relend it to their consumers for energy efficiency. The consumer pays back the utility through on-bill financing, and the utility pays us back. That can include on-grid, off-grid renewable energy.

To provide a scale of our level of investment, last fiscal year, we invested \$6.88 billion in rural electric infrastructure. I came back to the USDA in 2015, so for me, it’s a personal best. This is loan-only investment, usually at or near U.S. Treasury rates of interest. The electric grid is the most complicated machine known to humankind. Think about how panicked you get when your cell phone runs out of power. But the grid always has to be in balance, the grid has to deliver power when it is needed, and the grid is changing from single directional (from the power plant to the transmission line to the distribution line, to your home) to multi-directional (where power is moving in all directions, and data is essential to move that power). There

is a huge need, especially in rural America, to invest in infrastructure. We're trying to meet that need.

We are very proud of the co-op business model. Co-ops are an important part of rural America. Co-ops, again, are consumer-owned organizations, so when a co-op invests in wind, solar, biomass, whatever, the co-op members, who are the members of that community, also benefit from it. The margins go to consumers (they are generally non-taxable business organizations). We will also work with investor-owned utilities, municipal utilities, developers, tribal utilities, and energy-efficiency entities.

The overwhelming response to our two IRA programs shows that there is a lot of rural imagination, excitement, and anticipation around a clean energy future. The reason rural America has a hard time making this transition is, frankly, economic. When you have a coal plant, a 50-year asset that is already paid off, the reaction is, "What do you mean they have to close it down? And how am I going to afford it?" Before the IRA direct pay tax credits, a big investor-owned utility could deduct it from their taxes,

but co-ops couldn't do that, and municipalities couldn't do it. These tax benefits in the IRA are going to be a major improvement. If we get the incentives right, we get the excitement, we get the anticipation, and we get the new visions of economic development.

The sad thing for me, as thrilled as I am with this overwhelming response and the work that it presents our agency with, is that there are going to be a lot of projects that are really good but we are going to run out. I could use another \$9.7 billion. I could use years of billions of dollars to keep on going through that list before we would run out of good clean energy projects.

Rural America already spends more of their disposable income on power than anyone else. When you are dealing with these issues you have to think about that. The value proposition has to be affordable clean energy. The infrastructure is aging and there is growing demand. Compared to the nudge, this is the magnet. Without these kinds of incentives to transition, it would be extremely, extremely difficult.