



December 3, 2022

Honorable Janet L. Yellen

Secretary

U.S. Department of Treasury

Room 5203, P.O. Box 7604

Washington DC 20044

Via Electronic Transmission: Federal eRulemaking Portal

RE: Notice 2022-58 Request for Comments on Credits for Clean Hydrogen and Clean Fuel Production

Dear Secretary Yellen:

Chesapeake Utilities Corporation (“Chesapeake Utilities” or “the Company”) appreciates the opportunity to provide comments on new section 45V and 45Z clean fuels tax incentives included in the Inflation Reduction Act. Chesapeake Utilities supports this program and the comments provided from the American Gas Association (“AGA”), the Clean Hydrogen Future Coalition and the American Biogas Coalition (“ABC”). As a member of both the AGA and ABC, we adopt their comments and provide additional support for tax incentives as it relates to our existing natural gas distribution and transmission operations and renewable fuel development.

As a company, an industry and a society, our challenge is to ensure that we work together to protect the earth for future generations. To do so, we must support conservation, expand renewable energy deployment and ensure prudent use of our collective energy resources; and do so in a way that creates a lower carbon future where no one is left behind.

Chesapeake Utilities is a diversified energy delivery company, with over 1,000 employees, listed on the New York Stock Exchange and offering sustainable energy solutions through extensive infrastructure, including natural gas transmission and distribution, electricity generation and distribution, propane gas distribution, mobile compressed natural gas utility services and solutions, and other businesses. Chesapeake Utilities has a long history of supporting sustainability initiatives, and has been serving communities for more than 160 years. Today, we own and operate facilities in Delaware, Florida, Georgia, Maryland, North Carolina, Ohio, Pennsylvania, South Carolina, and Virginia. But we do not rest on our history; we recognize that we live in a world where there is much more work to do.

Chesapeake Utilities’ interest in hydrogen began with a desire to assist our larger customers in lowering their carbon footprints. We serve numerous industrial customers in both the Florida and Delmarva Peninsula market areas, and our large-volume customers are increasingly evaluating how to better manage their carbon emissions. Beyond our largest customers, we see a number of opportunities to support customers of all types and sizes as they pursue lower carbon energy options. Hydrogen, along with renewable natural gas (“RNG”), conservation, carbon capture and

other emerging technologies, ultimately provide all customers with increased sustainable energy choices. Providing hydrogen blended fuel, offering technical assistance and operational training, and investing in equipment at customer sites are several of the ways we can actively support and expand the sustainability efforts of the communities we serve.

Earlier this year, we successfully completed a proof-of-concept project blending hydrogen with natural gas to power our Eight Flags Energy Combined Heat and Power (“Eight Flags CHP”) plant in Nassau County, Florida. The Eight Flags CHP hydrogen test program allowed us to refine the operational practices and requirements for safe transportation and injection of hydrogen into a distribution system. The Eight Flags CHP hydrogen blend test project provides real-world operational data that demonstrates the practical use of hydrogen blended natural gas in an industrial application.

We are working hard to develop waste-to-energy production facilities that improve agricultural and landfill environmental conditions in our service areas and produce RNG. The Company also contributes significant energy market and project management expertise to waste-to-energy projects. The physical infrastructure of our energy delivery businesses are also available to transport RNG, provide conventional gas service, operate gas processing facilities or build solar or combined heat and power (CHP) electric generation.

We fully support the comments provided by the above-mentioned associations, and ask the Treasury Department to work with these associations on the development of programs addressing Clean Hydrogen Production and Clean Fuel Production.

We would like to provide comment to the following specific questions included in IRS Notice 2022-58.

.01 Credit for Production of Clean Hydrogen (§ 45V)

Question (1): Section 45V provides a definition of the term “qualified clean hydrogen.” What, if any, guidance is needed to clarify the definition of qualified clean hydrogen?

Comment: Chesapeake Utilities encourages the Treasury Department and IRS to provide a detailed and expansive definition of “qualified clean hydrogen.” We support AGA’s comment regarding the critical value of diverse hydrogen feedstocks. There is no one-size-fits-all with regard to producing clean-burning fuels such as hydrogen. In defining “qualified clean hydrogen,” the emphasis of the definition should be on the proportion of hydrogen produced per volume of carbon dioxide and not on the technological source of the hydrogen production. For instance, to the extent the IRS adopts any specific methodology for calculating emissions, it should clarify that taxpayers may still propose different methodologies when petitioning for a determination pursuant to I.R.C. § 45V(c)(2)(C).

Any final guidance regarding emissions rate or calculation specifications should allow for incorporation of multiple feedstocks, including from geologic natural gas and RNG, as well as renewable sources like wind and solar and carbon neutral sources like nuclear power, and should

be flexible enough to incorporate changes in technology that could occur during the time period the credit is in effect.

We also ask the department to consider blending hydrogen into natural gas systems when determining the fuel purposes. Blending hydrogen into existing natural gas systems can be used to generate heat and power with lower emissions and lower carbon footprints for industrial facilities as well as general consumers. As the use of compressed natural gas increases as a heavy transportation fuel, the blended fuel would further reduce the overall emissions from this sector.

Question (1) (a) Section 45V defines "lifecycle greenhouse gas emissions" to "only include emissions through the point of production (well-to-gate)."3 Which specific steps and emissions should be included within the well-to-gate system boundary for clean hydrogen production from various resources?

Comment: We ask the department to consider that RNG is an anticipated feedstock for hydrogen. As such, the department may want to consider allowing negative emissions using RNG with carbon sequestration to offset emissions.

Question (1)(d): If a facility is producing qualified clean hydrogen during part of the taxable year, and also produces hydrogen that is not qualified clean hydrogen during other parts of the taxable year (for example, due to an emissions rate of greater than 4 kilograms of CO₂-e per kilogram of hydrogen), should the facility be eligible to claim the § 45V credit only for the qualified clean hydrogen it produces, or should it be restricted from claiming the § 45V credit entirely for that taxable year?

Comment: Chesapeake Utilities agrees and supports the comments from ABC to be lenient on awards with the 45V credit and allow credit to be claimed when there was non-qualified clean hydrogen produced during the taxable year. As is stated in the statute, the credit should be granted for every kilogram of qualifying clean hydrogen produced. Whether a facility produces non-qualifying hydrogen (or anything else) should not be relevant.

The language of the IRA allow credits for the production of hydrogen and the language does not limit this to the production from facilities that *only* produce qualified hydrogen. See I.R.C. § 45V(c)(3). For instance, the statute explicitly contemplates the modification of existing hydrogen production facilities into facilities that produce qualified clean hydrogen. I.R.C. § 45V(d)(4). Limiting the tax credit to facilities that only produce green hydrogen would impose an unhelpful barrier and frustrate the purpose of the IRA to encourage production of clean hydrogen.

Question (1)(b): What factors should the Treasury Department and the IRS consider in determining whether fuel is sold at retail for purposes of § 45Z(a)(4)(C)?

Comment: Chesapeake Utilities encourages the Treasury Department and IRS to carefully consider AGA's emphasis on the intent of the credit to be not limited fuel used for transportation. Encouraging the production of clean fuels such as RNG and hydrogen is critical to increasing the supply of such fuels and thereby lowering both the cost for consumption as well as reducing

greenhouse gases in the atmosphere, among other environmental and social benefits. Notably, the statute requires fuel be “suitable” for certain transportation application but does not necessarily require it to actually be used those ways to qualify. I.R.C. 45(5)(A)(i). We also again ask the Department to consider the blending of hydrogen into natural gas systems when determining the purposes for fuel sales. Blending hydrogen into existing natural gas systems can be used to generate heat and power with lower emissions and lower carbon footprints for industrial facilities as well as general consumers. As the use of compressed natural gas increases as a heavy transportation fuel, the blended fuel would further reduce the overall emissions from this sector.

Conclusion:

Chesapeake Utilities thanks the Treasury for the opportunity to provide information on the clean fuel initiatives now underway and look to expand through the incentives provided by the Inflation Reduction Act. The tax credits for Clean Hydrogen and Clean Fuel Production are essential to the continued growth of innovative energy technologies. Long-term, the projects we support will play an important role in advancing sustainable clean energy for the country while offering economically sound business opportunities. We commend the department for the focus on these programs as they will support increased jobs and economic stability that will result from further investment, construction and operations of these clean hydrogen and clean fuel production facilities.

We encourage the Treasury to work with the AGA, ABC, and other associations who are committed to reducing emissions and decarbonizing through innovation and expansion of hydrogen and RNG, and to do so in a way so that no one is left behind.

Sincerely,

Chesapeake Utilities Corporation

Contact: vprice@chpk.com