



20201

LINCOLN ELECTRIC SYSTEM LEGISLATIVE AND REGULATORY GUIDELINES

The Lincoln Electric System (LES) Administrative Board and staff recognize that state and federal legislation and regulations on a wide variety of issues can impact LES customer/owners. These Legislative Guidelines are established and adopted by the LES Administrative Board.

LES' mission is to be a progressive leader, partnering with the community to maximize energy value and quality of life in an environmentally-responsible manner. In order to further our mission, LES must actively monitor and participate in the legislative and regulatory processes that impact, or may impact, LES operations and customers.

These Guidelines identify areas of key concern on a local, state, and national policy basis. LES must assume an active and responsible role in these issues to represent and protect the interests of its customer/owners. These Guidelines also provide general identification and guidance for LES staff and information on our positions to the general public.

These Guidelines specifically address legislative and regulatory issues on a policy basis. Some of these issues are of temporary concern, but many are regularly scrutinized by judicial, legislative, and regulatory bodies and require continuous review.

The LES Executive Team will 1) monitor local, state, and federal legislative and regulatory actions pursuant to these Guidelines, 2) take actions to preserve or advance these values, and 3) report developments concerning them to the Board's Legislation and Government Affairs Committee and to the LES Administrative Board.

These Guidelines are available to anyone upon request. They are routinely distributed to legislative and regulatory agencies, elected and appointed officials, trade associations, and other community interest groups.

LES VISION:

Striving to be the world's best energy company.

LES MISSION:

**LES is a progressive leader,
partnering with the community to maximize energy value
and quality of life in an environmentally-responsible manner.**

TABLE OF CONTENTS

	<u>PAGE</u>
1. Environment and Climate Change	3
1.1 Hazardous Materials.....	34
1.2 Wildlife & Environmental Protection	4
2. Financial	4
2.1 Taxes	4
2.2 Tax-Exempt Financing	4
2.3 Financial Reform	45
3. Personnel Issues	5
3.1 Health & Safety	5
4. Generation Resources.....	5
4.1 Energy Efficiency and Conservation.....	5
4.2 Fuels & Transportation	56
4.3 Federal Hydropower Preference.....	6
4.4 Federal Power Rates.....	67
4.5 Nuclear	7
4.5.4.6 Renewable and Carbon-Neutral Resources	7
4.6 Resource Planning.....	78
4.87 Transmission Access	8
5. Products & Services	89
5.1 Communications.....	89
5.2 Customer Service	910
5.3 Economic Development	10
5.4 Electric Transportation	10
5.5 Rates/Pricing of Services.....	10
6. Public Ownership.....	101
7. Public Partnerships.....	11
8. Security	11

1. Environment and Climate Change

- LES acknowledges that the emissions of greenhouse gases from fossil fuel-fired power generating plants contribute to increased concentration levels of atmospheric carbon dioxide, which in turn contribute to climate change. [LES has set a goal to achieve net zero carbon dioxide production from its generation portfolio by 2040, recognizing that the path and pace to achieving this goal must be balanced by:](#)
 - [a continued commitment to maintain high electric system reliability,](#)
 - [environmental stewardship;](#)
 - [a fiscally-responsible focus that carefully considers financial impacts to all customers, especially LES customers with low and fixed incomes;](#)
 - [consideration of existing contractual obligations; and](#)
 - [advancements in generation, energy storage, carbon capture technologies and other emerging solutions.](#)
- LES has ~~already~~ taken steps to reduce its reliance on fossil fuels; however, LES also acknowledges that its generation portfolio will continue to include some amount of fossil fuel generation for the foreseeable future. LES supports the development of new environmental standards and regulations, and modification of existing ones, to protect air and water resources and the public health and welfare, provided such standards and regulations:
 - 1) are based upon sound scientific data;
 - 2) are based upon the availability of cost-effective and commercially-available controls and technologies to achieve compliance;
 - 3) provide an attainable implementation timeframe for compliance that allows for mitigation of major financial impacts to ratepayers;
 - 4) consider and address the impact on related regulations that may have overlapping or conflicting consequences;
 - 5) consider the impact on electric grid reliability;
 - 6) consider the impact to customer rates;
 - 7) recognize early voluntary actions that support the standard or regulations; and
 - 8) recognize regional and structural differences that can impact the fairness and effectiveness of the standards and regulations.
- LES supports state legislative and regulatory environmental requirements that are no more stringent than federal requirements, unless it can be demonstrated that federal regulations do not adequately protect public health and the environment.
- LES supports policy aimed at reducing carbon dioxide production through an associated federal revenue-neutral fee or tax on carbon emissions, provided such a policy is consistently applied to all carbon-emitting resources.

1.1 Hazardous Materials

- LES supports both interstate and intrastate cooperation and planning for the safe, orderly, and environmentally responsible disposal of solid and hazardous wastes.
- LES supports "Hazardous Waste" designation and disposal requirements that are based on sound scientific data.
- LES supports continued research into the responsible disposal, recycling, or decommissioning of waste from emerging or expanding technologies, such as wind turbine blades, solar panels, and electric vehicle batteries, among others.

1.2 Wildlife and Environmental Protection

- LES supports scientific review of federal, state, and local wildlife and environmental protection regulations to assess their effectiveness and validity in preserving wildlife and natural or ecologically sensitive areas while balancing the necessity of providing for basic human services.

2. **Financial**

2.1 Taxes

- LES does not support taxes on electricity for the purpose of funding non-energy related programs or purposes.
- LES supports continuing exemptions from sales and use taxes on utility fuels, transactions between utilities, and services, as well as the exemption from sales tax on construction labor for generation, transmission, and distribution facilities.
- LES' position on carbon fees or taxes is addressed under Section 1 – Environment and Climate Change.

2.2 Tax-Exempt Financing

- LES supports the continuation of cost-effective access to capital markets for tax-exempt financing of public projects, without undue restrictions.
- LES opposes any new limits that reduce, eliminate, or cap the ability of municipalities and municipal utilities to utilize tax-exempt financing as it may result in significant cost increases for LES customers, and potentially impact the marketability of existing or future municipal bonds. Consistent with this rationale,

LES supports legislation to reinstate the ability of municipalities to advance refund debt which Congress eliminated as part of an omnibus tax bill in late 2017.

- LES opposes any reduction in appropriations for the Qualified Energy Conservation Bonds or Build America Bonds.

2.3 Financial Reform

- LES supports the continued exemption from the Commodities Future Trading Commission margin and reporting requirements of non-speculative hedging by publicly-owned electric utilities through energy-related swap agreements.

3. **Personnel Issues**

3.1 Health and Safety

- LES supports enforcement of safety and health policies, procedures, and practices that comport with the primary, substantive requirements of the Occupational Safety and Health Administration (OSHA); however, the exemption from OSHA requirements for governmental entities should continue.
- LES supports legislation regulating scrap copper sales or increasing criminal penalties for **thefts of** utility copper. Thefts of copper from LES facilities are not only a monetary loss, but in many instances have created potentially unsafe work conditions for LES personnel and the public.
- LES supports the inclusion of mission essential electric utility workers in the federal, state, or local designation of “critical infrastructure workers” as it pertains to access to infrastructure, prioritization of personal protective equipment, vaccines, or other safety measures in response to a pandemic or other state or federal emergency declaration.

4. **Generation Resources**

4.1 Energy Efficiency

- LES supports continued promotion of financially-justified energy efficiency and demand side management programs.
- LES supports the development and promotion of technologies and building codes that allow customers to cost-effectively reduce inefficient energy use.

- LES supports programs that provide for financing of energy efficiency improvements through property assessments but opposes mandating repayment of the financed funds through a customer's electric bill.
- LES opposes energy efficiency resource standards for utilities that mandate certain levels of load reduction because compliance with such standards is subject to many variables outside a utility's direct control, including customer behavior, weather, technological advances, overlapping or competing regulations, and the general economy.

4.2 Fuels & Transportation

- LES supports federal and state legislation and/or regulations that foster competition and eliminate artificial pricing structures within the railroad and natural gas industries in order to ensure the lowest compensatory shipping and fuel rates for all consumers.
- Regardless of whether competition exists, LES supports legislation and regulation to require railroads to disclose their actual costs to provide shipping services and to charge shipping rates that are fair, reasonable, and non-discriminatory while allowing a reasonable rate of return on capital investment in relation to the actual costs.
- LES supports changes in regulatory proceedings to require railroads to prove that their rates are fair, reasonable and non-discriminatory, as is common for other utilities and monopolies.
- LES supports legislation or regulation to establish a more efficient and cost-effective rate relief methodology for rail shippers.
- LES supports repeal of laws that exempt the railroad companies from antitrust injunctive damages and damage remedies.
- LES supports mandatory reliability standards for the railroads with regard to deliveries of coal to coal-fired power plants.

4.3 Federal Hydropower Preference

- LES supports retention of existing federal hydropower preference laws, the federal power marketing agencies (PMA), and protection of power users' interests in multi-purpose projects. LES opposes an open auction of the federal PMAs to the highest bidder. If Congress determines to sell the PMAs, LES can only support the sale or

transfer of the PMAs to current preference customers with proceeds allocated among the customers that paid for the facilities.

- LES supports river operating procedures and practices that adequately consider the importance of renewable hydro power on electric system reliability, the need for responsible flood control, environmental impacts, the regional economy, and the operation of thermal power plants along rivers.

4.4 Federal Power Rates

- LES supports retention of wholesale rates based upon costs of construction, interest and amortization established for each facility related to the production of electric power at the time of its introduction to the power system. Rates for peaking power should reflect its resource utilization and value relative to firm load pattern service.

~~4.5 Nuclear~~ This section was moved and included in the next section.

- ~~• LES supports the cooperation of federal, state and local officials in ensuring that stringent safety precautions and monitoring are undertaken to assure compliance with all federal regulations for the generation of nuclear energy, the transport and storage of spent nuclear fuel, and disposal of low-level radioactive waste from Nebraska's nuclear plant.~~
- ~~• LES supports state or federal direction to provide for the safe, efficient, and cost-effective disposal of low-level radioactive wastes.~~
- ~~• LES supports the consolidation and streamlining of an effective permitting process for the development of the next generation of nuclear generation which could be effective in reducing greenhouse gases.~~

4.65 Renewable and Carbon-Neutral Resources

LES supports policies to encourage the development of cost-effective **renewable carbon-free or carbon-neutral** energy facilities in Nebraska in order to take advantage of Nebraska's renewable resource potential and foster sustainable economic growth, provided such policies include consideration of the impact of additional **renewable** energy development to Nebraska electricity markets, electric reliability, and retail electric rates.

- LES supports the inclusion of new and existing hydroelectric resources within the definition of renewable energy resources.
- LES does not support federal or state firm mandates that would erode local control and impose minimum levels of renewable energy in a utility's resource mix, such as a Renewable Portfolio Standard, but does support statewide efforts to achieve greater utilization of renewable energy resources that do not jeopardize electric system reliability or competitive rates.
- LES supports the cooperation of federal, state and local officials in ensuring that stringent safety precautions and monitoring are undertaken to assure compliance with all federal regulations for the generation of nuclear energy, the transport and storage of spent nuclear fuel, and disposal of low-level radioactive waste.
- LES supports state or federal direction to provide for the safe, efficient, and cost-effective disposal of low-level radioactive wastes.
- LES supports the consolidation and streamlining of an effective permitting process for the development of the next generation of nuclear generation which could be effective in reducing greenhouse gases.

4.76 Resource Planning

- LES supports individual utilities and their governing bodies retaining responsibility for the planning and implementation of resources, using sound Integrated Resource Planning techniques to satisfy their energy and capacity requirements in a cost-effective manner that is consistent with local public policy and that considers both production and demand reduction resources.
- LES supports resource planning processes based on sound engineering and financial analysis that exclude unverified adders and externalities.
- LES supports supply adequacy regulations that incorporate: 1) regional planning reserve standards; 2) verification of generation capability; 3) after-the-fact verification of compliance; and 4) penalties for noncompliance.

4.87 Transmission Access

- LES supports broad access to transmission for wholesale transactions that meets the following requirements:

- a) Transmission rates that have a relationship to costs and reflect the type of service requested with non-firm or curtailable rates lower than firm capacity rates; and
 - b) NERC reliability standards, guidelines and operating practices are followed.
- LES supports the specific and targeted expansion of federal authority and financially justified funding for development of a regional and national bulk transmission system. This expansion should be directed toward the improved reliability of the system and the long-term capability to deliver economic resources to load centers.
 - LES supports the full recognition of existing transmission agreements and contracts and preservation of ~~the physical~~ and/or financial transmission rights. These “grandfathered” arrangements represent a fundamental and long-term investment by ~~and economic benefit to~~ LES customers.
 - LES supports regional cost allocation for new bulk transmission construction projects based upon the following principles: (i) only projects that have a benefit/cost ratio greater than one for long-term economic value, based on quantifiable factors, should be eligible for regional cost allocation; (ii) the allocation of costs should be based such that entities that are the primary beneficiaries of the new transmission bear the majority of the cost~~on cost distributions which provide a long-term benefit/cost ratio equal to or greater than one for all regional participants~~; and (iii) cost allocation should also include analysis to determine, and correct if necessary, unintended cost impacts that create financial winners and losers resulting from ~~operation of~~ the new facilities.

5. Products & Services

5.1 Communications

- LES supports the ability of governmental entities to utilize public infrastructure to provide telecommunication services and opposes legislation that prohibits governmental entities from providing such infrastructure and service in their communities or between governmental entities.
- LES supports access by any entity to public utility communications infrastructure when available, such as dark fiber, and partnerships with other providers to enhance the reliability and breadth of communications services to consumers and to enhance economic development, provided such partnerships do so under mutually agreeable terms and do not adversely impact electric operations, security and reliability or management of public rights-of-way.

- LES opposes any attempts to subject public power utilities to the jurisdiction of the Federal Communications Commission (FCC) relating to pole attachments, including the rates charged for such attachments as the FCC formula for pole attachments would not allow LES to recover the full cost of pole attachments from communication companies and results in LES customers subsidizing these costs.
- LES opposes legislation that would mandate statewide access to local public rights-of-way and priority treatment for specific competitive wireless communication technologies (e.g., small cells) and erode the authority of local governments over these technologies and services. LES supports continued local governance of local government infrastructure, rights-of-way, communication technologies and services.
- LES supports the Utilities Telecommunications Council's (UTC) and the American Public Power Association's (APPA) efforts to oppose all Federal Communications Commission (FCC) spectrum reallocation proposals that adversely affect the reliability of communications systems used by electric utilities.
- LES supports legislation to protect critical electric infrastructure information and enhance information sharing between government agencies responsible for national or state security and the electric utility sector in order to better understand potential threats to critical infrastructure and to mitigate such risks.

5.2 Customer Service

- LES supports fair, reasonable, and nondiscriminatory policies that provide customers with due process, adequate time, and consideration of individual circumstances in the payment of electric bills.
- LES supports allowing utilities to set policies at the local level regarding utility disconnects for nonpayment ~~in extreme hot or cold weather~~ and LES opposes statewide mandates relating to electric utility disconnects or service policies.

5.3 Economic Development

- LES supports activities that recognize the positive role public power and competitive electric rates play in efforts to promote sustainable economic development in the Lincoln area and throughout Nebraska.

5.4 Electric Transportation

- LES supports continued research, development, and commercialization of electric vehicles, including fleet vehicles, that are practical, ~~and~~ cost-competitive, and range-viable for their intended purpose.
- LES supports research into the impact of electric vehicles on existing and future electric distribution systems and demand-side management opportunities, such as research regarding charging behaviors of electric vehicle owners and electric vehicle range variations, among others.
- LES support the expansion of electric vehicle charging infrastructure, provided electric utilities and their ratepayers are not required to subsidize the financing, construction or operation of such infrastructure.

5.5 Rates/Pricing of Services

- LES supports cost-based rates that equitably allocate utility costs to the customer rate classes, without deliberate cross-class subsidization. Low cost-based rates represent a major competitive advantage and economic incentive for business and other economic development for the Lincoln area and throughout Nebraska.
- LES opposes expansion of statewide net metering policies, preferring that such policies be determined at the local level to account for disparate system characteristics and impacts on non-net metered customers.
- ~~LES opposes mandating feed-in tariffs or similar contracts that provide incentive compensation to customers who install renewable energy facilities. Such incentives or tariff decisions should be left to the local utilities to determine.~~
- LES opposes any legislation that mandates rates, rate structures, unbundled rates or retail competition, or other mandates that adversely impact the ability of public power systems to locally govern their operations in the best interest of the local utility's customers.
- LES opposes mandating programs that use customer electric utility bills as a collection vehicle for third-party loans or programs.

6. Public Ownership

- LES supports continued public ownership of Nebraska's electric power systems and governance by locally elected or appointed boards that are accountable to their customers. LES opposes attempts to sell, privatize, or force a merger or consolidation of any or all of Nebraska's public power systems or to limit self-governance.

- LES supports existing eminent domain authority and opposes modifications that weaken the condemnation authority of public utilities or municipalities.
- LES supports expansion of the Nebraska Open Meetings Act to allow public bodies to virtually conduct regular meetings during a pandemic or other emergency where in person gatherings are not allowed or ill-advised and to conduct such virtual meetings consistent with other provisions of the Act with regard to public notice and participation.

7. **Public Partnerships**

- LES supports the continued ability of public entities to create joint ventures with both public and private entities, including interlocal agreements with public entities, with the authority to plan, develop, finance, and operate energy and transmission projects in their mutual interests.

8. **Security**

- LES supports enhanced infrastructure security, both physical and cyber, in cooperation with federal, state, and local resources based upon prudent risk assessments.

LES supports public records exceptions that allow public power entities to withhold from public disclosure competitive and proprietary information, as well as records, maps, personnel information and any information relating to critical physical and cyber assets.

- LES supports legislation or regulation regarding the utilization of unmanned aircraft devices (e.g., drones) that prohibits the unauthorized use of such devices near critical utility infrastructure, but also recognizes the benefits that such devices can provide to utilities in the inspection and maintenance of utility infrastructure.

Adopted: _____.