LPPC
LARGE PUBLIC POWER COUNCIL

March 16, 2022
Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: Request for Information on Environmental, Social and Governance (ESG) Practices in the Municipal Securities Market ("Notice")

Dear Mr. Smith:

The Large Public Power Council ("LPPC") is writing to provide our comments in response to the Notice as it relates to ESG disclosures by our members. We appreciate the opportunity that the MSRB has afforded the public to provide its thoughts on the appropriate regulatory approaches to ESG disclosures in the municipal securities market.

Founded in 1987, LPPC is a national organization comprising 27 of the nation's largest public power systems. LPPC's members are locally owned and controlled not-for-profit electric utilities committed to the people and communities we serve. LPPC advocates for policies that allow public power systems to build infrastructure, invest in communities and provide reliable service at affordable rates. LPPC members provide reliable, low-cost electric service to over 30 million people and our member utilities own and operate over 30,000 circuit miles of high voltage transmission lines and over 71,000 MW of generation with a significant amount of renewables, fossil, hydro, efficiency and demand side management. LPPC's members have been and will continue to be among the largest issuers of tax-exempt bonds because of the capital intensive nature of the electric utility industry. In addition, LPPC's members are at the forefront of the movement to an energy industry that relies on renewable energy and to reduce reliance on fossil fuel generation.

General Response to the Notice

In general, the LPPC believes that ESG disclosure practices continue to evolve and have substantially improved over the last several years. The municipal securities market as a whole, but particularly LPPC members, are increasingly understanding and disclosing climate change risks and factors to investors. As we explain below, though, climate change impacts affect issuers differently and, in particular, climate change impacts to the creditworthiness of municipal securities range a wide spectrum from irrelevant to impactful.

In addition, industry practices related to labeled bonds (*e.g.*, Green Bonds and Social Bonds) continue to develop as well. With respect to Green Bonds, the industry is normalizing to an approach whereby Green Bond designation uses objective criteria (usually the Green Bond Principles of the International Capital Market Association) and a third party expert to confirm that the financed projects conform to that objective criteria. Some issuers do use another objective basis to designate Green Bonds such as LEED certification. The municipal securities market is focused on the potential for "green washing," or the use of Green Bond designation in a subjective or inappropriate context, but those occurrences are rare and market participants are developing good practices on their own.

On the whole, the LPPC believes that regulatory action is premature at this time but the LPPC understands the MSRB's desire to monitor the market and its ESG disclosure developments. The LPPC would appreciate the opportunity to continue to dialogue with the MSRB concerning ESG disclosure practices in the municipal securities market with a view toward an appropriate role for the MSRB.

Answers to the Questions in Notice

Our members are providing comments to the five questions in the Notice that are directed to Municipal Issuers. Here are our responses to those questions:

(1) Are you currently providing ESG-Related Disclosures or ESG-related information beyond the legally required disclosures in your offering documents, continuing disclosures or other investor communications? If so, please consider providing examples. If not, please consider describing how you address ESG-Related Disclosures in your offering documents, continuing disclosures or other investor communications. In your view, should municipal issuers include a separate section in their official statements and other offering documents expressly devoted to ESG-Related Disclosures?

For a few reasons, LPPC members have had to understand and absorb the impacts of climate change and environmental impacts on its operations and make related ESG disclosures for many years now. First, the operations of our members can be heavily impacted by the impacts of climate change and changes in environmental conditions (*e.g.*, droughts can materially impact our members that rely on hydrological power). Second, the finances and operations of our members are regulated by federal and state regulations. Greenhouse emission regulations, for example, can impose significant capital costs on our members and can also result in material impacts to their operations. Finally, climate change and other environmental conditions can result in changes to demand among the customers of many of our members. For example, as power demands have increased and become more expensive, our members have seen an increase in the use of solar power which removes a significant portion of demand from the power systems of many of our members. Accordingly, climate change and environmental conditions have been and will remain an important focus of our members.

In general, LPPC members do provide disclosures in their primary offering documents describing the impact of climate change and other environmental considerations on their finances and operations. But, for the following reasons, those impacts are diverse, highly uncertain and in many instances speculative. First, the physical impact from climate change and other environmental conditions significantly varies among our members. Some members could experience an immediate impact – such as droughts and hydrological power or increased frequency or severity of damage to overhead power lines from storms. Other members though, may have more drawn out impacts from climate change. Second, regulatory impacts of climate change or other environmental matters also vary significantly but also remain fluid and uncertain. Regulations protecting against pollution and greenhouse emissions are evolving and many of the standards remain highly aspirational and unclear as to how they will ultimately impact our members. Importantly for LPPC members, much of the impact of climate change and environmental matters comes from state-specific regulation and monitoring that both creates significantly diverse impacts for our members but also can serve as important disclosure for investors when they give rise to material impacts. Accordingly, the nature of the disclosure that our members provide investors in their primary offering materials differs significantly based on these factors. It is important to note that often times the ESG-related impacts on our members are somewhat neutral to investors because the costs related to keeping up with ESG-related goals and requirements are passed onto customers through the rates and charges of our members.

Given the climate-change focus on the power industry as a whole, many LPPC members prepare ESG-related information for a variety of purposes that describe their progress or status with respect to climate change goals. This information is not provided under any continuing disclosure undertakings and is usually prepared for state-level or local-level constituencies. However, we are aware that some investors have taken an interest in that information to understand better the plans and work that our members undertake with respect to their ESG-related goals.

(2) Do you believe the information included in ESG-Related Disclosures should be standardized? If so, how? If not, why not? In your view, is there a consensus on what information and which metrics are

important? If so, can you provide insight as to what consensus you believe does or could exist? If not, what barriers do you believe exist in reaching a consensus? What topic areas do you believe are relevant and should be included in ESG-Related Disclosures?

As we discuss above, our members believe that any standardized approach to disclosure of environmental and sustainability matters is neither practical nor helpful in the municipal securities market. Environmental changes and impacts have varying impacts across LPPC members – all of whom have power operations – but environmental changes and impacts vary even more across the spectrum of credits in the municipal securities market. Since many issuances of municipal securities are supported through tax revenues in one form or another and because municipal securities are debt securities, the credit supporting many issuances of municipal securities do not necessarily materially change even if the issuer needs to address ongoing impacts of climate change or environmental matters. Other issuers, on the other hand, can see the credit supporting their issuances of municipal securities immediately impacted either because the physical risks of climate change or environmental conditions touch that credit in known and specific ways or because the related operations are regulated to mitigate the impact of climate change. The key is that whatever disclosure standards are developed, those standards need to correlate to the impacts on the municipal securities themselves and given the substantial diversity among credits in the municipal securities market, we do not believe that any standardized approach would assist disclosures and also may have the result of misleading investors concerning the impact of ESG-related matters.

(3) Have you issued ESG-Labeled Bonds? If so, please consider providing an example and describing what criteria were used to make the ESG designation. Did you utilize an independent party to validate or otherwise attest to the use of the ESG designation? Please consider explaining why or why not.

Several of our members have issued municipal securities that are labeled Green Bonds. In the instances we identified, the issuer used the Green Bond Principles of the International Capital Market Association and used a third party expert to provide its opinion that the financed projects fell within the criteria established under the Green Bond Principles. We believe that the industry is moving toward this approach as a whole and instances where issuers self-designate without any objective criteria are relatively few. From our experience, the industry as a whole is well-focused on the potential for "green washing" or issuers who flood the municipal securities market with Green Bonds that do not fall within accepted objective criteria. We believe that the industry is addressing the issue on its own, practices are still developing and there may well be other legitimate practices that develop and, in the end, regulatory action will likely discourage issuers from labeling municipal securities.

(4) If you issued ESG-Labeled Bonds, did you commit to providing any ongoing or continuing disclosure related to the ESG designation? If so, was that disclosure commitment incorporated into the continuing disclosure agreement or similar contractual obligation related to Securities Exchange Act Rule 15c2-12 (collectively, "CDA")? If so, please consider providing an example of the CDA. If the disclosure commitment was not incorporated into the CDA, how is the information made available to an investor on an ongoing basis and at what frequency?

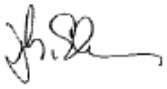
As a part of the labeling of municipal securities as Green Bonds, our members have frequently undertaken to continue reporting on the use of proceeds to ensure that the use of the proceeds conformed to the Green Bond Principles. The manner and frequency of that reporting varies from issuer to issuer. However, our experience is that any undertaking to update investors is not included in the continuing disclosure undertaking or provided as a part of continuing disclosure. LPPC notes that the customs of how to provide investors with information concerning the use of proceeds in Green Bond-labeled municipal securities are still developing. But the LPPC would strongly discourage any changes to Rule 15c2-12 to create an obligation to update use of proceeds with ESG-labeled municipal securities. The industry is still developing its expectations and issuers have overwhelmingly sought to provide investors with sufficient information to assure them that proceeds were used in a manner consistent with the ESG label under which the municipal securities were sold. Like other areas we discuss above, we believe that a regulatory change to require these kinds of updates of use of proceeds under Rule 15c2-12 would discourage issuers from labeling their municipal securities and would likely thwart the industry developments that are already doing a good job of identifying the problems and solving them.

(5) Are you providing information to the credit rating agencies regarding ESG-related risk factors and ESG-related practices? If so, what type? In your view, how does this information generally compare to the information provided in your offering documents and continuing disclosures? Are the credit rating agencies requesting any new types of ESG-related information? Has the credit rating process changed in any significant ways in relation to ESG-related information?

In general, in the experience of our members, the rating agencies have not requested new ESG-related information. We are aware of a rating agency requesting information concerning carbon emissions and renewable energy practices which appeared to be the start of a potential database and approach on ESG-related practices. Other than this request, the LPPC is not aware of the rating agencies altering the information they request from our members.

We appreciate your consideration of our comments and suggestions. The LPPC would be happy to meet with you or your staff to discuss these issues in detail.

Sincerely,



John Di Stasio, President
Large Public Power Council