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Preliminary Comments of the American Council for an Energy-Efficient Economy (ACEEE) on the Environmental Protection Agency's Proposed Clean Energy Incentive Program
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The American Council for an Energy-Efficient Economy (ACEEE) is a nonprofit 501(c)(3) research organization that acts as a catalyst to advance energy efficiency policies, programs, technologies, investments, and behaviors. We believe that the United States can harness the full potential of energy efficiency to achieve greater economic prosperity, energy security, and environmental protection for all of its people. We are submitting these preliminary comments on the Clean Energy Incentive Program (CEIP) to share our early thinking on how best to incorporate energy efficiency in the CEIP and to highlight key questions that have arisen about CEIP implementation. We intend to share these comments with a variety of stakeholders in the coming weeks, and will incorporate useful feedback in our final comments on the CEIP, which will be part of our comments on the Federal Plan and Model Rules for the Clean Power Plan, Docket ID: EPA-HQ-OAR-2015-0199.

Improve incentives for early investments in energy efficiency

EXPAND THE CEIP TO INCLUDE A BROADER SET OF ENERGY EFFICIENCY POLICIES AND MEASURES

Energy efficiency is a zero emission resource, a lowest cost path to compliance with EPA's emission goals in the Clean Power Plan, and results in multiple benefits to ratepayers and program participants. By reducing overall electricity demand, energy efficiency reduces the capacity needed to meet demand with clean energy generation, lowering costs across the entire electric generating system. If energy efficiency cannot receive any credit toward state compliance until 2022, quite a few energy efficiency projects will be delayed to near 2022. We recommend that early investments in energy efficiency should receive at least the same incentive as early investments in renewables, and we propose the following approach.

1. Provide double-credit for energy efficiency savings in low-income communities as proposed in the model rule. Energy savings in low-income communities should be a top priority and we recommend that sufficient CEIP allowances or emission rate credits (ERCs) be set aside to serve this need.

2. Expand the scope of the CEIP so that, like all renewables, all early investment in energy efficiency can receive ERCs or allowances with a federal match at a ratio of 1:1.

Expand the CEIP to Reward Early Action Beginning as Soon as Plans Are Submitted to EPA

Large-scale energy savings are typically achieved over a multi-year period from investments in energy efficiency measures. The measures installed in year 1 will accrue savings for many years and each year that measures are installed can result in exponential growth as savings accrue and program participation expands. Experience also shows that programs typically take time to "ramp up" and that while high annual savings can be sustained, it may take some time to achieve those high levels of savings.

Further, we are concerned that by delaying the start of the CEIP, EPA may create an incentive to delay investment in energy efficiency until the "bonus" credit offered by the CEIP can be achieved.

In order to ensure that early action is rewarded and that the momentum of efforts in states is not stymied, and to provide the lead time needed to truly incentivize energy efficiency programs, we recommend that early ERCs or allowances should be awarded beginning shortly after a state plan is finalized and no later than 2018.

Provide Additional Guidance on What Projects and Programs Can Qualify for "Double Credit" Under the CEIP

EPA should require that for the 2:1 award of allowances from the EPA's CEIP reserve pool, eligible energy efficiency measures should be limited to those that directly result in energy savings for low-income households (e.g., residential energy efficiency) or those that result in energy savings for an entity that serves a low-income community such as a commercial, industrial, and public facility (e.g., energy efficiency projects for municipal buildings or community development organizations). States should be required to set some standard of community benefit for non-residential energy efficiency projects. States should have flexibility in how they define community benefit based on specific economic and social characteristics of each community. Non-residential projects that will benefit low-income communities may be implemented in public or private nonprofit organizations that serve the community. This includes government agencies, public schools, hospitals, community colleges, and community-based organizations that deliver or assist in the delivery of social services. Private companies within low-income communities may also implement energy efficiency projects as long as a state-approved strategy is in place to demonstrate that benefits from energy savings will accrue to the community.

We encourage EPA to work with and develop resources for states to ensure that organizations and companies in low-income communities benefiting from energy efficiency projects are reinvesting in the communities they serve. This may involve mechanisms for facilitating additional projects in the community and instituting labor standards that make for a fair and inclusive workforce. Jobs and economic development spurred by these projects are critical in low-income communities that suffer from a lack of clean energy investments, especially in those communities facing potential job loss from implementation of the rule.

To facilitate the deployment of low-income energy efficiency, we recommend that EPA put forth a multi-pronged definition of a "low-income community" that clarifies for states, localities, and implementers how to identify communities and households that are eligible for energy efficiency projects under the CEIP. While we applaud the EPA's effort to target investments in overburdened low-income communities, the definition should recognize "low-income communities" and low-income "individuals." The CEIP should be designed to benefit low-income communities in urban and rural areas, as well as low-income individuals, i.e., homeowners or renters living in single-family homes and multifamily buildings in a variety of neighborhoods. We also recommend that EPA put forth a definition that is consistent with other federal, state, and localities' established practices for the delivery of social services and resources to the benefit of low-income communities. To this end, we support the adoption of the US Department of Housing and Urban Development (HUD) definition for "Low to Moderate Income", which has a specific programmatic context within the Community Development Block Grant (CDBG) program. The CDBG program is administered by HUD and provides grants to states, local governments, and organizations to run a variety of housing and community/economic development projects that benefit low- to moderate-income citizens. Under this program, the timely distribution of funds is critical, and therefore many states (grantees) and localities and community development organizations (sub-grantees) have a system in place for identifying eligible households and projects within eligible geographic areas. We propose a three--part definition of "low-income community" for the CEIP. This definition mirrors the practices for distributing and verifying eligible households and projects under the CDBG program.

Under the CEIP, eligible energy efficiency projects/measures should include those that serve:

Areas where 51% of the population falls below 80% of area median income

This geographic definition can be applied for crediting all energy efficiency projects that happen within a defined community. In order to qualify as an energy efficiency project serving a low-income community, the measures must be implemented in an area where at least 51% of the residents are below 80% of the area median income. Both residential and non-residential projects that take place within this defined community should count under the CEIP. For example, in addition to residential energy efficiency, an efficiency project that results in a benefit to low-income residents by delivering energy efficiency to a public institution, organization, or company that serves the community in the defined area would also count. In order to identify eligible areas for projects, a state may use HUD or Census data on "low and moderate income areas" (i.e., percentage of low-income residents by census tract or zip code).

Households that fall below 80% of the area median income

In this case, "low-income" is defined as an annual household income that does not exceed 80% of area median income, as adjusted by household size. A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. Currently, the 80% of area median income figure is determined by HUD and is based on a four-person family and is adjusted upward or downward for larger or smaller families. This figure is updated annually. Under this household definition, residential energy efficiency measures would be eligible for credit under the CEIP if they are implemented in households that fall below 80% of area median income. Household income can be verified using pay stubs or IRS documentation of annual gross income. Additionally, projects or measures that serve households that receive federal housing assistance, Supplemental Security Income or Temporary Assistance for Needy Families should automatically be eligible for credit under the CEIP without additional income certification. For multifamily units, 51% of all units within the multifamily building where measures are being installed must be occupied by households that fall below 80% of the area median income. For these properties, verification may consist of written documentation from each landlord or developer indicating the total number of dwelling units in each multi-unit structure that receive government housing assistance and/or the number of those units which are occupied with low-income households. Buildings where 51% or more of households receive federal housing assistance should be deemed automatically eligible for the CEIP without the need for additional income certification. Renters who receive federal housing assistance must already demonstrate that their income is equal to or less than 80% area median income.

Households or areas that are deemed low-income by an existing state or local definition of low-income

While area median income information is produced for small geographies across the country, this criteria is not always used to administer programs that serve low-income communities. We recommend avoiding restrictive definitions that may limit the extent to which states and energy efficiency implementers would participate in the CEIP. Under the CEIP, states and efficiency providers (such as utilities or other implementers) should have the ability to apply their own commonly used definition of low-income in the cases where it is equally or more restrictive than the low-income definition proposed above. An alternate eligibility threshold chosen by a state must however be consistent with a definition of "low-income households" used by existing state-administered or state-approved programs. Where this is the case, the criteria used should be submitted to EPA for approval. However, EPA could proactively approve some definitions that will likely be adopted by states and localities. For example, the majority of weatherization programs require that participating households' annual gross income from all income sources of participating households be at or below 200% of the Federal Poverty Level for each family size. This should be acceptable criteria for low-income under the CEIP.

Additionally, to gain credit under the CEIP, states might wish to target resources for energy efficiency projects that target vulnerable communities—those that face a number of economic and social hardships. Under the CDBG programs, states and localities are required to conduct a needs assessment that helps each community identify and define its individual needs as well as its strengths and assets. If states would like to facilitate low-income energy efficiency, this is a productive first step for identifying how to target resources effectively. These areas may experience higher unemployment, lower income levels, and other such economic and demographic indicators that demonstrate a higher level of need than surrounding areas. The analysis would also take into account existing conditions such as housing stock, public infrastructure, and community facilities.

Additionally, states should be encouraged to look at a mix of environmental and demographic indicators when prioritizing credit allocation under the CEIP. EPA should provide increased training opportunities and resources to encourage states' use of EJSCREEN, the environmental justice mapping and screening tool that provides EPA and states with a nationally consistent dataset and approach for combining environmental and demographic indicators. Regardless of the geotargeting approach, a typical needs assessment or environmental screen should include:

- Current data and projections concerning demographics (e.g., households, income levels, unemployment, etc.) as well as housing supply and demand
- Data on rents and housing prices in specific neighborhoods within the jurisdiction
- Key indicators on environmental and human health conditions of minority and low-income population within a specified geography
- An analysis of the health of the local economy
- An assessment of the state of the jurisdiction's infrastructure
- An analysis of which neighborhoods have the most acute community development needs
- A general review of the feasibility and need for certain types of energy efficiency projects (such as energy efficiency retrofits of public buildings like municipality offices and schools) in specific neighborhoods

PROVIDE GUIDANCE AND MODEL LANGUAGE FOR HOW STATES CAN SET-ASIDE FUTURE PORTIONS OF THEIR ALLOWANCES TO AWARD A GREATER PORTION FOR EARLY ACTION

The model rule proposes that states could set aside some portion of their mass-based allowances from future years to be awarded for early action. We request that EPA provide additional detail as to how a state might structure its plan to administer this early allocation starting after the submittal of a final state plan. Further, we request that EPA provide states with guidance for consolidating the program administration of this early action effort with the administration of a state's CEIP participation. We also request guidance from EPA on how states that opt for rate-based plans can further incent early emission reductions.