



December 15, 2015

The Honorable Gina McCarthy
Administrator, United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Docket ID Number EPA-HQ-OAR-2015-0734

Comments to the EPA and States on the EPA's Clean Energy Incentive Program under the Clean Power Plan Regulating Existing Power Plants under Section 111(d) of the Clean Air Act

Submitted via a-and-r-Docket@epa.gov

Dear Administrator McCarthy:

The Business Council for Sustainable Energy (BCSE or the Council) appreciates the opportunity to provide the Environmental Protection Agency (EPA) with comments on the Clean Energy Incentive Program (CEIP) under the Clean Power Plan (CPP). The Council offers its views with the aim of shaping the final CEIP and to assist states as they begin the process of implementation planning.

BCSE is a coalition of companies and trade associations from the energy efficiency, natural gas, and renewable energy sectors, and also includes independent electric power producers, investor-owned utilities, public power, commercial end-users, and environmental and energy market service providers. Founded in 1992, the Council advocates for policies at the state, national, and international levels that increase the use of commercially-available clean energy technologies, products, and services. The coalition's broad-based business membership is united around the revitalization of the economy and the creation of a secure and sustainable energy future for America.

BCSE commends EPA for including a program like the CEIP in its final Clean Power Plan and applaud its intent to incentivize early investments in energy efficiency and certain renewable energy generation technologies. In the below comments, BCSE puts forth a number of recommendations to make the CEIP more inclusive of other technologies and supportive of early investments. Broadly, EPA should consider expanding eligibility of investments under the CEIP; for instance by adjusting the date to foster clean energy investments earlier or by altering definitions to provide more opportunity for Demand Side Management (DSM) and transmission and distribution (T&D) measures, which are proven tools for improving energy efficiency and benefiting low-income communities. Further, the design of the CEIP should include procedures to measure and verify energy savings or zero-carbon or low-carbon generation.

BCSE Recommendations for the Clean Energy Incentive Program

BCSE believes that while there is an obvious potential benefit of the CEIP for renewable energy and energy efficiency development and deployment, the current design of the CEIP could be improved to more effectively incentivize a broader spectrum of renewable energy and energy efficiency technologies prior to 2022.

BCSE believes that a properly designed CEIP can help incentivize states to begin emissions reductions as soon as possible and increase their use of renewable energy and energy efficiency technologies. A properly designed CEIP will assist states in more quickly moving toward a more diverse, affordable, and clean energy portfolio that meets the Clean Power Plan's emissions reduction targets.

Early Action Under the CEIP

While the CEIP is a useful tool for states to decrease their emissions, the design could be improved to more strongly encourage early action and investment in new renewable and energy efficiency projects prior to the start of the interim compliance period. As proposed, CEIP eligible projects that want to partake in the early action credit would:

- Be forced to hold off construction until a final state plan is submitted (which could be as late as September 6, 2018).
- Only be able to generate "early action" credits, at a minimum, two years later (i.e., beginning January 1, 2020). Therefore, the developer might be incentivized to not have the project become operational until as little time in advance of that date as possible.
- Only be able to earn the credits in a two-year window—2020-21.
- Not know whether it is worth holding off construction and/or operation of their projects because the value of the allowances/credits under the CEIP will not be truly known until post 2022.

In order to address these issues, the EPA could consider moving the commence construction date so that it occurs after a state signals its willingness to participate in the CEIP in its initial submittal – 2016. This definition will still ensure it incentivizes "new" projects. In addition, the banking period should begin when a state submits its final state plan, which could occur as early as 2016, but more likely to be 2018. This approach incentivizes states to submit plans as early as possible and does not hurt market opportunity.

Renewable Energy in the CEIP

There are many readily-available clean energy technologies, resources, and practices that can be used by states to reduce GHG emissions. EPA should broaden what is eligible under the CEIP to other forms of renewable energy technologies.

EPA should seek parity among renewable energy sources in the CEIP, rather than prescribing which renewable energy technologies should be eligible. Further, electricity projects using diverse fuel sources should all be eligible to earn CEIP credits if they are able to meet the other criteria established under this program. Finally, we urge EPA to set an earlier project eligibility date so that renewable energy technologies that have longer lead times may take advantage of the benefits of the CEIP.

Energy Efficiency in the CEIP

Energy efficiency is among the easiest, fastest and least-cost ways to reduce overall greenhouse gas emissions from power plants. In addition, it provides direct and significant benefits to residential, commercial, and limited-income customers by reducing their electric bills. BCSE encourages EPA to finalize the CEIP by clarifying structures and definitions with an eye toward facilitating the maximum use of cost-effective energy efficiency benefitting the broadest population.

For energy efficiency or renewable energy efforts that do not emit CO₂ (or for low-carbon generation technologies such as CHP), a reference rate reflecting the emissions intensity of avoided fossil-fired generation can be used; the historical marginal emissions rate available for each eGrid sub region, or from tracking system such as PJM GATS maintained by several of the RTOs/ISOs is a potential source of such information.

BCSE recommends that EPA incorporate significant flexibility into its eligibility requirements, in order to ensure that the CEIP optimally achieves the objectives of assisting low-income communities while incentivizing the early implementation of proven, low-cost energy efficiency measures. The CEIP should be designed to provide incentives for energy efficiency measures that benefit low-income communities in urban and rural areas, as well as residents that are homeowners or renters living in single-family homes and multifamily buildings alike.

In addition, BCSE recommends generally that EPA provide early guidance on the evaluation, measurement and verification (EM&V) of energy efficiency projects as well as the translation of megawatt-hours (MWh) of energy savings to carbon reductions (denominated in tons of CO₂) in order to give program implementers greater certainty. This, in turn, should induce increased participation in the CEIP.¹

BCSE supports maximum recognition, crediting, and encouragement of energy efficiency as an emission reduction strategy. More efficient use of energy reduces the fuel required to provide electricity, and thus, the associated emissions. Energy efficiency on both the demand side and in the supply side of electricity delivery can provide cost-effective emissions reduction and avoidance.

Please find below a responses to a number of questions posed from EPA on CEIP:

- I. What definition(s) of 'low-income community' should be required for eligible energy-efficiency (EE) projects?

BCSE supports a geographic definition of "low-income community," since it recognizes that communities are complex social fabrics that incorporate business and residents/households of various income levels. A broader geographic definition will increase energy efficiency investments in these communities, investments that can provide indirect benefits (e.g., through jobs and other economic improvements).

More specifically, definitions of "low-income community" for purposes of the CEIP should include both a geographically-based definition that allows non-household end-use efficiency investments to qualify and household-based definitions to allow energy efficiency investments in low-income households in non-

¹ Comments to the EPA from the Southwest Energy Efficiency Project's Comments on the Clean Energy Incentive Program (CEIP)

low-income neighborhoods to qualify. The National Association of State Energy Officials (NASEO) supports the use of a geographically-based definition of “low-income community” in order to allow CEIP eligibility of energy efficiency programs, projects and measures beyond individual households. A geographically-based definition would allow eligibility of projects and measures that support low-income communities beyond residential energy efficiency investment. For example, using a geographic definition would allow energy efficiency investments in schools, public libraries, clinics and hospitals, community and senior centers, municipal infrastructure (e.g., street lamps, pump stations), etc. to qualify. Commercial and industrial facilities should also qualify, offering opportunities to advance economic development (job opportunities) as well as CPP emission objectives. There are a number of existing federal geographically-based definitions and criteria. One example is the US Internal Revenue Service’s definition of a low-income community under the New Market Tax Credit (NMTC) Program.² Another useful example is provided by the Community Reinvestment Act, which incorporates both individual and geographically-based definitions of low income.³

- II. What criteria should be used to define eligible wind and solar projects, as well as eligible energy efficiency projects implemented in low-income communities? (e.g., by sector (residential, commercial, etc.) or by geography (where a project takes place and who benefits from it))

EPA should adopt a flexible approach in determining what constitutes an eligible project, inclusive of both DSM and Volt/VAR optimization measures in the definition of demand side energy efficiency. Since energy efficiency projects may be eligible under the CEIP if they benefit a state other than the one in which they are implemented (implemented in or benefit), this raises the question of how the “benefit” can transfer between states exclusively within the confines of low-income communities.

- III. What should be the evaluation, measurement and verification (EM&V) requirements for eligible projects; the requirements for M&V reports of quantified megawatt-hour (MWh); and the requirements for verification reports from an independent verifier?

In states adopting mass-based approaches, CPP compliance is tracked directly and exclusively through the measurement of emissions from the affected EGUs. As a result, these states face no requirement to include EM&V criteria in their state plans, unless they opt to participate in the CEIP. While we recognize that EM&V is critical for determining the effectiveness of energy efficiency, adopting new EM&V protocols meet the requirements of a two-year program may not provide enough benefits to outweigh the costs of inconsistent measurement in a state’s already-existing energy efficiency program. Most states already have some form of EM&V process in place for evaluating utility ratepayer-funded energy efficiency programs, which have been vetted and approved under rigorous regulatory oversight. EPA might consider allowing states with mass-based plans and already-existing EM&V protocols in place, to continue their existing protocol instead of undergoing a costly revision for only two years. BCSE recommends EPA consider permitting mass-based states to participate in the CEIP without the requirement that they include EM&V protocols in their state plans for approval. EM&V protocol should

² <https://www.irs.gov/Businesses/New-Markets-Tax-Credit--1> “A “low-income community” is defined as any population census tract where the poverty rate for such tract is at least 20% or in the case of a tract not located within a metropolitan area, median family income for such tract does not exceed 80% of statewide median family income, or in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80% of the greater of statewide median family income or the metropolitan area median family income.”

³ 12 CFR 228.12(m)(1) “Low-income, which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.”

be the same for CEIP as the CPP in a rate based system. The premise on which the mass based comment is made is that a rate-based system already has that inherent advantage.

Conclusion

BCSE appreciates the opportunity to provide you with its comments on the proposed CEIP under the Clean Power Plan and hopes these views will be useful as EPA reviews and finalizes the rule. BCSE would like to be viewed as a resource to EPA during this process to help ensure the full portfolio of clean energy technologies and their full emissions reduction potential are recognized in Clean Power Plan compliance planning. Please contact the Council on the issues discussed if there are questions.

The CEIP will best serve the states that utilize it to achieve their goals if the CEIP adequately harnesses the vast potential of these emission reducing technologies.

Sincerely,

A handwritten signature in black ink that reads "Lisa Jacobson". The signature is written in a cursive, flowing style.

Lisa Jacobson, President
Business Council for Sustainable Energy