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December 15, 2015

Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
Attention Docket ID No. EPA-HQ-OAR-2015-0734

Mail Code 28221T  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Via <http://www.regulations.gov>

Or

Email: [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov)

Attention Docket ID No. EPA-HQ-OAR-2015-0734

**Re: Written Responses submitted to the Non-Regulatory Docket established for the “Clean Energy Incentive Program: Questions and related issues about which EPA is seeking input and ideas.”**

Dear Administrator McCarthy:

The Alliance to Save Energy (Alliance) appreciates the opportunity to comment on the proposed Clean Energy Incentive Program (CEIP), a voluntary complement to the Clean Power Plan (CPP) described in the CPP Final Rule<sup>1</sup>, as well as in the proposed federal plan for implementing the CPP.<sup>2</sup> Further, we thank the U.S. Environmental Protection Agency (EPA) for continuing to engage in an open stakeholder process that includes, and extends well beyond, the establishment of the CEIP non-regulatory docket.

The Alliance is a nonprofit coalition of bipartisan lawmakers, businesses, and environmental and consumer thought leaders that supports energy efficiency (EE) as a cost-effective energy resource to achieve a healthier economy, a cleaner environment, and greater energy security. The Alliance works with energy utilities, commercial and industrial organizations, public agencies, consumer and environmental organizations and others to promote EE as a least-cost energy resource and a means to mitigate the environmental impacts of energy use and achieve other benefits.

**The Alliance asserts that EE should be encouraged *equivalently* under all CPP approaches.** Whether a state develops its own plan using a rate-based structure or a mass-based structure, or whether a state is assigned a federal plan, maximum recognition and crediting of cost-effective EE can help ensure that emission reductions are achieved quickly and with unsurpassed net economic benefits. More efficient use of energy reduces the

<sup>1</sup> 80 Fed. Reg. 64662-64964 (October 23, 2015), amending 40 C.F.R. §§ 60.5700-60.5880, effective December 22, 2015).

<sup>2</sup> 80 Fed. Reg. 64966-65116 (October 23, 2015).

amount of fuel required to provide energy services and, thus, the emissions and other negative environmental impacts associated with fuel use. EE measures taken throughout the electrical system—at electric generating units (EGUs) and in transmission and distribution (T&D) as well as at the point of end-use—can provide cost-effective emissions reduction and avoidance. On both the demand side and the supply side, EE can deliver value, and measures from across this spectrum should be eligible for incentives under the CEIP.

EE is the easiest, fastest, and least-cost way to reduce overall greenhouse gas emissions from power plants.

- **Easy:** As of 2013, all states covered by the CPP had efficiency programs in place.<sup>3</sup> Familiarity with EE can clear the path to CPP compliance.
- **Fast:** EE programs can be up and running within 12-14 months, long before the typical new power plant has run the course from approval to construction.<sup>4</sup>
- **Least-cost:** No other energy source can compete with EE. Even at the high end of its cost curve, EE is cheaper than every other energy source save for the cheapest land-based wind generation.<sup>5</sup> And in addition to lowering investment costs for energy providers, EE also creates cost mitigation opportunities for residential, commercial, and limited-income customers.

Early deployment of EE is essential for maximizing benefits during the actual CPP compliance period (2022-30). The proposed CEIP provides mechanisms to incent new EE projects deployed by rewarding them for performance during 2020 and 2021. The Alliance encourages EPA, as it finalizes the CEIP, to clarify structures and definitions so as to facilitate the maximum early deployment of cost-effective EE benefitting the broadest population.

In particular, the Alliance urges EPA to clarify how it envisions that EE could be encouraged financially in mass-based CPP approaches. Under rate-based approaches—where EE projects and programs are eligible for Emission Rate Credits (ERCs) that can help affected EGUs satisfy their emission reduction requirements by lowering their CO<sub>2</sub> emission rate—there is an unambiguous path for the monetization of EE benefits, with rewards going to those who invest in them. In contrast, in mass-based approaches, EE's benefits are factored into CPP compliance indirectly; they reduce demand for electricity generation at affected EGUs, which in turn reduces the number of CO<sub>2</sub> allowances these EGUs must surrender to meet their CPP obligations. Under this structure, although affected EGUs benefit from EE contributions, they need not be directly (i.e., contractually) involved with potential EE programs and projects. To properly incent EE—a resource that benefits affected sources as well as end-users—the Alliance recommends that EPA more fully and

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<sup>3</sup> American Council for an Energy-Efficient Economy (ACEEE), “The 2015 State Energy Efficiency Scorecard” (October 2015), 109; see <http://aceee.org/sites/default/files/publications/researchreports/u1509.pdf>.

<sup>4</sup> Southeast Energy Efficiency Alliance (SEEA), “Energy Efficiency Quick Start Programs: A Guide To Best Practices (April 2014).

<sup>5</sup> Lazard, “Lazard’s Levelized Cost of Energy Analysis, Version 8.0” (September 2014), 2.

clearly articulate the options available to states to provide a path to monetization similar to a rate-based structure, such as:

1. distribution of allowances directly to load serving entities (LSEs) or third-party EE providers based on emissions abated from EE projects and programs, which then can be monetized in subsequent transactions by selling them to affected EGUs; and/or
2. auction of allowances for emissions to affected EGUs with distribution of the proceeds through incentives to utility-run or third-party EE projects and programs. (The auction approach has been used to this end by states party to the Regional Greenhouse Gas Initiative (RGGI), generating nearly \$2 billion to support energy efficiency through measures such as rebates.<sup>6</sup>)

Either of these structures can be reinforced by complementary measures such as Energy Efficiency Resource Standards (EERS), already adopted by 24 states, which require reductions in end-use electricity consumption.<sup>7</sup>

In an economically efficient system for mass-based compliance, allowances are distributed according to the amount of CO<sub>2</sub> abated. For EE and renewable energy (RE) efforts that do not emit CO<sub>2</sub> (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 profile available for each eGRID subregion, from RTO/ISO tracking systems such as [PJM GATS and ISO New England's Emissions Reports](#), or the [California Environmental Protection Agency Air Resources Board](#) are potential sources of such information.

In the remainder of this submission, the Alliance will focus on providing responses to the following questions specifically posed by EPA for comment within the non-regulatory docket of the CEIP:

1. What definition(s) of 'low-income community' should be required for eligible energy efficiency (EE) projects?
2. What criteria should be used to define eligible wind and solar projects, as well as eligible EE 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)?)
3. 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?
4. How should the 300 million short ton matching pool be split between the two reserves: one for wind/solar, one for low-income EE?<sup>8</sup>

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<sup>6</sup> Paul Hibbard et al., "The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeast and Mid-Atlantic States: Review of RGGI's Second Three-Year Compliance Period (2012-2014)," (July 14, 2015), 2.

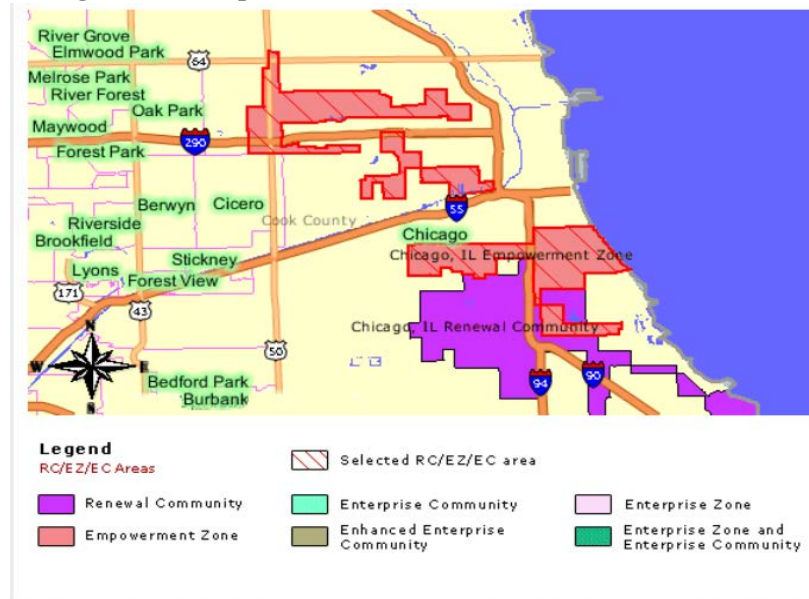
<sup>7</sup> ACEEE, "State Energy Efficiency Resources Standards," April 2015.

<sup>8</sup> U.S. Environmental Protection Agency, "Clean Energy Incentive Program: Questions and related issues about which EPA is seeking input and ideas," (November 2015), last accessed on December 2, 2016, at <http://www2.epa.gov/sites/production/files/2015-11/documents/ceip-stakeholdercalls-attachment-november2015.pdf>.

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

EPA has indicated that it will likely adopt a geographic definition of “low-income community” and that EE projects will be eligible for CEIP credit if they are located within the boundaries of such communities. The Alliance welcomes this approach since it recognizes that low-income communities—like other communities—incorporate businesses, institutions and households of various income levels. Restricting eligibility on the basis of income alone would limit EE investments in these communities, investments that can provide benefits well beyond the direct benefits that accrue to those who install EE measures (for example, in the form of local jobs, expansion of local services, and other economic improvements). In defining a low-income community, EPA may wish to consider the community income standards that already have been adopted by states to identify “Enterprise” and “Empowerment” zones. These zonal approaches facilitate public-private cooperation, using tax incentives and grants to create frameworks for economic opportunity over broad geographic areas.

#### Chicago Area Enterprise Communities, Renewal Communities, and Empowerment Zones



Source: U.S. Department of Housing and Urban Development<sup>9</sup>

For more information on Empowerment Zones and similar efforts in Illinois and other states, visit the website of the U.S. Department of Housing and Urban Development [here](#).<sup>10</sup>

Just as low-income communities may be home to residents who would not be classified as low-income, impoverished individuals for whom the CEIP energy efficiency credits are designed may not reside in a low-income community. Ensuring that low-income residents

<sup>9</sup>[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/economicdevelopment/programs/rc/tour/il/chicagoEZ](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/economicdevelopment/programs/rc/tour/il/chicagoEZ).

receive substantial direct benefits from the CEIP even if they do not live in a designated low-income community may require EPA to supplement the geographic definition with additional eligibility requirements directly tied to household income. Numerous federal programs, notably the Weatherization Assistance Program (WAP) under the U.S. Department of Energy and the Low Income Home Energy Assistance Program (LIHEAP) under the U.S. Department of Health & Human Services, are implemented already by states in a manner reflecting how living costs and anti-poverty resources vary from state to state. These programs already have established eligibility procedures, and could be incorporated into the CEIP to augment—not vitiate—the geographic definition. Finally, allowing additional bonus crediting for projects and programs that satisfy both the geographic and income criteria for eligibility could help ensure targeted delivery of benefits to especially vulnerable populations.

2. What criteria should be used to define eligible wind and solar projects, as well as eligible EE 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)?

There are often multiple beneficiaries of EE projects that extend beyond the recipient of the project itself. In the case of transmission and distribution EE projects implemented by electric distribution companies, such as conservation voltage reduction, the measure may not be located within a low-income community, but may instead be situated on a feeder directly upstream and yet still benefit that downstream low-income community. More broadly, as energy efficiency penetration levels increase within a community, distribution line congestion may be alleviated, which could contribute to lower wholesale prices in organized ISO markets. This would translate into lower retail prices for the entire community.

Commercial projects implemented in a low-income community may provide significant value to individual low-income residents and households by improving a company's energy productivity, for reinvestment of those savings back into the community. Residential EE projects that lower energy costs may benefit community commercial activities by raising levels of disposable income available for non-energy expenditures.

Because the benefits of EE readily cross geographic, user profile, and recipient/non-recipient borders, the Alliance encourages EPA to adopt a flexible approach in determining what constitutes an eligible project. As proposed, the CEIP allows eligibility for “demand-side energy efficiency (EE) projects implemented in low-income communities.”<sup>11</sup> In the CPP, Demand-Side Management (DSM) and Transmission & Distribution (T&D) measures such as Volt/VAR optimization are discussed separately from demand-side EE.<sup>12</sup> For its part, demand-side EE is defined as “an installed piece of equipment or system, a modification of an existing piece of equipment or system, or a strategy intended to affect consumer electricity-use behavior, that results in a reduction in electricity use (in MWh) at an end-use facility, premises, or equipment connected to the electricity grid.”<sup>13</sup> By this definition,

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<sup>11</sup> 80 Fed. Reg. 64970 (October 23, 2015).

<sup>12</sup> 80 Fed. Reg. 64900-01 (October 23, 2015).

<sup>13</sup> 80 Fed. Reg. 64959 (October 23, 2015).

demand-side EE could be interpreted to include both DSM and Volt/VAR optimization measures.

Furthermore, in the discussion of CEIP in the proposed mass-based federal plan, EPA notes that “eligible RE projects...and eligible EE projects...must be **implemented in or benefit the state** that submitted the final state plan to the EPA, and may receive awards for the zero-emitting MWh they generate or the end-use energy savings they achieve during 2020 and/or 2021.”<sup>14</sup> If EPA is referring solely to RE projects that benefit the state that submitted the final state plan to EPA, it would be helpful to clarify such. If EPA is referring to EE projects eligible under the CEIP benefitting a state other than the one in which they are implemented (“implemented in or benefit”), EPA should clarify whether the benefits must inure directly to a low-income community in the beneficiary state.

3. 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 are not required to include EM&V criteria in their state plans, unless they opt to participate in the CEIP. For purposes of the CEIP, projects must “be evaluated, monitored, and verified, and that resulting ERCs or allowances be issued, per applicable requirements of the State plan approved by the EPA as meeting § 60.5805 through § 60.5835” (80 FR 64943). § 60.5830 indicates that a “set-aside allowance” will be required to “meet the EM&V criteria approved as part of your State plan.”<sup>15</sup>

The Alliance appreciates that need for rigorous EM&V in conjunction with EE policies, programs and measures. These controls provide the firm evidence of actual EE savings. Forty-nine states plus the District of Columbia already implement utility ratepayer-funded EE programs under public utility commission (PUC) jurisdiction,<sup>16</sup> and have existing EM&V protocols and procedures in place. For those states adopting a mass-based approach and which would therefore not be required to revise their EM&V protocol for the purposes of the CPP, the Alliance is concerned that the burden of replacing or amending established local procedures may dissuade states from early action in the CEIP. These procedures have been vetted and approved under regulatory oversight, and have been implemented over multiple-year processes. A two-year change to the procedure would upend the capability of regulators to compare the successes and opportunities for improvement from one year to the next. As these existing EM&V programs are paid through ratepayer funds, the added cost to revise procedures may outweigh the benefits of a limited opportunity.

By requiring mass-based states to alter their EM&V procedures and submit them for federal approval to participate in the voluntary CEIP, EPA risks substantially discouraging early-action EE investments that could otherwise facilitate highly cost-effective CPP compliance.

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<sup>14</sup> 80 Fed. Reg. 65025 (October 23, 2015), emphasis added.

<sup>15</sup> 80 Fed. Reg. 64592 (October 23, 2015).

<sup>16</sup> ACEEE, “2015 State Energy Efficiency Scorecard, Appendix A.

The Alliance recommends that EPA permit mass-based states that already rely in practice on EM&V protocols, such as established Technical Reference Manuals (TRMs), to submit those existing protocols for presumptive approval in order to participate in the CEIP.

4. How should the 300 million short ton matching pool be split between the two reserves: one for wind/solar, one for low-income EE?

The Alliance has expressed above its desire for EPA to articulate in more detail how EE projects can be incented in mass-based CPP approaches, specifically mentioning direct allocations and auctions as particularly viable strategies. In the context of the CEIP, EPA has sought comment on the size of the fixed pool of federal matching credits that will be paired with early-action mass-based allowances and rate-based ERCs assigned by states to CEIP-eligible projects. The Alliance asserts that a CEIP incorporating a specific allocation for federal matching credits should divide the total equally between RE and EE projects. In its analysis in the CPP, EPA indicates that continued deployment of renewables at recent historical rates could readily account for 50 percent of the pool of CEIP matching credits that is to be capped at the equivalent of 300 million short tons of CO<sub>2</sub>, leaving “the remaining half of the pool of matching federal allowances available for EE projects implemented in low-income communities, and additional growth in RE deployment beyond these historic maximums as potentially enabled by reductions in cost and improvements in performance.”<sup>17</sup>

The range of EE projects eligible for CEIP through suitably broad definitions of low-income community and eligible technologies (including T&D projects that can demonstrate benefit to low-income communities) can be expected to account for 50 percent of the federal CEIP matching pool. Using the [State and Utility Pollution Reduction \(SUPR\) Calculator](#) developed by the American Council for an Energy-Efficient Economy, the Alliance estimates that if states covered by the CPP were to implement projects to save one percent of annual consumption in 2016, or to gradually ramp up toward that rate of savings in states that have not historically achieved that savings level, annual avoided CO<sub>2</sub> in 2020 would exceed 134 million short tons. With more projects added to the savings portfolio in 2021, the savings would be greater.

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The Alliance sincerely appreciates the opportunity to comment on the CEIP, and applauds EPA for holding an open stakeholder engagement process. This process of stakeholder input and recognition has been unprecedented. And, we commend EPA for its recognition and encouragement of EE as an important and extremely cost-effective emissions reduction strategy that can make significant contributions to environmental justice. Should there be

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<sup>17</sup> 80 Fed. Reg. 64830 (October 23, 2015).

any questions about these comments, please contact the undersigned at 202.530.2205 or [kbackman@ase.org](mailto:kbackman@ase.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly Speakes-Backman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Kelly Speakes-Backman**  
Senior Vice President, Policy & Research  
Alliance to Save Energy