



KENTUCKIANS FOR THE COMMONWEALTH

P.O. Box 1450 • London, KY 40743
606-878-2161 • www.kftc.org

Action for Justice

To: Environmental Protection Agency
EPA Docket Center (EPA-DC)
Mail Code 28221
Docket ID No. EPA-HQ-OAR-2015-0734
1200 Pennsylvania Avenue, NW
Washington DC 20460
A-and-R-Docket@epa.gov

From: Kentuckians For The Commonwealth

Re: Proposed Clean Energy Incentive Program, Docket ID No. EPA-HQ-OAR-2015-0734

Date: 12/15/2015

The Clean Power Plan (CPP) creates the opportunity for Americans to re-think and re-shape our energy system in ways that benefit local jobs, health, affordability, equity, and the climate. It is a critically important piece of a broader set of policies that are needed to shape a just transition and address the risks of catastrophic climate disruption. The rule itself is both essential and insufficient. And details about how it gets implemented matter. They really matter.

Kentuckians For The Commonwealth is a social justice organization with 9,000 members working to advance a vision for just, healthy and sustainable communities. We believe meaningful climate actions must prioritize environmental justice and a just transition for affected workers and communities. We seek solutions that reduce harmful emissions at the source, create economic opportunities for disadvantaged communities and displaced workers, and expand access to energy efficiency and renewable energy, especially in low-income and people of color communities. We reject false choices and narrow approaches to carbon reduction that continue to harm our health. And we believe that achieving just and lasting solutions requires meaningful engagement by people most affected by the risks and threats of pollution and climate change.

KFTC is pleased to offer these comments on the EPA's proposed **Clean Energy Incentive Program (CEIP)**, a key component within the broader Clean Power Plan rule. The CEIP is intended to reward and incentivize early investments in solar and wind projects, as well as in energy efficiency projects in low-income communities. The CEIP has the potential to reduce energy costs, improve health, and create jobs and wealth in many communities that are most exposed to pollution and face the greatest risks from our current energy system.

A STRONG, WELL DESIGNED CEIP IS ESSENTIAL FOR KENTUCKY

The CEIP's emphasis on expanding energy efficiency in low-income communities is critically important for Kentuckians. Our homes and businesses use significantly more electricity than the national average, making us vulnerable as rates rise. In 2014, we had the ninth highest residential electricity use, and the 6th highest electricity use overall, per capita. Historically Kentucky's electricity rates have been among the nation's lowest, but our bills have ranked quite high because we use and waste so much electricity. Now, even without the Clean Power Plan, electricity rates in Kentucky have been rising sharply, up 94% from 2000 to 2014.¹

Rising rates threaten the economic well-being of many Kentucky families. In a number of low-income communities across our state, the average household currently spends 15% of monthly income on electricity.² And because that's an average, the situation for many families is even worse. In contrast, Americans as a whole spent less than 3% of their household income on home energy costs in 2012.³

The out-sized bite that electricity bills take for Kentucky families is due to many factors, including the fact that our median income is quite low; we have chronically under-invested in energy efficiency; our climate requires significant heating in the winter and cooling in the summer; more than half of our homes rely on electric heat; at least 13% of our households live in manufactured housing; our housing stock is generally inefficient; and our state policies do not set an energy efficiency standard that utilities must meet.

Energy efficiency is Kentucky's strongest "no regrets" strategy for reducing harmful emissions from power plants while protecting ratepayers from the rising costs of electricity. Investments in energy efficiency pay for themselves while creating jobs, energy savings and value for all customers. Yet despite the clear benefits, most utilities in Kentucky continue to undervalue and under-invest in demand-side energy savings. Our state received just 2.5 points out of 20 for utility efficiency programs and policies in the latest national scorecard rankings by ACEEE.⁴

For all of these reasons, there is a lot at stake for our families and communities as the EPA considers the best ways to design and implement the Clean Energy Incentive Program. To ensure that the CEIP lives up to its promise and brings significant and positive energy savings and renewable energy generation to affected communities, KFTC offers the following suggestions.

¹ http://energy.ky.gov/Kentucky_Energy_Profile/Kentucky%20Energy%20Profile%202015.pdf

² http://energy.ky.gov/Kentucky_Energy_Profile/Kentucky%20Energy%20Profile%202015.pdf, page 2

³ <https://www.eia.gov/todayinenergy/detail.cfm?id=10891>

⁴ <http://aceee.org/sites/default/files/pdf/state-sheet/2015/kentucky.pdf>

MAKE THE CEIP MANDATORY FOR ALL STATES – AND EXPAND THE PROGRAM SIGNIFICANTLY

Participation in the Clean Energy Incentive Program should be mandatory for all states, and the size of the program should be greatly expanded. Experience has taught us that without a mandate, many states, tribes and utilities will choose to continue under-investing in energy efficiency in low-income communities and in renewable energy. Unless participation in the program is required, low-income residents in those places will not have access to the health benefits, energy savings and job opportunities that the CEIP affords and their economic security will be at risk.

The size of the resources made available through the CEIP must also be expanded significantly. Currently the EPA proposes setting aside a pool of 300 million allowances (equivalent to 300 million short tons of CO₂ reductions) to incentivize early investments in renewable energy and low-income energy efficiency projects. That represents less than 2% of all emissions allowed under the Clean Power Plan. That is entirely inadequate, given the scale of the challenge before us.

REVISE THE TIME TABLE TO MAXIMIZE PARTICIPATION IN THE CEIP

To be eligible for incentives under the CEIP, renewable energy and low-income energy efficiency projects must commence after a state or federal plan is in place, which for most states will be after September 6, 2018. Qualifying projects will then receive credits or allowances for carbon reductions from energy generated or saved between 2020 and 2021. Qualifying project developers will receive valuable credits or allowances that they can later sell or transfer to power plants who need them to comply with the Clean Power Plan. The value of those credits or allowances won't be known until pollution trading markets get up and running in 2022.

This proposed timetable is too tight. Renewable energy and energy efficiency projects take time to design and implement, especially those that are developed with, by and for low-income residents and communities. The timeline as proposed will prevent many worthwhile projects from getting financed and off the ground, and may result in utilities and developers shifting investments away from the communities and families who have the most to gain – or to lose. To address our concerns with the tight timeline, the EPA should:

- Define “commence operations” at the earliest possible moment when a project is announced or begins to raise funds, in order to allow as many community projects to qualify as possible.
- Start the clock for the CEIP for all states on September 6, 2016, the date when states must submit their preliminary plans, rather than after states submit their final plans. This approach addresses two problems with the current proposal: It will allow more time to ramp up qualifying projects and programs. And it avoids a perverse incentive created by the CEIP for developers to pause clean energy projects in 2016 and 2017 in order to qualify for the CEIP in 2018.
- Issue credits or allowances to qualifying energy efficiency projects early, based on their projected savings for 2020 and 2021. This is important to give energy efficiency project developers earlier revenue and improve their access to capital.

DEFINE “LOW-INCOME COMMUNITIES” TO MAXIMIZE GOOD USES OF THIS INCENTIVE AND ENSURE THAT BENEFITS GO TO THE MOST VULNERABLE COMMUNITIES AND FAMILIES

We suggest that the EPA develop its definition of “low-income community” with the following criteria in mind:

- Aim for simplicity and ease of administration;
- Align with existing definitions already in use by state and federal agencies, utilities and affordable housing providers;
- Be flexible enough to allow every last drop of CEIP is put to its intended, good use despite the short timeframe;
- Be stringent enough to ensure that the benefits of the CEIP flow to the communities and families that need energy savings the most.

Below are specific suggestions regarding how the EPA should define “low-income community”:

- The EPA should accept energy savings from low-income energy efficiency programs and projects that have been approved by a state Public Service Commission and/or meet a definition for low-income energy efficiency established in state law.
- The EPA should accept low-income energy efficiency programs and projects that conform to any federal definition of low-income community or individual.
- In addition, the EPA should establish its own geographic definition for low-income community that is carefully crafted to ensure that both poor urban and poor rural communities benefit. (Definitions that compare the median income of a census tract to the area median income can hurt rural areas, since area incomes in those regions tend to be low across the board. The federal New Market Tax Credit program offers one way to address that concern by comparing the median income of each census tract to the overall state median income, rather than the area median.)
- Finally, the EPA should establish a household income definition for single-family homes or multi-family units whose residents are low-income but are located outside a qualifying low-income community. This definition should allow multi-family units to qualify so long as a threshold share of the units are occupied by residents who qualify as low-income.

FOCUS THE CEIP ON RESIDENTIAL EFFICIENCY, WHILE GIVING SOME FLEXIBILITY FOR OTHER PROJECTS (BOTH EE AND RE) THAT BENEFIT LOW-INCOME COMMUNITIES

We believe the primary purpose of the CEIP is and should be to rapidly and dramatically expand weatherization and efficiency upgrades in homes and multi-unit apartments that directly benefit low-income residents. However, we also recognize that other energy efficiency investments in low-income communities can produce important, if less direct benefits, for low-income residents. For example, energy efficiency investments in small businesses, non-profits and public buildings can generate or help stabilize local jobs, keep money circulating in the local economy, and reduce energy costs that are paid for by local tax-payers, parishioners, students, customers, care-givers and families.

We therefore support a flexible definition to permit some commercial scale energy efficiency investments in low-income communities, including for small businesses, non-profits, and publicly owned buildings. However, energy upgrades undertaken by large commercial customers, national or regional chains, and big industries should not qualify for incentives under the CEIP.

We believe that the vast majority of CEIP resources should be directed to support low-income energy efficiency, rather than renewable energy projects. That's especially important for states that operate under a mass-based system, since the CEIP is the only mechanism that directs resources to energy efficiency under the EPA's mass-based framework.

However, to the extent that the EPA does set aside some portion of the CEIP for wind and solar projects, those should be focused on projects that directly benefit low-income residents and communities by:

- Reducing monthly electricity demand and overall energy costs to qualifying households, or
- Being owned or leased by residents, non-profits, or small businesses based in the geographically defined low-income community, or
- Being owned or leased by a government entity, school or public agency in a geographically defined low-income community.

ENSURE CEIP GENERATES GOOD, LOCAL JOBS

To ensure that federal resources help grow good, local jobs, the CEIP should require that qualifying projects provide good wages and benefits and require their workers to have some form of skill certification. The CEIP should also require projects to use community hiring tools like community hiring halls and first source referral programs that give community residents the first shot at new jobs.

Within the Federal Implementation Plan and model trading rules, the EPA should do more to ensure on-going direct investments are made in energy efficiency, renewable energy and workforce development in low-income communities. Otherwise the CEIP's positive contribution to jobs and the economy will be painfully short lived. We will provide more comments on this topic when we submit comments on those proposals in January.

ENSURE VALID RESULTS, AND MAKE SURE VERIFICATION REQUIREMENTS AREN'T A BARRIER

It's essential that the energy efficiency savings claimed under the CEIP are real and verified. Low-income rate-payers deserve and need strong energy savings from these investments. And the validity of Clean Power Plan itself requires a sound approach to measuring and verifying the energy saved or generated from specific projects.

The EPA should do everything in its power to ensure that requirements for evaluation, measurement and verification (EM&V) are not a barrier to CEIP participation. Verifying energy saved and clean energy generated under the CEIP will be especially challenging for states pursuing a mass-based approach, since they would otherwise not need a robust infrastructure to verify and account for energy savings. The EPA should allow mass-based states to use their existing Public Service Commissions process to quantify energy savings – if such a process exists. And the agency should make resources and assistance available to help states without well-established systems.

ENSURE THAT THE CEIP IS FULLY, FAIRLY AND WELL IMPLEMENTED UNDER A FEDERAL IMPLEMENTATION PLAN

If Kentucky or any other state fails to submit a plan that complies with the Clean Power Plan, the EPA will impose a set of requirements directly on the utilities and power plants in that state. We recognize that the EPA is seeking comments about proposed Federal Implementation Plan (FIP) in a separate process. However we do want to highlight several important issues and concerns related to the CEIP in states where a FIP is required.

We applaud the agency for making the CEIP mandatory in states where a FIP is imposed, but that is just the first step. Ensuring that a CEIP program is fully, fairly and well implemented is critically important for the economic security and well-being of families and communities in non-compliant states. According to many projections, a one-size-fits-all Federal Implementation Plan is likely to be more expensive for utilities than a state plan would be. The harm to ratepayers in those states may be compounded by the fact non-compliant states are likely to have weak energy efficiency policies and programs, along with some of the steepest emissions reduction requirements. Low-income ratepayers in those states are further disadvantaged by the fact that the proposed Federal Implementation Plan does not provide for the allocation, auction or sale of allowances by the EPA in order to direct resources towards low-income energy efficiency or return revenue to ratepayers. Instead, the Clean Energy Incentive Program appears to be the only mechanism for reducing risks to low-income ratepayers in non-compliant states.

The EPA must take steps to maximize participation in the CEIP within non-compliant states and ensure that our residents benefit from its full potential. States like Kentucky, which lack standards for measuring and verifying energy savings, already need resources and technical assistance to establish the infrastructure necessary to award and track credits or allowances under the CEIP. If a FIP is imposed on our state, the EPA will need to step into that role directly. The challenges of implementing the CEIP in non-compliant states are another good reason to extend the timeframe for CEIP implementation and establish a consistent, early start date for the program.

Thank you for the opportunity to provide these comments on the proposed Clean Energy Incentive Program.

Sincerely,

Steve Wilkins, member of Kentuckians For The Commonwealth
On behalf of KFTC's New Energy and Transition Committee