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December 15, 2015

Ms. Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Attention: Docket ID No. EPA-HQ-OAR-2015-0734
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Subject: Comments on EPA's Proposed Clean Energy Incentive Program (CEIP) Design and Implementation, Docket ID No. EPA-HQ-OAR-2015-0734

Dear Administrator McCarthy:

The Clean Power Plan (CPP), including the Clean Energy Incentive Program (CEIP), is beyond the authority of the EPA under the Clean Air Act. However, litigation is pending, so to prevent missing an opportunity to comment on the details of the CEIP, Wisconsin is providing the following comments in response to EPA's request for input. These comments were developed by the Wisconsin Department of Natural Resources and the Public Service Commission of Wisconsin (PSCW), which administers the state's renewable energy and energy efficiency programs. Wisconsin may also offer additional feedback on the CEIP in comments on EPA's proposed CPP Federal Plan and Model Rules.

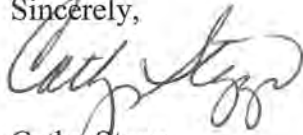
By not including the CEIP in its proposed rule, EPA also failed to provide advance notice as required by the Administrative Procedures Act. Since the CEIP is integral to EPA's final rule, EPA should reopen its rule to public comment rather than taking comment on this aspect of the rule through a non-regulatory docket.

If the CPP is upheld after final adjudication, EPA should grant states additional flexibility to implement the CEIP in order to maximize opportunities for early action towards compliance with the CPP. The first section of our comments addresses areas where EPA should provide states maximum implementation flexibility, including flexibility regarding project eligibility and allowance allocation. The second section addresses a range of additional concerns.

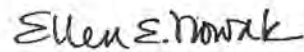
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Thank you for the opportunity to comment on this program.

Sincerely,



Cathy Stepp
Secretary
Wisconsin Dept. of Natural Resources



Ellen Nowak
Chairperson
Public Service Commission of Wisconsin

cc: Jeff Ripp, Administrator, Division of Energy Regulation, PSCW
Pat Stevens, Administrator, Environmental Management Division, WDNR

Attachment

DL: 01280423

Wisconsin's Comments on EPA's Clean Energy Incentive Program (CEIP)

I. EPA should provide states flexibility to maximize opportunities for early action

In order to fully incentivize early action, EPA should ensure that the CEIP can be adapted to the existing resources and programs in each state. Specific areas where flexibility should be provided are listed below.

A. All types of renewable energy (RE) and low-emitting measures should qualify for early action allowances to allow states to take advantage of their local resources.

EPA states that wind and solar power were selected for CEIP eligibility due to concerns about possible delays in investment and because these projects can be implemented relatively quickly. However, some states may be better suited to RE resources other than wind and solar generation. Providing early action allowances only to wind and solar projects prevents states from incentivizing other RE and low-emitting (e.g., combined heat and power [CHP] and waste heat to power [WHP]) measures that are more efficient and cost-effective in that state. A 2012 analysis of RE resources in Wisconsin showed that biomass and biogas energy were by far the most cost-effective, followed by geothermal energy.¹ Biomass and biogas are also more useful because they are reliable and dispatchable, unlike wind and solar which require back-up generation that can quickly react to generation changes.

In addition low-emitting measures such as biomass projects, waste-to-energy projects, and CHP projects may also be implemented quickly and provide additional environmental benefits, potentially resulting in earlier and greater relative benefits than wind or solar projects. EPA should allow all zero- and low-emitting resources that are eligible for ERCs under a rate-based plan to be eligible for early action allowances (specifically geothermal, hydropower, biomass, waste-to-energy, wave power, tidal power, CHP, and WHP).

B. EPA should allow RE owned by or contracted for by utilities to qualify for the CEIP set-aside in whichever state owns/contracts for the generation.

In order to incentivize the development of renewable resources in areas that have the most potential and where it is available at the lowest cost, RE providers should receive early action allowances from the state purchasing the energy, whether or not the provider is located in that state. For example, a Wisconsin utility would be allocated allowances from Wisconsin's set-aside for wind power generated in Iowa or Minnesota that was dedicated to use in Wisconsin. Otherwise, Wisconsin would have less incentive to develop wind in the Dakotas and Iowa,

¹ Focus on Energy (2012). *Focus on Energy Renewable Energy Technology Evaluation*. Retrieved from PSC's ERF filing system at docket 5-GF-191, REF #: 163242 (http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=163242)

even though the potential in these states is much greater and capacity factors are much higher than for Wisconsin wind resources. Multi-state electric utilities already have experience allocating renewable energy credits (RECs) across state lines for states that have renewable portfolio standard (RPS) programs.

C. EPA should not limit eligible energy efficiency (EE) measures to low-income EE.

EPA's stated goal of early action is more readily achievable if all EE projects are CEIP-eligible. Wisconsin's utility-funded Focus on Energy program operates two low-income EE programs, among a range of other EE and RE programs. Despite the fact that the two low-income programs are well-established and cost-effective,² they are unlikely to be able to ramp up in the next few years to a level that would allow them to take advantage of the full pool of early action allowances that would be reserved for low-income EE. In addition, Wisconsin state statute precludes Focus on Energy from developing programs that disproportionately serve any particular class of customer.³

Table 1 shows that the total verified gross energy savings in 2014 from the two low-income EE programs was 1,188 MWh. Table 2 estimates EE savings from these programs during 2020 and 2021, assuming program participation remains at 2014 levels. The gross savings over the two years would be 6,732 MWh. Even with significant expansion, the low-income energy savings are likely to be orders of magnitude smaller than the savings that could be covered by the low-income EE allowance pool.

Table 1. Total verified gross energy savings from Focus on Energy low-income EE programs in 2014

Focus on Energy low-income EE programs	Verified gross energy savings in 2014 ¹ (MWh)
Assisted Home Performance with ENERGY STAR	432
Enhanced Rewards	756
Total	1,188

¹ Public Service Commission of Wisconsin (2015). *Focus on Energy Calendar Year 2014 Evaluation Report, Volume II*. Retrieved from <https://focusonenergy.com/sites/default/files/Evaluation%20Report%202014%20-%20Volume%20II.pdf>

² Under Focus on Energy's primary cost-effectiveness test method, the Assisted Home Performance with ENERGY STAR program achieved a benefit/cost ratio of 2.58 over calendar years 2012-2014, and the Enhanced Rewards program had a ratio of 1.45 over this time period (Public Service Commission of Wisconsin [2015]. *Focus on Energy Calendar Year 2014 Evaluation Report, Volume II*. Retrieved from <https://focusonenergy.com/sites/default/files/Evaluation%20Report%202014%20-%20Volume%20II.pdf>)

³ Wisconsin Statute 196.374(5m) (a). The commission shall ensure that, on an annual basis, each customer class of an energy utility has the opportunity to receive grants and benefits under energy efficiency programs in an amount equal to the amount that is recovered from the customer class under sub. (5) (a).

Table 2. Estimated EE savings in 2020 and 2021 from Focus on Energy low-income EE projects implemented after September 6, 2018

Estimated EE savings each year (MWh)			
2018 ¹	2019	2020	2021
396	1,584	2,772	3,960
Total estimated savings in 2020 and 2021 (MWh):		6,732	

Note: The estimates assume that program participation remains at 2014 levels. Energy savings accumulate each year as new projects are implemented.

¹ The 2018 estimate represents only a portion of 2014 gross energy savings to account for the fact that projects could only earn early action allowances for four months of that year. EPA states that only projects implemented after September 6, 2018 would be CEIP-eligible.

Instead of limiting programs to low-income EE, EPA should allow EE measures installed anywhere to be eligible for compliance, which would help states develop widespread EE programs as rapidly as possible. This would provide direct benefits to low-income individuals and communities as a result of other programs that low-income individuals could reasonably participate in (e.g., discounted light bulbs and appliance recycling programs), and indirect benefits, since long-term energy savings tend to increase jobs and disposable income. Because Wisconsin is unlikely to be able to use all the allowances in the low-income EE early action pool, excluding general EE projects would prevent the state from maximizing the potential benefit to low-income communities as well as the general population.

If EPA decides to maintain a reserve of matching allowances specifically for low-income EE projects, EPA should develop three (not two) pools of early action allowances: an RE pool, an EE pool, and a low-income EE pool. The eligible low-income EE projects could continue to receive a greater number of allowances per MWh of energy savings than the RE and general EE projects. This approach would allow some resources to be set aside specifically to promote low-income EE, without ignoring the clear benefits of early installation of all EE measures statewide. States should be granted flexibility to distribute matching allowances between the three pools as appropriate (see Section II.E.).

D. States should be granted flexibility to define “low-income” as appropriate for each state.

Should the CEIP, and specifically the low-income aspect of the CEIP, be upheld by the court, EPA should not strictly define CEIP-eligible projects as those that serve specific, geographically bounded communities. This unfairly limits programs like Focus on Energy, which must comply with a statutory requirement to equitably serve all eligible Wisconsin

ratepayers regardless of geographic location.⁴ Focus on Energy's two low-income residential EE programs offer services to all customers below a specified income threshold to ensure all have an equal opportunity to participate. This approach appears consistent with that of the Maryland and New York low-income programs the rule cites as examples.

States should be granted flexibility to define "low-income" as appropriate given each state's demographic composition and existing, relevant programs. At the very least, low-income eligibility should be defined to include both low-income households, regardless of location, and businesses and multifamily housing in low-income communities. At the household level, low-income should be based on an income threshold. Commercial project eligibility could be based on a definition of low-income community.

E. States should be granted flexibility to allocate matching allowances between RE & EE projects as appropriate.

Matching early action allowances should be divided among the RE and EE reserves according to states' discretion. This would allow states to maximize opportunities for early action based on the resources available in each state. Alternatively, EPA could set a minimum reserve of allowances for the RE and EE pools and allow states to shift the balance of matching allowances between the reserves as appropriate for each state.

II. Additional considerations

A. Early action matching allowances should be distributed to states proportionate to the emissions reductions required in each state.

Wisconsin is disproportionately impacted by the Clean Power Plan in that we are expected to make significantly greater reductions compared to most other states. Allocating allowances in proportion to the required emissions reductions is equitable because it allows states to incentivize early action at a level consistent with the relative stringency of the compliance requirements.

B. Eligible RE and EE projects commencing construction/operation after June 18, 2014 should be eligible for early action allowances.

Projects should be eligible to earn early action allowances if they commence construction/operation after the Clean Power Plan rule was proposed (June 18, 2014) instead of September, 6, 2018. Under the current threshold, projects currently under consideration or development might be delayed until 2018 to be eligible for CEIP allowances. This outcome would be counterproductive to EPA's intent of achieving early reductions.

⁴ Wisconsin Statute 196.374(5m) (b): The commission shall ensure that customers throughout the state have an equivalent opportunity to receive the benefits of the programs under sub. [\(2\) \(a\) 1.](#) and [\(b\) 1.](#)

C. CEIP-eligible RE and EE projects should be able to earn matching early action allowances through the first compliance period.

States should be granted flexibility to distribute early action allowances from the federal matching pool through the first compliance period (through 2024) or until the pool is depleted, whichever occurs first. The matches could be provided to CEIP-eligible projects that commence construction/operation by the end of 2021, which would provide a greater incentive for early action, as RE and EE projects would have the potential to earn matching early action allowances for a longer period of time. Alternatively, the matches could be provided to eligible projects that commence construction/operation by the end of 2024, which would have the additional benefit of allowing projects that cannot be implemented as quickly to still have an opportunity to participate.

D. One early action allowance should be considered equivalent to one MWh of zero-emitting generation or end-use energy savings.

Considering one early action allowance to be equivalent to one MWh of zero-emitting generation or end-use energy savings (or two allowances per MWh for low-income EE) provides for a straightforward conversion and is approximately consistent with Wisconsin's 2012 adjusted baseline EGU emission rate. The 2,000 pounds of CO₂ emissions represented by a single allowance when normalized to a MWh of generation approximates the emission rate of an efficient coal plant, and is therefore a reasonable balance between expected emissions from NGCCs and steam generating units.

E. Evaluation, measurement and verification (EM&V) requirements for EE should be consistent with existing EPA guidance.

Relevant EE projects should be subject to the same requirements laid out in EPA's draft Evaluation, Measurement and Verification Guidance for Demand-Side Energy Efficiency.⁵ Wisconsin's Focus on Energy's low-income programs are already subject to the same evaluation practices and standards as all other programs, and most of those practices and standards are already consistent with those in EPA's draft guidance.

F. EPA should allow states to use existing tracking systems such as M-RETS to meet EM&V requirements for RE.

RE tracking systems (such as the Midwest Renewable Energy Tracking System, M-RETS) are well-established and have been used for compliance with state RPS programs for years.

⁵ U.S. EPA (2015). *Evaluation Measurement and Verification (EM&V) Guidance for Demand-Side Energy Efficiency (EE): Draft for Public Input*. Retrieved from <http://www2.epa.gov/cleanpowerplanttoolbox/draft-evaluation-measurement-and-verification-guidance-demand-side-energy>

Such tracking systems have established operating procedures to measure and verify metered generation from RE facilities within their registries. M-RETS is also administered by a non-government, non-utility third-party that implements the M&V rules as established by the system's operating procedures, as well as state statutes that define state RPS programs. The tracking system administrator would likely be able to meet EPA's criteria for a third-party verifier. Another third-party verifier would be redundant.