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U.S. Environmental Protection Agency
EPA Docket Center EPA/DC
EPA WJC West Building
1301 Constitution Avenue NW
Washington, D.C., 20229

Re: Proposed Rule: Clean Energy Incentive Program Design Details

Dear Administrator McCarthy:

Thank you for the opportunity to provide comments on the Proposed Design Details for the Clean Energy Incentive Program (CEIP) of the Clean Power Plan.

The Southern Environmental Law Center (SELC) is a non-profit, regional environmental organization dedicated to the protection of natural resources throughout the Southeast. SELC works extensively on issues concerning energy resources and their impact on the people, culture, environment, and economy in six Southeastern states—Tennessee, Virginia, North Carolina, South Carolina, Georgia and Alabama. SELC provided feedback on several aspects of the proposed CEIP in comments on the Model Trading Rules and Federal Plan, and in comments regarding the design and implementation of the CEIP.[1] The comments that follow draw on our decades of work across the Southeast in utility regulatory proceedings and stakeholder processes, on legal and administrative matters under the Clean Air Act, and in state lawmaking and policy venues.

[1] Comments submitted by Frank Rambo, Amanda Garcia, and Katie Ottenweller, Southern Environmental Law Center, *EPA Proposed Rule: Federal Plan Requirements for Greenhouse Gas Emissions from Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations*, Docket ID number EPA-HQ-OAR-2015-0199 (submitted Jan. 21, 2016), https://www.regulations.gov/document?D=EPA-HQ-OAR-2015-0199-0875; comments submitted by David Neal, Southern Environmental Law Center, *Clean Energy Incentive Program (CEIP) Design and Implementation*, Docket ID No. EPA-HQ-OAR-2015-0734 (submitted Feb. 24, 2016), https://www.regulations.gov/document?D=EPA-HQ-OAR-2015-0734-0425

Introduction

SELC applauds EPA for including an optional early-action program that encourages investment in both energy efficiency and clean, renewable energy in low-income communities. SELC recognizes the importance of taking specific steps to relieve low-income communities of the disproportionate burdens they suffer as a result of environmental pollution, particularly from coal-fired power generation. Many of those same communities have had limited access to cost-saving clean energy and energy-efficiency measures.

Although the Southeast has generally maintained low electric rates, the lack of progress on energy efficiency has contributed to high electric bills for some customers, often leading to crushing financial burdens for low-income families.[2] In addition, with the exception of North Carolina, and more recently, Georgia, states in our region have seen limited investment in clean, affordable renewable energy.[3] The CEIP could provide the boost our region needs to give carbon-free renewable energy and energy efficiency a stronger foothold, particularly in our most vulnerable communities.

I. The New Design Rules for the CEIP Have Made Improvements to the Program

The proposed Design Rules incorporate many of the suggestions provided by SELC and other clean-energy and low-income community advocates. In particular, SELC commends EPA for proposing the following changes to the CEIP in the current Design Rules:

(1) Setting an earlier eligibility date for demand-side energy-efficiency projects that benefit low-income communities, allowing such projects that commence operation on or after September 6, 2018, to earn early-action credits on a two-to-one basis.[4] We would prefer an even earlier date to maximize the chances of implementing low-income energy-efficiency projects. But we recognize that the ongoing litigation and temporary stay might complicate an earlier eligibility date. If it becomes feasible for EPA to do so, we would support an earlier eligibility date for energy-efficiency projects in low-income communities.

(2) Allowing solar-energy projects, as well as demand-side energy-efficiency projects, to qualify for early-action credits on a two-to-one basis if those solar installations are implemented

[2] Fisher, Sheehan, and Colton, 2015 Home Affordability Gap, http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html.

[3] Solar Energy Industries Association, Top 10 Solar States (showing North Carolina in third place in a ranking of states with the most cumulative installed solar capacity, with 2,087 megawatts of solar installed as of December 2015), http://www.seia.org/research-resources/top-10-solar-states; SEIA, State Solar Policy, Georgia Solar (indicating that 248 megawatts of solar capacity were installed in 2015 alone in Georgia, the sixth most installed in any one state last year, and that the state's 454 megawatts of total installed solar rank 12th among the states), http://www.seia.org/state-solar-policy/Georgia. As of December of 2015, Alabama, South Carolina, and Virginia have a combined installed solar capacity of 41 megawatts, whereas Tennessee had 132 megawatts of installed solar. http://www.seia.org/policy/state-solar-policy.

[4] 81 Fed. Reg. 42,971-72.

to serve low-income communities and provide direct benefits to low-income community ratepayers;[5]

(3) Clarifying that evaluation, measurement, and verification requirements under the CEIP will be the same as those requirements for renewable energy and energy-efficiency projects earning emission rate credits or allowances under the Model Trading Rules;[6]

(4) Establishing a conversion factor of 0.8 short tons of carbon dioxide from carbon-emitting generation per megawatt hour of clean energy generated, which results in a matching pool of 300 million short tons of carbon dioxide emissions for mass-based states or 375 million emission rate credits in rate-based states;[7] and

(5) Proposing that stringency be maintained in rate-based states by retiring emission rate credits on a one-for-one basis with any early-action emission rate credits awarded under the CEIP.[8] In other words, states would need either to permanently withhold one emission rate credit or to permanently retire one unused emission rate credit so that it cannot be used for Clean Power Plan compliance during the first interim step of the performance period (2022 to 2024). This provision is necessary so that early-action credits awarded under the CEIP in rate-based states do not have the effect of increasing the allowable carbon emissions of affected power plants.[9]

EPA's proposal has the potential to accomplish the goals of the Clean Energy Incentive Program: to remove barriers to investment in energy efficiency measures and solar in low-income communities and to encourage early investments in renewable-energy generation with zero emissions. SELC supports these goals. We recognize the need to spur early action in the deployment of zero-emitting renewable energy, particularly in the Southeast, where most of our states have failed to take advantage of cost-effective clean-energy production. Low-income communities and communities of color in our region have suffered disproportionately from the environmental pollution caused by burning fossil fuels for electricity.[10] At the same time, those

[5] *Id.*
[6] 81 Fed. Reg. 42,971.
[7] 81 Fed. Reg. 42,972.
[8] 81 Fed. Reg. 42,971.
[9] 81 Fed. Reg. 42,959.
[10] EPA, EJ Screening Report for the Clean Power Plan (July 30, 2015), State Demographic Summary, 12-13, http://www3.epa.gov/airquality/cppcommunity/ejscreencpp.pdf; NAACP, Coal Blooded: Putting Profits Before People (2012), http://www.naacp.org/page/-/Climate/CoalBlooded.pdf (many of the most polluting coal-fired power plants are located near—and thus disproportionately harm—communities of color); EPA, Regulatory Impact Analysis for the Clean Power Plan Final Rule, 4.3 Estimated Human Health Co-Benefits (Oct. 23, 2015), http://www.epa.gov/sites/production/files/2015-08/documents/cpp-final-rule-ria.pdf; Alan H. Lockwood, MD FAAN; Kristen Welker-Hood, ScD MSN RN; Molly Rauch, MPH; Barbara Gottlieb, Coal's Assault on Human Health, Physicians for Social Responsibility (2009) (reviewing three epidemiological studies and finding that proximity to coal-fired power plants may increase risks of developing lung cancer, as well as asthma and other respiratory ailments), http://www.psr.org/assets/pdfs/psr-coal-fullreport.pdf. The World Health Organization's International Agency for Research on Cancer also determined in 2013 that air pollution, including that from power generation, is a contributing cause to cancer, http://www.iarc.fr/en/media-centre/iarcnews/pdf/pr221_E.pdf.

same overburdened communities often have no choice but to live in older, inefficient homes, leading to high electricity bills and difficult energy burdens.

II. Additional Room for Improvement in the Clean Energy Incentive Program

Despite our overall support of EPA's strategy, we continue to have concerns that, without additional changes, the Clean Energy Incentive Program will fall short of meeting its goals, particularly in the Southeast. As explained in our prior comments on the CEIP, regulatory rate-setting and the absence of state-level policy support for energy efficiency and renewables pose significant barriers to these communities' access to zero-carbon, least-cost resources in our region. Notwithstanding EPA's commitment to energy efficiency and renewable energy in the final Emission Guidelines, the Clean Energy Incentive Program may not offer adequate incentives for the deployment of additional demand-side resources to ensure that they play a meaningful role in early Clean Power Plan compliance for states in the Southeast.

In order to facilitate use of the CEIP by our Southeastern states, we suggest the following additional changes.

A. Apportionment Between Renewable Energy Reserve and Low-Income Community Reserve

EPA seeks comment on all aspects of the proposed 50-50 percent division of the matching pool into a reserve for renewable-energy projects and for low-income community projects.[11] SELC previously recommended enhanced flexibility for states to comply with the CEIP by setting a floor of 30 percent for both the Renewable Energy and Low-Income Community Reserves, allowing the distribution of the other 40 percent of early-action credits for CEIP-eligible projects in either category. In our previous comments, we indicated that we would recommend a larger reserve solely for low-income programs, particularly given the energy burdens faced by low-income families in the Southeast. But we were concerned that many states in our region would have difficulty building out their low-income energy-efficiency programs quickly enough to avail themselves of the full matching credits because current levels of these investments are so low.[12] However, because EPA proposes to include solar-power installations that provide direct benefits to low-income households as eligible for two-to-one credits from the Low-Income Community Reserve, there is less need for flexibility between the two reserves.

[11] 81 Fed. Reg. 42,952.

[12] EPA's Technical Support Document for the CEIP Design Rules reinforces this concern. Assuming that utility-run efficiency programs can scale up to at least one percent of the prior year's electricity sales in every state, and assuming that low-income communities would receive five percent of those investments, EPA projects that 11 million MWh of total energy savings would be achieved in low-income, residential energy efficiency nationwide, far less than is available in the Low-Income Community Reserve. Technical Support Document, Clean Energy Incentive Program Design Details Proposed Rule, *Renewable Energy and Low Income Community Projects Potential*, EPA-HQ-OAR-2016-0033-0059 (June 30, 2016), https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0033-0059.

Another strategy for enhancing flexibility would be to allow demand-side energy-efficiency projects to be eligible to receive one-to-one credits or allowances from the Renewable Energy Reserve. This recommendation has the virtue of promoting a least-cost resource in areas beyond just low-income communities. Even though energy efficiency is the most cost-effective way to reduce emissions associated with the electrical generation sector,[13] the Southeast continues to lag in efficiency investments.[14] The CEIP could provide the boost that energy efficiency needs to gain a more secure foothold in our region. Including energy efficiency as an eligible technology in the Renewable reserve could have beneficial spillover effects, reinforcing the deployment of energy-efficiency programs in low-income communities. Increasing the overall market for energy efficiency would help nascent energy service companies and other efficiency providers build up their capacity to provide services, establishing economies of scale.

We recommend that EPA allow for as much flexibility and ease of administration as possible in order to maximize the chances that states participate in the CEIP. If EPA decides to maintain a strict 50-50 percent split between the Low-Income Community Reserve and the Renewable Energy Reserve, we ask that energy efficiency outside of low-income communities be eligible for one-to-one credits from the Renewable Energy Reserve.

B. Ability for the CEIP to Provide Sufficient Incentives to Spur Investment in New Low-Income Energy Efficiency and Solar

We are skeptical that the two-to-one credits under the Low-Income Community Reserve, without more, will provide a sufficient incentive for new investments in energy efficiency and solar in low-income communities. As we noted in our previous comments on the CEIP, freely distributing credits could largely dilute the monetary value of those credits. For states that already appear likely to reach their emissions goals for the first interim period in a business-as-usual scenario, there will be little demand for allowances or credits. Though their future potential value is not known with certainty, current estimates suggest that there will not be much demand for allowances or credits, particularly in the first interim compliance period.[15]

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[13] Maggie Molina, *The Best Value for America's Energy Dollar: A National Review of the Cost of Utility Energy Efficiency Programs*, American Council for an Energy-Efficiency Economy (Mar. 2014), http://aceee.org/sites/default/files/publications/researchreports/u1402.pdf; National Action Plan for Energy Efficiency, *Energy Efficiency as a Low-Cost Resource for Achieving Carbon Emissions Reductions*, prepared by William Prindle, ICF International, Inc. (2009), https://www.epa.gov/sites/production/files/2015-08/documents/ee_and_carbon.pdf.

[14] Weston Berg *et al*, The 2016 State Energy Efficiency Scorecard, American Council for an Energy-Efficiency Economy (Oct. 2016), http://aceee.org/sites/default/files/publications/researchreports/u1606.pdf.

[15] Christopher Van Atten, *EPA's Clean Power Plan: Summary of IPM Modeling Results with ITC/PTC Extension*, M.J. Bradley & Associates, LLC (June 2016), http://www.mjbradley.com/sites/default/files/MJBA_CPP_IPM_Report_III_2016-06-01_final_0.pdf ; *see also* comments submitted by the American Council for an Energy-Efficient Economy, *The Environmental Protection Agency's Proposed Clean Energy Incentive Program Design Details*, Docket No. EPA-HQ-OAR-2016-0033 (submitted Sept. 15, 2016), https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0033-0268 (assuming a $35-per-ton allowance price, the value of the CEIP incentive awarded to a single-family home would be less than

Yet for the CEIP to provide incentives to build out energy-efficiency measures and renewable-energy facilities for low-income communities, those allowances must have enough real value to spur such investments, particularly during the initial compliance period. Artificially low values for credits or allowances will make it much harder for the CEIP to meet its goals. Without a floor on the value of allowances or emission rate credits, there may be too much market uncertainty for the prospect of earning such credits to spur investments in low-income communities.

The proposed design of the CEIP also raises a timing problem for potential project providers. Under the proposed Design Rules, eligible low-income energy-efficiency projects can begin to earn early-action credits if they commence operation after September 6, 2018. But no such credits will be distributed under the CEIP until the end of 2021. And no market for selling such credits will likely be in place until the first compliance period, beginning in 2022. EPA has not created any mechanism for bridging the potential four- or five-year gap between spending money on low-income energy-efficiency measures and receiving economic value from any earned credits or allowances.

EPA should also consider going beyond the proposed two-to-one credit for qualifying energy-efficiency projects in low-income communities. We remain concerned that the proposed two-to-one credit will not provide a sufficient incentive for program operators to invest in such projects. Without some additional incentive, there is a significant risk that the CEIP will not spur significant additional investments in residential low-income communities and that a significant number of the credits in the Low-Income Community Reserve will go unused.

As the CEIP is currently designed, EPA does not anticipate that all of the Low-Income Community Reserve will be used.[16] Because the average useful lifespan of energy-efficiency upgrades is approximately 12 years, EPA should consider offering additional credits for savings that can be conservatively anticipated beyond the early-action period.[17] For example, if a particular demand-side energy-efficiency program produced 10 MWh of savings per year for a low-income community, from the start of operations on September 6, 2018, through the end of the early-action period, EPA could award additional credits to the program for those 10 MWh of savings per year that would likely persist at least through the first interim compliance period of the Clean Power Plan. Such bonus credits could provide the additional boost that energy-efficiency programs will need to attract investment in low-income communities during the early-action period.

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two percent of the total project cost, not enough of an incentive to boost new investments in low-income energy efficiency measures).

[16] TSD, Renewable Energy and Low Income Community Projects Potential, EPA-HQ-OAR-2016-0033-0059 (June 30, 2016), https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0033-0059.

[17] Ian Hoffman *et al*, *Energy Savings Lifetime and Persistence: Practices, Issues, and Data*, Lawrence Berkeley National Laboratory (May 2015), https://emp.lbl.gov/sites/all/files/savings-lifetime-persistence-brief_0.pdf.

Nothing in the Design Rules or previous CEIP guidance makes clear how to bridge the significant gap in time between making investments in the early-action period and being compensated for those early investments with marketable credits or allowances a number of years later. We urge EPA either to guarantee that the value of such credits will not fall below a given level, or to provide some other kind of market certainty to assure program operators that the CEIP will provide the additional resources necessary to make a low-income-community project economically viable.

Allowing early-action credits to be distributed before 2021 would improve the success of the CEIP by stimulating the development of low-income energy-efficiency projects. Another possible approach would be for EPA itself to secure financial credit for emission rate credits or allowances so that it could itself offer no-cost or low-interest financing for eligible CEIP projects in low-income communities.

We also ask EPA to clarify that the incentive to install solar-power systems in low-income communities should extend to installations that provide financial benefits from the solar-power system, regardless of whether that low-income customer is directly billed by a utility. As written, the incentive is only available if the solar project "is implemented to serve a low-income community, by providing direct electricity bill benefits to low-income community ratepayers."[18] It could be argued that this language—"direct *electricity bill* benefits…to ratepayers"—confines the incentive to low-income residents who live in individually metered units. We urge EPA to make clear that residents of low-income housing units that are master-metered can also benefit from lower electricity costs with a solar-power system, although they are not billed directly for electricity, because the rent or housing allowance that they pay includes the cost of electricity. We ask EPA to clarify the language to include those solar installations that serve a low-income community by "providing direct benefits to low-income community residents."

Finally, EPA should make it clear that community solar projects that have carve-outs with direct benefits to low-income households are eligible for the two-to-one credits on a proportional basis. For example, if one megawatt of a CEIP-eligible, five-megawatt community solar array provides direct benefits to low-income households, one-fifth of the project should be awarded two-to-one credits from the Low-Income Community Reserve, and four-fifths of the project should be awarded one-to-one credits from the Renewable Energy Reserve.

Without some such additional incentives or assurances from EPA, we are concerned that the offer of two-to-one credits alone will not spur the investments needed in energy efficiency in low-income communities.

[18] 81 Fed. Reg. 42,948, 42,978.

C. Definition of "Low-Income Community"

We appreciate EPA's decision to provide states some measure of flexibility when defining what constitutes a "low-income community." We previously asked that EPA employ definitions that are used in existing programs, rather than a definition that imposes new criteria. EPA has done so here by allowing states to use definitions from federal, state, local, or utility-run programs as long as that definition existed on or before October of 2015.[19] EPA seeks comments regarding whether state or local definitions might exclude low-income communities.[20]

We are concerned that some state, local, or utility programs might be unduly restrictive and leave out low-income families with high energy burdens who should otherwise be eligible. EPA should address this concern by adopting definitions of "low-income" from existing programs, as long as those programs do not set the income ceiling too low. Additionally, some Low-Income Household Energy Assistance Programs in our region impose restrictions on participation that go beyond income level, such as limits on family assets, or a requirement that a family be facing a home-energy crisis.[21] Similarly, some multifamily residents and other renters, particularly those who live in master-metered properties, are not eligible for existing utility run energy efficiency programs.

The EPA should not allow any state, local, or utility definition of "low income" that would exclude residents or owners of affordable multifamily housing units or renters from participating in CEIP-related programs. To ease administration and help ensure that the CEIP reaches its target households, we ask EPA to clarify that states may borrow definitions of "low-income" from other programs, but only if the upper limit on income does not fall below 150 percent of the Federal Poverty Guidelines, or below 80 percent of area median income, and only if no additional limitations are imposed.

On the other hand, we are not concerned that EPA's flexible approach will lead to over-inclusion of higher-income families. Public benefits in the Southeast are generally not over-generous in their design. We have not found other definitions of "low-income" in our region that would be overly inclusive.

We support the existing federal definitions included in the sample regulatory text under the Model Trading Rules from: (a) New Market Tax Credit; (b) HUD-qualified census tracts; (c) Weatherization Assistance Program; or (d) definition of "low-income" from Federal Poverty Guidelines.[22] Those definitions would also work well in a federal CEIP Plan.

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[19] 81 Fed. Reg. 42,971.
[20] 81 Fed. Reg. 42,961-62.
[21] *See, e.g.*, North Carolina Department of Health and Human Services, Low Income Energy Assistance, http://www.ncdhhs.gov/assistance/low-income-services/low-income-energy-assistance.
[22] 81 Fed. Reg. 42,978.

D. Reapportionment of Unclaimed Credits

We ask EPA to reconsider its decision not to reapportion unclaimed credits.[23] Deploying demand-side energy efficiency and cost-saving solar in low-income communities, and fostering the development of other renewable-energy technologies, will help states comply with the Clean Power Plan while also providing other benefits to ratepayers and the environment. Credits available for re-allocation should be brought into a single federal pool, allowing projects to compete for them on a first-come, first-served basis. To ensure that the credits go where they are most needed, this pool should be limited to states where the original allocation from EPA has been exhausted. The states that have exhausted their original credits will have done so by investing aggressively in low-income energy efficiency and solar, and by deploying other renewable-energy technologies, in ways that should be encouraged.

E. All Renewable-Energy Generation Should Be Eligible for the CEIP

EPA should confirm that all types of metered, renewable-energy resources[24]—including distributed-generation projects—are eligible for the CEIP. EPA can make this clear by stating that all power production from distributed-generation resources is eligible, including power that is not delivered to the grid but instead is used on-site or compensated by a utility through net-energy-metering arrangements for excess generation. This is important because all of the power produced by distributed-generation resources is used to avoid the need for fossil-fuel generation, not just those MWh that are grid-tied. Similar to end-use energy savings from energy-efficiency resources, were it not for power produced on site, that home or business would require more electricity from traditional, carbon-polluting sources. This treatment is consistent with the Clean Power Plan, which states that projects are eligible for the CEIP if they generate metered MWh from any type of eligible renewable-energy source, which now includes wind, solar, geothermal, and hydropower.

F. Commencement Date for Earning Credits for Renewable-Energy Projects

We support the clarifying definition of "commence commercial operation" for qualifying renewable-energy projects, but ask that projects that commence commercial operation before January 1, 2020, be eligible to earn early-action credits.[25] At a minimum, we ask EPA to consider providing an earlier eligibility date, allowing otherwise eligible, renewable-energy projects that commence commercial operation by January 1, 2020, to earn credits even if they commence operation within the six months leading up to that date. In the alternative, EPA could make the "commence commercial operation" date begin one year earlier—January 1, 2019—with the caveat that only the energy generated after January 1, 2020 is eligible to earn credits. This would give renewable energy project developers more flexibility and could allow projects

[23] 81 Fed. Reg. 42,955-56.
[24] By the term "renewable energy resources," we are referring to zero-emitting resources that are otherwise potentially eligible under the CEIP: solar, wind, hydro, and geothermal. 81 Fed. Reg. 42,971.
[25] 81 Fed. Reg. 42,971.

that are completed ahead of schedule to qualify. We are concerned that without some adjustments to the "commence commercial operation" definition, the CEIP could otherwise have the perverse incentive of delaying the deployment of renewable-energy projects. EPA should also expand the definition to clarify that qualifying renewable energy that is either for sale or produces metered electricity for bill credits under net-energy-metering arrangements meets the "commercial operation" designation.

G. No Adjustment Is Required Following Congress's Extension of the Investment Tax Credit and Production Tax Credit

EPA seeks comment on whether to limit participation in the CEIP by wind and solar resources that benefit from the extension of federal tax credits.[26] When EPA first issued guidance on the Clean Energy Incentive Program, Congress had not yet extended the income tax credit for solar or the production tax credit for wind. EPA seeks comment on whether the subsequent extension of those tax credits[27] should result in any design changes to the CEIP.

As noted above, the Southeast, despite ample solar and wind resources, generally lags behind many parts of the nation in the development of energy production from those clean, renewable sources. Many states in our region lack the policies or incentives that have spurred investments in renewables in other regions. Given the underdeveloped market for renewable energy in the Southeast, we do not think that EPA should put any additional restrictions on renewable-energy projects that also benefit from federal tax credits. Crafting restrictions for solar or wind projects that receive federal tax benefits would add a layer of administrative complication that could further hinder participation in the CEIP.

But if EPA does decide to limit CEIP participation in some way for wind and solar resources that benefit from the federal tax credits, we ask that it create an exemption for low-income solar projects that are eligible for two-to-one credits. Low-income solar projects face significant financial barriers in the current marketplace and should be eligible to receive CEIP incentives in addition to any available federal tax credits.

H. Types of Solar Programs That Could Be Eligible for the Low-Income Community Reserve

EPA solicits comment on the types of programs that could be eligible for the Low-Income Community Reserve of the matching pool, and how states may be able to determine benefits delivered to ratepayers in low-income-communities.[28] We are aware of only two utility programs in the Southeast that make any effort to create incentives for solar access for low-income households. One of those, a new shared solar program offered by Duke Energy in South

[26] 81 Fed. Reg. 42,953.
[27] Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Title III, § § 301 & 303 (Dec. 18, 2015), https://www.congress.gov/bill/114th-congress/house-bill/2029/text.
[28] 81 Fed. Reg. 42,966.

Carolina, has the potential to work under the CEIP. The other, a net-metering program in Mississippi, does not.

In 2015, Duke Energy Carolinas and Duke Energy Progress committed in a settlement agreement to launch solar programs that would at least in part benefit economically underserved customers and communities in South Carolina. In October of 2016, the South Carolina Public Service Commission approved the first shared solar programs in the Southeast that are designed to be accessible to low-income communities. Under the newly approved tariff rider, qualifying families—those who are at or below 200 percent of the Federal Poverty Level—can subscribe for either one or two kilowatts from the new shared solar program without application fees or initial subscription costs, a $120 savings for customers who subscribe up to the two-kilowatt limit.[29] This low-income benefit in Duke Energy's shared solar programs will only be available for the first 200 customers who sign up with each of Duke Energy's affiliated utilities in the state. If fully subscribed, the low-income carve-out would constitute 20 percent of Duke Energy Carolinas' shared solar program and 40 percent of Duke Energy Progress's program.

While Duke Energy's waiver of application fees and initial subscription costs for its shared solar program reduces barriers to entry for low-income customers, it is not clear that it offers customers significant direct-bill benefits. Participants are charged a monthly fee of $6.25 per kilowatt in exchange for receiving a $.06341 per-kilowatt-hour credit on their monthly power bill, based on the customer's pro rata share of the solar-power system's production. Assuming that two kilowatts' worth of the shared solar program produced 2775 kilowatt hours over the year, a customer might save about$25 or $30 by participating in the program. Under the CEIP as written, it is not clear whether an average savings of about $2.00 or $2.50 per month is enough of a direct benefit to qualify.

The EPA should set clear parameters for the amount of benefit provided to low-income households required before a low-income community solar-power program can qualify for two-to-one credits under the CEIP. This guidance could take the form of a percentage of savings on annual home energy bills or annual savings on overall housing costs for residents of master-metered, multifamily low-income housing. More significant savings than those offered by the Duke Energy programs should be required before a program is entitled to earn two-to-one credits for a low-income solar program. Nevertheless, with small changes to either the monthly subscription fee or the credit from the solar energy produced, the Duke Energy shared solar programs in South Carolina have the potential to more directly benefit low-income customers in ways that might make those programs good candidates for the CEIP.

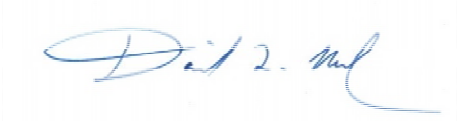
[29] Public Service Commission of South Carolina, *Order Approving Application of Duke Energy Carolinas, LLC to Establish a Distributed Energy Resource Program*, Docket No. 2015-55-E (Oct. 12, 2016); Public Service Commission of South Carolina, *Order Approving Application of Duke Energy Progress, LLC to Establish a Distributed Energy Resource Program*, Docket No. 2015-53-E (Oct. 12, 2016).

Unlike South Carolina's low-income shared solar offering, a relatively new Mississippi net-metering program does not have the potential to serve as a useful model for the CEIP. Mississippi's net-metering program is the one commission-approved program in the Southeast that has a "low-income adder,"[30] yet it has no components that clearly aim to reduce financial barriers for low-income customers who cannot afford (or cannot finance) the up-front costs of solar installations. Nor does the policy language clarify whether low-income residents of multi-family housing will be able to receive net-metering benefits. Additionally, it is not clear how emissions reductions that result from implementing the policy could be credited under the CEIP. While it is important and commendable that the State's net-metering policy has the potential to benefit some low-income households, the policy appears to be a poor fit with the CEIP.

III. Conclusion

SELC supports the Clean Power Plan's goal of achieving significant carbon reductions from the power-plant sector. We also support the goals articulated in the Clean Energy Incentive Program that would accelerate the growth of energy efficiency and renewable energy while addressing the needs of low-income and vulnerable communities. We urge EPA to do everything it can to maximize the chances that the CEIP can meet its goals, particularly those relating to new investments in energy efficiency and solar power in low-income communities.

Respectfully submitted,



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DLN/lap

[30] Mississippi Public Service Commission, *Order Adopting Net Metering Rule*, Docket No. 2011-AD-2 (Dec. 3, 2015) (discussing the meaning of "low-income adder"), http://www.psc.state.ms.us/InsiteConnect/InSiteView.aspx?model=INSITE_CONNECT&queue=CTS_ARCHIVEQ&docid=362179.