



September 17, 2021

The Honorable Joe Manchin
Chairman
Committee on Energy and Natural
Resources
U.S. Senate
Washington, D.C. 20515

The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural
Resources
U.S. Senate
Washington, D.C. 20515

Re: Clean Electricity Performance Program

Dear Chairman Manchin and Ranking Member Barrasso:

The Electricity Consumers Resource Council (ELCON) respectfully requests that the Senate Committee on Energy and Natural Resources allow for much-needed debate and stakeholder input on the Clean Electricity Performance Program (CEPP) as outlined in legislation recently approved by the House Energy and Commerce Committee.

ELCON is the national association representing large industrial users of electricity. Many of our members have corporate sustainability goals, and as an organization, we advocate for resource-neutral policies that improve the reliability and reduce the cost of electricity. As such, we are concerned that CEPP may (1) negatively impact electric reliability, (2) fail to reduce greenhouse gas emissions cost-effectively, and (3) not be durable, potentially introducing a high degree of uncertainty in electricity markets.

Reliability: CEPP provides no assurance that the electric grid will continue to operate on a safe and reliable basis. Despite its goal to remake America's power generation fleet in just eight years, CEPP does not offer a reliability off-ramp. Given the amount of new clean energy the program would incentivize (in increments that all but prevent any new firm resources), there would almost certainly be reliability problems associated with so many new intermittent resources coming online over such a short period. For context, the North American Electric Reliability Corporation (NERC) already lists the changing resource mix as its top emerging risk area for reliability.¹

¹ See NERC's 2021 State of Reliability Report, available at:
https://www.nerc.com/pa/RAPA/PA/Performance%20Analysis%20DL/NERC_SOR_2021.pdf

Reliability issues are too important and too technical to ignore or address hastily. The Senate should instead deliberate and hear from a wide range of stakeholders, including NERC and the Federal Energy Regulatory Commission (FERC), the organizations that safeguard the reliability of the nation’s electricity system. Congress enhanced these organizations’ reliability responsibilities in 2005 following the 2003 Northeast blackout – to leave them out of a major industry overhaul like CEPP would be a mistake. As styled in the House version, CEPP would be created by Congress and implemented by the Department of Energy with no input from FERC or NERC at any stage in the process. That is unacceptable.

Cost-effectiveness: ELCON understands the Committee’s interest in accelerating the energy transition, but we are concerned CEPP would not only be costly but fail to achieve its stated goal. While well intentioned, CEPP appears ripe for gaming and abuse by utilities, and several academic economists have been outspoken about the incentive problems it would introduce.² These incentive problems limit the program’s effectiveness, even while Congress commits \$150 billion in taxpayer dollars. A more cost-effective climate policy is much more likely to emerge from a transparent process of regular order and debate than through a rushed, one-sided reconciliation process. We urge the Senate to seek input from both political parties and from consumers as well as producers.

As an alternative, ELCON suggests accelerating the transition by allowing low-cost, low-carbon resources to compete on a level playing field with other resources. Presently, many incumbent utilities are not subject to competitive pressure and are not required to conduct an open and transparent bidding process for new generation. Rather than spending taxpayer dollars to subsidize predetermined incremental improvements (at a fixed 4 percent year over year), a competitive process would rely on private sector ingenuity and allow for potentially much larger step changes in the adoption of low-carbon technologies on a schedule that makes sense for each region.

Durability and uncertainty: The budget reconciliation process is an ill-fitting mechanism to draft and enact lasting climate and energy policy. That is because anything done through reconciliation can be swiftly undone when the political winds shift, as they inevitably will. CEPP could initiate a series of on-again, off-again climate policies over the coming decades that not only increase uncertainty for market participants but also send a signal to our international partners that the U.S. is unwilling or unable to address climate change in a durable way.

Further, investment decisions in the electricity sector require regulatory certainty. It is an incredibly capital-intensive industry, and investments in generation and

² See, for example, <https://energyathaas.wordpress.com/2021/09/13/a-big-week-for-energy-and-the-environment/>

transmission assets often take five to ten years or more to place in service. It is easy to imagine a world in which an investor has little confidence that the rules will be the same when a project goes into service as they were when the initial investment decision was made. As electricity consumers, we care about these issues because uncertainty and disjointed market rules mean reliability risks and increased costs for us. And as industrial consumers, reduced reliability and increased costs mean decreased competitiveness globally.

ELCON was formed in 1976, when Congress began to address electricity industry restructuring and reform. Major policy steps from that era, such as the 1978 Public Utility Regulatory Policies Act, required multiple years of deliberation and stakeholder engagement before they became the enduring laws that we respect more than 40 years later. We urge the Energy and Natural Resources Committee to insist that any major electricity industry reforms under consideration now – especially a \$150 billion program like CEPP – be openly debated through a transparent, thoughtful, and bipartisan process.

Thank you for your consideration.

Most Respectfully,

A handwritten signature in black ink, appearing to read 'Travis Fisher', with a long horizontal flourish extending to the right.

Travis Fisher
President & CEO
Electricity Consumers Resource Council