Insight

Reconciliation and the Clean Electricity Performance Program

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Executive Summary

- The Biden Administration's clean electricity standard (CES) is a set of mandated targets that ultimately remove greenhouse gas emissions from power generation by 2035.
- The CES could not be passed in a budgetary reconciliation bill; as a result, the reconciliation bill now carries the same clean electricity goals in a new package—the Clean Electricity Performance Program (CEPP).
- While the CEPP will also likely be deemed non-budgetary and excluded, it also could result in payments of as much as $14 billion annually to utilities while failing to secure additional clean electricity generation.

Introduction

President Biden's American Jobs Plan,[1] as well as the Administration's nationally determined contribution under the Paris Climate agreement, call for the production of carbon pollution-free electricity by 2035.[2] Initially, a set of mandated targets known as the clean electricity standard (CES) was proposed to achieve this target. Mandates are not permitted in budget reconciliation bills, so the same targets were re-envisioned as the Clean Electricity Performance Program (CEPP)—which the House Energy and Commerce Committee included in its current reconciliation recommendations.[3]

It was clear that the CES fails to meet the standard of a budgetary provision for a reconciliation bill. The CEPP calls for retail energy producers to deliver increasing amounts of clean electricity or pay a penalty. Like the CES, the CEPP will likely fail to pass the reconciliation process.

The analysis that follows considers the challenges to the CEPP's implementation through budget reconciliation as well as the potential costs of instituting the program. In its current form, the CEPP leaves utilities with the ability to forgo committing to longstanding clean electricity sales while receiving grants. In addition, this analysis finds that, should all utilities meet the minimum standards for receiving grants under the CEPP, it would result in disbursement of over $14 billion annually.

CES, now CEPP

The CEPP, like its predecessor the CES, fails to meet the standards set by the Byrd rule. The Byrd rule is applied by the Senate parliamentarian during the reconciliation process to remove from the legislation "measures that produce a budgetary effect that is merely incidental to the non-budgetary policy change."[4] The CES and CEPP both aim to reduce carbon emissions from electricity generation. The goal of both programs is the institution of a federal climate policy, a non-budgetary policy change.

In practice, the CES would involve a credit trading system in which the Environmental Protection Agency (EPA) issued credits to those generators producing low to zero emissions electricity as determined by their carbon intensity. Companies providing retail sales of electricity (colloquially, utilities) would be responsible for demonstrating their compliance with the CES by submitting credits to the EPA. This would create a market for credits that may be sold, auctioned, or transferred alongside a power purchase. Those utilities unable to obtain the necessary credits would be expected to submit compliance payments.

The CEPP, like the CES, relies on carbon intensity to determine which sources are "clean."[5] Rather than issue credits to clean electricity generators, the CEPP pays retail electricity suppliers for delivering increasing amounts of clean electricity in the form of grants. Grants must be used to benefit the utilities' customers through direct bill assistance, investments in qualified clean electricity and energy efficiency, and worker retention. Also, like the CES, however, the CEPP penalizes those retail electricity suppliers that fail to provide increasing amounts of clean electricity by requiring payment.

The restyling of the CES as the CEPP does not change its intent: the enactment of a new federal climate policy. The CEPP is a veiled attempt to regulate the supply of electricity. As such, it should fail to become law upon review in the Senate.

CEPP in Practice

Under the Build Back Better Act (BBBA), the CEPP will issue grants to and collect payments from electricity suppliers from 2023 through 2030. A utility will be eligible for a grant if it increases the amount of qualified clean electricity it supplies to customers by 4 percentage points when compared to the previous year. Initially, the CEPP will award $150 for each additional megawatt-hour (MWh) after the first 1.5 percent of increased sales. If a utility fails to increase its percentage of clean electricity sales by 4 percentage points when compared to the previous year, it must submit a payment of $40 per MWh for the gap between its actual sales and the 4-percentage point increase. In addition, a utility may defer payment or grant for up to two years following the year under review.

Due to the imbalance in the MWh value of the grant, payment, and option to defer, utilities would be able to net out their payments with the grants they received without making long-term commitments to alter their practices as demonstrated by the performance of a hypothetical utility in the table below. Generally, the change in electricity consumption changes little from year to year. With the increased adoption of energy efficient appliances and improvements in building materials, among other things, the growth in demand for electricity has been countered. As a result, a utility will see little change in demand in the short-term. For this reason, the total electricity sales in the hypothetical utility sales scenario below remain the same over the course of a few years.

If the hypothetical utility sold 500,000 MWh of which 12 percent was clean electricity in its reference year and increases the percentage of clean electricity in the first year by 4 percent, it would receive a $1.875 million grant. In the following year, if the utility did not increase its sale of clean electricity by 4 percent and goes so far

as to provide no more clean electricity than it did before the institution of the CEPP, it would be responsible for submitting a payment of $1,600,000. If the utility chooses to purchase its clean electricity from a longstanding facility that consistently delivers electricity on a relatively large scale, such as a hydroelectric or nuclear power plant, then no new clean power plants would be constructed as a result. The following year it could once again choose to deliver an additional amount of clean electricity and earn grant money without making any long-term commitment to meet the program's goal.

	Reference Year	2023	2024	2025
Total Electricity Sold (MWh)	500,000	500,000	500,000	500,000
Clean Electricity Sold (MWh)	60,000	80,000	60,000	80,000
Percentage	0.12	0.16	0.12	0.16
% Increase		0.4	-0.4	0.4
Grant		$1,875,000	N/A	$1,875,000
Payment		N/A	-$1,600,000	N/A
Net		$2,150,000		

Cost of the CEPP

The BBBA, the vehicle for reconciliation, invests $150 billion in the CEPP. By applying the formulas provided in the BBBA, it's possible to calculate the estimated grant spending should all the utilities in the United States meet the 4-percentage point increase in clean electricity sales. The Energy Information Administration's sales data captures retail sales provided by utilities in regulated and unregulated markets. In addition, it provides the amount of electricity generated by clean sources —wind, solar, nuclear, hydroelectric, and geothermal. Data from 2019 was used to serve as a reference year. And total sales of electricity were assumed to remain the same in 2020. The total consumption of electricity and generation of clean electricity in the United States were considered to calculate an industry-wide shift.

In 2019, clean electricity composed about 19 percent of the power consumed in the United States. When the percentage of clean electricity consumption is increased to 23 percent, in keeping with the minimum 4 percentage point increase to qualify for grants, an additional 150 million MWh is hypothetically sold. The first 1.5 percent increase is excluded for the purpose of calculating the grant value. The remaining 3.5 percent results in a $14 billion nationwide when total electricity sales remain constant. Alternatively, if all utilities failed to meet the CEPP's 4-percentage point increase, they would collectively be responsible for a $6 billion payment to the Department of Energy.

Research from the American Action Forum found that to meet the Biden Administration's goal of removing all carbon emissions from electricity generation by 2035, approximately $2 trillion of capital investment would be necessary.[6] This translates to $153 billion per year for 14 years. When considered in the context of the capital costs necessary to transition the generation sector, the CEPP's grants serve as a small incentive, at best.

Conclusion

The CEPP is neither a budgetary provision appropriate for the reconciliation process nor a well formulated policy. It potentially creates additional costs borne by the taxpayer while failing to secure performance by utilities.

[1] To ensure that we fully take advantage of the opportunity that modernizing our power sector presents, President Biden will establish an Energy Efficiency and Clean Electricity Standard (EECES) aimed at cutting electricity bills and electricity pollution, increasing competition in the market, incentivizing more efficient use of existing infrastructure, and continuing to leverage the carbon pollution-free energy provided by existing sources like nuclear and hydropower. All of this will be done while ensuring those facilities meet robust and rigorous standards for worker, public, and environmental safety as well as environmental justice – and all while moving toward 100 percent carbon-pollution free power by 2035.

[2] https://www.americanactionforum.org/infographic/policy-proposed-in-the-ndc-by-sector/

[3] https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Subtitle%20D_Energy.

[4] https://budget.house.gov/publications/fact-sheet/budget-reconciliation-basics

[5] Electricity can qualify as "clean" by having a carbon intensity of not more than 0.10 metric tons of carbon dioxide equivalent per megawatt-hour.

[6] https://www.americanactionforum.org/research/the-cost-of-clean-generation/