National Rural Electric Cooperative Association
A Touchstone Energy® Cooperative

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Submitted via www.regulations.gov

Michele Brooks
Director, Program Development and Regulatory Analysis
USDA Rural Development
1400 Independence Avenue SW
STOP 1522, Room 5162
Washington, DC 20250–1522

RE: RIN 0572-AC19 – Energy Efficiency and Conservation Loan Program, Comments of The National Rural Electric Cooperative Association

Dear Ms. Brooks:

The National Rural Electric Cooperative Association ("NRECA") hereby submits comments on the Rural Utilities Service's ("RUS") proposed rulemaking to add a new subpart H entitled "Energy Efficiency and Conservation Loan Program" to 7 CFR part 1720 to provide loans and guarantees in support of energy efficiency programs announced at 77 *Fed. Reg*. 43723 (July 26, 2012).

NRECA is the national service organization representing over 900 not-for-profit, consumer-owned, consumer-controlled rural electric cooperative systems, which serve 42 million customers in 47 states. Cooperatives own and maintain 2.5 million miles or 42 percent of the nation's electric distribution lines covering three-quarters of the nation's landmass. Electric cooperatives provide electric service in all or parts of 2,500 of the nation's 3,141 counties.

NRECA appreciates the opportunity to comment on RUS's Energy Efficiency and Conservation Loan Program proposal, and looks forward to working with RUS to carry out a successful efficiency program. We were pleased to see "energy efficiency" included in the 2008 Farm Bill as a purpose for assisting rural electric cooperative borrowers, and we support RUS's efforts to utilize existing authority to the fullest extent, by expanding the availability of energy efficiency improvement loans for rural electric cooperative consumer-members.[1]

[1] We would also like also express our continued support for the Rural Energy Savings Program Act (RESPA), legislation that would create an on-bill financing program for energy efficiency improvement loans for rural electric cooperatives and their consumer-owners. NRECA worked with Congress to pass RESPA in the House of Representatives in the 111th Congress, supported its reintroduction in the Senate in the 112th Congress, and its inclusion in a number of recent comprehensive bills including House and Senate versions of the Farm Bill. The continued efforts by USDA and the Congress to support such energy efficiency programs shows not only recognition that energy efficiency can be a cost-effective way to provide the services cooperative consumers need while also reducing energy use, but that efficiency improvements and retrofits should be available and affordable to everyone.

Rural electric cooperatives have a long history of strongly supporting energy efficiency and demand response programs. As noted in the proposed rule, 96% of electric cooperatives currently have some form of energy efficiency program in place, and 73% of those plan on expanding their energy efficiency program within the next two years. Cooperatives are also responsible for 20% of actual peak demand reduction in the nation despite having only 10% of retail electricity sales. While many cooperatives have energy efficiency programs in place, RUS funding to date has been generally limited to the Energy Resource Conservation ("ERC") loan program funding provided by deferment of repayment of existing insured loans to distribution borrowers. ERC loans are for more limited purposes than the proposed program, which would add load-modifying renewable resources and demand-side management improvements, among others, as eligible activities.

NRECA is pleased that the proposed program funding of up to $250 Million annually will provide cooperatives with the opportunity and the flexibility to establish programs of more significant size and scope than efficiency activities currently supported by ERC loans. NRECA also supports the proposal to make energy efficiency measures with the following goals eligible for funding under the proposed program: increased end-user energy efficiency; overall reduction in utility system demand; more efficient operation of generation, transmission and distribution facilities; supporting new business and jobs in rural areas; and encouraging renewable energy for demand-side management and to reduce fossil fuel use. NRECA is also glad to see that the new program will help overcome the upfront cost hurdle typically faced by consumers that wish to invest in cost-effective energy efficiency.

OVERVIEW

NRECA firmly supports the proposed program. Nevertheless, NRECA believes additional program flexibility is needed and clarification is required in several areas of the proposed regulations. NRECA strongly believes that the success of this program will hinge on the details of the rule and that ***clarity*** and ***flexibility*** are needed to ensure high program adoption by our members and value for consumers and the economy.

Although the proposed program offers much-needed additional resources to enable cooperatives to implement energy efficiency measures, enhanced program flexibility and discretion will result in a more cost-effective, efficient and successful voluntary program that will be more fully utilized by cooperatives. While NRECA recognizes that certain minimum controls on the program are appropriate to ensure that the program goals are achieved and RUS is repaid, the extent of those controls should recognize cooperatives' quality management, strong financial standing, long experience with energy efficiency, and cooperatives' exclusive focus on providing their members with affordable electric service.

Cooperatives' effective management and strong financial fundamentals are reflected in their long and successful track record as RUS borrowers. RUS's loan delinquency rate is at historically low levels (0.004% or less in 2010, 2011, and 2012), and has, we believe, the industry's lowest consumer delinquency rate (below 0.20% for the past 5 years and currently 0.15%). Moreover, most cooperatives enjoy a significant equity position (distribution cooperatives average 41%) compared to the potential size of the new program. The financial strength of the cooperative

program is also demonstrated by the fact that over the last three years cooperative borrowers have prepaid RUS some $4 billion despite the slow growth in the economy.

Further, cooperatives are not fly-by-night contractors—they have long histories of serving their communities. Nor do to they have any incentive to promote uneconomic efficiency measures to their members to make a profit.

Finally, the level of oversight established in the regulation should recognize RUS's and the Administration's highly laudable focus on streamlining approvals, reducing regulatory burdens, and reducing administrative costs.

As currently drafted, however, certain elements of the proposed regulation appear not to recognize these factors. Instead, they may create overly restrictive and expensive processes and procedures which increase administrative burdens on RUS staff, increase regulatory costs for borrowers, and as a result, may reduce program participation and limit the creativity of individual cooperatives, most all of which are already actively engaged in identifying energy efficiency needs and determining how to best provide energy efficiency products and services in their local communities. Certain elements of the proposed rule, noted below, would undermine the program's effectiveness and significantly reduce its value to cooperatives, their members, and their communities.

REQUESTS FOR CLARIFICATION

Limits on Program Costs

The draft regulation imposes a 4% limit on financing certain program costs. These costs are alternatively described as "consumer education and outreach" in section 1710.409, and "program administrative and other soft costs such as marketing" in the Preamble. We believe these to be the same 4%, but need confirmation as those descriptions are very different. Clarification is needed as to exactly what types of costs are included within this limit other than consumer education and outreach. NRECA believes that these costs should include, at the very least, the following: program administration, consumer education, marketing, and outreach. Moreover, as discussed below, 4% should represent a guideline for such costs, rather than a hard cap.

Cost-Effectiveness Test

Section 1710.405 describes a required program cost-effectiveness calculation for "eligible energy efficiency programs," and states that all programs must achieve cost-effectiveness within 5 years of initial funding. As noted below, NRECA recommends changing this requirement to ten years as there are many good energy efficiency investments that may have a 7 to 10 year return. In any event, however, RUS needs to clarify and identify what specific program costs and benefits must be part of this calculation.

Flexible Interpretations to Enable Creativity

NRECA strongly suggests that RUS clarify that it intends to apply its regulations flexibly to permit cooperatives to develop and implement creative energy efficiency programs appropriate for their specific service areas. As an example, NRECA believes it would be highly unfortunate if RUS drafted or implemented its regulations in a manner that excluded those cooperatives that pursue "quick and dirty" efficiency improvements. Some cooperatives have found that it is unnecessarily time consuming and expensive to conduct extensive audits before performing efficiency upgrades where they have a good sense from experience where the greatest efficiency losses can be found. For example, some cooperatives have found it to be more sensible to "attack" an entire neighborhood of similar homes and simply seal the ducts, change the bulbs, change the shower heads, and add attic insulation to every home that lets them in. While lacking in analytical rigor, such approaches have very low overhead, high efficiency yields, and excellent member relations value. Such creativity should be rewarded, not excluded.

Voluntariness

Finally, NRECA wants to be clear that while we hope cooperatives take advantage of this new loan program, it must remain 100% voluntary.

NEEDED FLEXIBILITY IN THE PROPOSED REGULATIONS

Administrative and Start-up Costs

The 4% for administrative and other soft costs, and 5% for start-up costs, should not be hard limits but "guidelines" given the diversity in size and demographics and loads served by cooperatives, as well as the specific efficiency program they choose to implement.

Second, NRECA urges RUS to offer greater flexibility within section 1710.405 which, in addition to requiring that eligible programs must demonstrate "cost-effectiveness within five years," also sets forth borrower options for recovering administrative and soft costs, and start-up costs. Cost recovery choices may also impact how the cost-effectiveness calculation is made. Importantly, cooperatives will face some significant choices here as to whether they should rate-base certain costs, such as providing all members energy efficiency information and program opportunity notices; or collect all efficiency program costs via a direct charge to program beneficiaries; or place an additional adder on the interest charged to on-bill financing program beneficiaries, or a combination of those.

Third, the current 1% limit on mark-up over Treasuries found in section 1710.405 will not be sufficient to cover even the administrative cost of the on-bill financing portion of the program for cooperatives (especially smaller cooperatives) much less if some or all of the start-up and administrative costs are allocated directly to the beneficiaries of the program. RUS needs to allow a mark-up greater than 1%—at least 3% or 4%—depending on the cost-recovery methods chosen by the cooperative, the specific program, etc. We believe it is appropriate to point out that in the Rural Energy Savings Program Act (RESPA), entities would be able to receive 0% interest

loans, and issue loans up to 3% interest to consumer-members. Further, the ERC loan program has provided for a 3% mark-up over the RUS loan rate since its inception.

Proposed Compliance with Future Bulletins

NRECA believes RUS should delete proposed sections 1710.406(e), 1710.407(g), and 1710.408(i). Each of those sections states that borrowers shall follow a bulletin or other publication to be identified later. These proposed provisions violate the Administrative Procedures Act by purporting to establish as regulatory obligations purely administrative determinations to be made later without notice and comment rulemaking.

These proposed provisions could also impose detailed requirements on borrowers with respect to eligible activities, business plans and quality assurance plans that are simply unnecessary. Given cooperatives' extensive experience with energy efficiency, effective management, strong financial positions, and not-for-profit business model, such requirements are unnecessary and potentially counter-productive. It would reduce cooperatives' flexibility to develop effective programs and impose unnecessary and burdensome oversight obligations on already overburdened RUS staff.

Cost-effectiveness Test

NRECA believes the proposed requirement that energy efficiency improvements funded under the program be demonstrated to be cost-effective within 5 years is unnecessarily restrictive and proposes a 10-year requirement in its place. Cooperatives should not be barred from investing in or loaning funds for energy efficiency projects that will be cost-effective within 6 years, 7 years, or even 10 years. If the cooperative, in the exercise of its business judgment or a consumer in its judgment concludes that it is better off with an investment that saves energy, benefits the system, reduces monthly energy costs, and is ultimately cost-effective after a period of 10 years, it should not be blocked from doing so. Changing the requirement from 5 years to 10 years will permit cooperatives and their consumers to dig more deeply and achieve greater total amounts of energy efficiency. It will enable co-ops to broaden their programs to include consumers who might not otherwise be able to participate. And, 10 years is certainly not an unreasonable period of time in an industry where utilities plan 10 to 15 years ahead for investments in 30+ year assets.

Deferral of Generation

Proposed section 1710.411 requires borrowers to submit support documentation that includes an estimate of the amount of direct utility investment that will be deferred as a result of the efficiency program, and implies correctly that this deferral is one of the benefits to be taken into consideration in the program cost-effectiveness calculation. Because many cooperatives individually are too small to have a substantial impact on the deferral of generation, NRECA believes RUS should provide appropriate flexibility for such small cooperatives in calculating the benefits of their program by deleting this requirement for them and in its place establish proforma estimates of the benefits of reducing load that can be substituted for this portion of the required analytical support documentation. Or, alternatively, allow the program applicant the flexibility to make its own estimate.

Performance Thresholds

NRECA believes RUS should delete proposed section 1710.406(d) specifying exact performance thresholds that must be achieved for appliances, cooling systems, building envelope improvements and more. These thresholds are simply unnecessary. The proposed regulation already requires that energy efficiency investments be cost-effective within a limited number of years. The proposed regulation also requires business and financial plans that demonstrate value of the program to the cooperative and a quality assurance plan to ensure that planned savings are achieved. Further, setting specific firm thresholds for specific technologies and efficiency projects artificially and unnecessarily limits cooperatives' ability to pursue cost-effective energy efficiency programs that reduce wasted energy, reduce consumers' electric bills, and reduce the need for future electric infrastructure investments. They also impose additional oversight burdens on already overloaded RUS staff. Once they've already confirmed that a program is well-staffed, well-run, subject to effective quality controls, and cost-effective, why should staff be required to further confirm that each and every appliance provides a 20% efficiency improvement while each and every building envelope investment achieves a 10% reduction in annualized baseline energy consumption? As well-run, well-governed, financially-sound businesses with the interests of their consumers at heart, such micromanagement is unnecessary.

If the proposed thresholds are retained, as discussed in greater detail below in response to the proposal's specific questions, they must be applied flexibly, as general guidelines and not hard and firm requirements. For example, the proposed10% threshold for building improvements should be for the <u>program</u> for building improvements, and not for <u>individual</u> building improvements. Should a cooperative turn down a very cost-effective improvement that only results in a 9% envelope improvement, while funding a much less cost-effective improvement that saves 11%? This type of result would be counter-productive. Expanding the 10% threshold to apply to an entire building program would give cooperatives the opportunity to assess which portfolio of building improvements would work best for their consumer-members and meet the threshold.

Performance

NRECA believes that section 1710.408(f) should be deleted. That proposed provision would require in-place performance tests (e.g. measurement and verification of savings) for each upgraded system. This approach is very, very costly, particularly for cooperatives, and more importantly, unnecessary as long as an appropriate verification and operation of the installation of the system is made. Deemed savings calculations are appropriate for standard energy systems from reputable vendors and installed by cooperative-vetted contractors. Savings data for single efficiency measures is widely available from Federal, State or regional "deemed savings" Technical Reference Manuals (TRMs), or RUS's existing EM&V tool.

Loan Amounts

Section 1710.409(d((1) indicates that the Cumulative Loan Amounts outstanding under this subpart may not exceed 100% of Net Utility Plant less total outstanding debt inclusive of any loan applied for under this subpart. NRECA believes this could be a serious limitation on certain

transmission borrowers which do not own generation. For such circumstances the regulations should be flexible enough to allow for consideration of the combined transmission and participating distribution borrowers Net Plant less total outstanding debt.

ANSWERS TO PROGRAM NOTICE QUESTIONS

Some of NRECA's comments below incorporate some lessons learned through programs implemented by the Department of Energy (DOE) and the Department of the Treasury (Treasury), including DOE's Energy Efficiency and Conservation Block Grant Program (EECBG), DOE's Better Buildings Neighborhood Program, and Treasury's Qualified Energy Conservation Bond Program (QECB).

Question 1: What should be the threshold for determining when small scale renewable energy systems on the Consumer side of the meter are presumed incidental and thereby qualify for reimbursement under this program?

The rule should probably follow the precedents set forth in the DOE EECBG Program. While it was not necessary for the EECBG program to define the term "incidental," the Program's enabling statute (the Energy Independence and Security Act of 2007) restricts renewable energy generation to "on or in" government buildings. See: 42 USC 17154 (13). Similar to the presumed intent of this rule, the presumed intent of EISA's limitation for the EECBG Program is to avoid funding for new generation plants, not to restrict on-site renewable energy use. For that reason, EECBG produced Guidance clarifying that renewable energy generation systems must be connected to the buildings they serve behind the meter and may not provide more electricity than the full demand of the building or buildings served. As a renewable energy system's time of production might not match the time of demand of the building it serves, not all electricity produced must go to the building at all times. The system can feed into the grid when generation is outpacing demand, but the system cannot be a net generator (see EECBG Program Guidance 10-021 at: http://www1.eere.energy.gov/wip/pdfs/eecbg_10-021_eigibility_guidance_010411.pdf). The economics of renewable systems can often be increased with system size due to relatively high installation costs per unit and other factors. Therefore, the allowable size of renewable energy generation systems should be somewhat flexible in order to increase economic feasibility while ensuring that the systems remain incidental. This is precisely the issue that was addressed by the EECBG program, and RUS should consider following the precedence that the renewable systems should be allowed to be sized up to 100% of average demand of that facility behind the meter. Allowing a specific system to be sized to 100% of demand rather than 50% may increase economic feasibility of a specific renewable energy projects—and perhaps increase program adoption as well. Since the capacity factor of any renewable system will be far less than one, this limitation should ensure that the facility will not be a net generator, only an "incidental" contributor to the grid.

Question 2: What is the appropriate markup above the Treasury-based interest rate paid to RUS that the utility should be allowed to add to cover its administrative costs in the interest rate it establishes for Consumer loans funded under this proposed subpart?

For the reasons stated above, NRECA believes the 1% limit is not sufficient nor appropriate to cover even the administrative costs of an on-bill financing program, much less that as a method to also recover some or all program administrative and start-up costs. A higher limit is needed, perhaps up to 3 or 4%. Again, we note that the RUS ERC loan program has provided a 3 percentage point markup over the RUS loan rate since its inception.

Question 3: What is the appropriate performance thresholds that should be set to ensure products purchased with loan funds are significantly more energy efficient than conventional products, have reasonable payback periods, and perform at least as well as conventional products? Are the percentage energy efficiency improvements for specific projects appropriate measures for this program's energy efficiency standards? Should this rule reference existing energy efficiency standards or criteria such as those from ENERGY STAR, FEMP, ANSI, or other voluntary consensus standards as a means of ensuring products purchased with loan funds are significantly more energy efficiency than conventional products?

As discussed in greater detail above, NRECA believes RUS should delete proposed section 1710.406(d) specifying specific performance thresholds that must be achieved for appliances, cooling systems, building envelope improvements and more. These thresholds are unnecessary. They reduce cooperatives' flexibility and impose unnecessary oversight burdens on RUS. Nevertheless, if retained, the section should follow the following guidelines:

- Loans should be available for the installation of single measure energy improvements (such as the replacement of a single appliance, boiler, or A/C unit) as well as whole building improvements. While this is implied in the rule, given that performance thresholds are suggested for both appliances and whole building improvements, the point should be stated clearly.
- Any performance thresholds should be crafted in a way that would allow loans to be available for the installation of energy improvements across a portfolio of buildings. Therefore, the references to "buildings" and "consumer premises" should be expanded to include portfolios of buildings or premises. This is the approach taken by the Department of Energy's (DOE's) Better Buildings Neighborhood Program, which allows grant recipients to achieve performance thresholds across a portfolio of homes, even though some homes would not individually meet the threshold. Additionally, in some cases, it may be more effective for utilities to directly implement efficiency in a series of homes rather than to provide loans and services to individual homes.
    - For example, if a utility found that a neighborhood consisted of dozens of homes with poor insulation and estimated that average savings would be 15% per home at a cost of $5,000 per home, rather than setting up dozens of loans, a utility should have the flexibility to upgrades multiple homes and recover costs through a tailored strategy that best fits their need. Some homes may achieve 8% savings; some may achieve 20% savings. By not allowing a portfolio approach to

thresholds, the Program may inhibit the opportunity for innovation in the program.

- Energy reduction measurements (to determine achievement of performance thresholds) should follow the precedent set by Treasury in guidance related to Qualified Energy Conservation Bonds (QECBs) in June 2012. This Guidance (IRS notice 2012-44 at: http://www.irs.gov/pub/irs-drop/n-12-44.pdf) was developed after confusion arose as to how to meet performance thresholds in order to qualify for QECBs. Specifically, achievement of performance thresholds should be measurable by fuel type (e.g. electricity or natural gas) or by improvement in one or more building system component. For this purpose, a building system should include a system that serves one of the following functions: heating, ventilation, and air conditioning ("HVAC"); water heating; lighting; building envelope (e.g., windows, roof, walls, insulation); or electricity "plug load" (e.g., items plugged into electric outlets, such as computers and refrigerators).
- Performance thresholds and payback period requirements need to be flexible and should be determined by the borrower as part of their Business Plan. This will allow for more program flexibility. Being too prescriptive in setting thresholds can provide sub-optimal efficiency results. For example:
    - If a quick water heater upgrade could reduce electric bills by 9% at a low cost, would a costly building envelope upgrade that reduces use by another 2% be desirable? The proposed 10% threshold would require either both or neither project to move forward.
    - If a home has the ability to conduct a water heater project that saves 10% for the next 10 years with a payback in 4 years and an insulation project that saves 50% for the next 30 years and pays back in 6 years, which should take precedence? In this case, the proposed 5 year payback requirement of the rule would disallow the insulation project.
- Following the precedent established by Treasury for QECBs, qualification for loans should be determined prior to improvement installation. Any requirements for a post-installation audit, survey, or savings verification that requires direct measurement of savings achieved should be at the discretion of the borrower, not mandatory, and should be outlined in their quality assurance plan. Specifically, RUS should adopt the following language: "An issuer is not required to subsequently 'measure' the energy savings, but is encouraged to employ energy management and monitoring practices…" and to adopt such practices as part of their quality assurance plan. Requiring post-improvement measurement audits in the rule will unnecessarily reduce flexibility, dramatically increase costs, and may hinder program adoption. In many cases, follow-up surveys, spot checks, phone calls, or other methods may be sufficient forms of quality assurance. Additionally, including this requirement in the rule itself may lead to confusion as to whether loan eligibility can be revoked after a loan is made if expected performance is not achieved, an issue that can hinder adoption. Final eligibility must be established prior to project implementation to provide lender confidence and reduce lender risk.
- In section 1710.408, RUS should adopt the following language: "A reasonable and consistently applied method must be used to quantify energy savings attributable to capital expenditures with respect to ..." achieving performance thresholds. Performance is generally measured against a baseline, which is the existing equipment or system. Achievement of performance thresholds should be able to be calculated using simple

equations for single measures, such as those available at http://energy.gov/energysaver/articles/estimating-appliance-and-home-electronic-energy-use, or from State or regional Technical Reference Manuals (TRMs), or existing RUS EM&V tools.

- ENERGY STAR specification, where available, is sometimes appropriate for appliances to ensure that new appliances are efficient. It should be noted that a performance threshold (such as 10 or 20% improvement) will not necessarily guarantee that new equipment is highly efficient, only that it is more efficient that the item it is replacing. Specification of ENERGY STAR labeled appliances can be a useful tool to ensure that newly installed appliances are energy efficient. ENERGY STAR specification should be left to the discretion of borrowers as part of their Business Plan as in some cases ENERGY STAR is not available or not desirable. For example, ENERGY STAR does not rate gas water heaters over 60 gallons, yet some buildings will have a higher demand and will thus not be able to install ENERGY STAR rated water heaters. Additionally, ENERGY STAR is not available for electric resistance water heaters, yet heat pump water heaters are not desirable in all climates and electric resistance water heaters are often valuable to co-op demand response programs.
- Clarification is needed regarding when replacement of appliances is an eligible activity. A performance threshold is clearly established for appliances, yet the language of the rule asserts that the program assets must be characterized as an integral part of the Consumer's real property that would typically transfer with the title under applicable state law. Would replacement of a refrigerator or drying machine, for example, be eligible in cases where they may or may not transfer during property sale?

Question 4: Should fuel switching be an eligible activity under this programmatic regulation? Should the agency consider any net increases in conventional fossil fuel consumption or emissions due to fuel switching even though the utility's electrical load may be reduced during peak periods? Would limiting fuel switching projects to 50% of the average anticipated electrical load associated with the end user, adequately address any concerns with potential emissions or overall energy generation increases?

It is not necessary to make fuel switching a specific eligible activity. A project with a main or only purpose of changing fuel sources (e.g., electrification, switch to natural gas) should not be eligible. However, similar to the treatment of renewable energy installation, fuel switching should not be disallowed if the primary purpose of the project is to achieve energy efficiency, load shape modification, or energy conservation, which are currently defined as eligible activities. Projects that switch from one fuel source to another should all be treated the same, whether the switch is from grid-electricity to solar electricity, or natural gas to propane. This is consistent with the philosophy followed in the Department of Energy's (DOE's) Energy Efficiency and Conservation Block Grant Program. In the EECBG program, the authorizing state, the Energy Independence and Security Act of 2007, only allowed renewable energy to be installed on or in government buildings. (See EECBG Program Guidance 10-021 at: http://www1.eere.energy.gov/wip/pdfs/eecbg_10-021_eigibility_guidance_010411.pdf.) Similar determinations were made regarding fuel switching projects. As long as the purpose is to achieve the goals or the rule (e.g., energy conservation, peak reduction), fuel switching should be eligible.

Following the precedent of the EECBG program, when solar thermal or geothermal systems are designed to conserve on site fuel use, they should be considered energy conservation measures. For example, if a home used 5,000 kWh of electricity in an electric water heater and installs a solar hot water system to reduce the amount of electricity to 2,000 kWh, this should be considered conservation. On the other hand, if a home used 5,000 kWh of electricity in an electric water heater and a solar PV system is installed to provide the 5,000 kWh, this should not be considered a conservation measure, but rather a fuel switch project that would need to be otherwise justified as reducing peak load meeting other objectives of the rule to be considered eligible.

The agency should not confine eligible projects to projects that have no net increase in conventional fossil fuel consumption or emissions due to fuel switching in cases where the utility's electrical load may be reduced during peak periods. This confinement would limit the ability of utilities to optimize demand response strategies and could greatly complicate eligibility assessments, leading to uncertainty and potential challenges to project implementation. Instead, programs that are either likely to, or have the potential to, occasionally increase in conventional fossil fuel consumption or emissions should provide justification to the agency for consideration via their Analytical Support Documentation. By adding a confinement that the program cannot increase emissions, a utility could have a substantial burden of tracking to ensure emissions are not increased, would potentially be open to challenges of non-compliance with the rule, and could be discouraged from developing programs that provide benefits to customers and the electric system. The agency should maintain the flexibility for such projects to be eligible and should make a determination regarding the benefits of an individual program through review of the proposed Analytical Support Documentation included as part of a borrower's application. For example, consider a demand response program that is devised to reduce peak electrical load that would be supplied natural gas-fired peaking plants by shifting load to night-time hours where wind-power is available. There are many environmental and economic benefits of such a program, including building the infrastructure to store renewable wind power. Consider, however, that wind resources do not meet anticipated production amounts and off-peak power to make up for the deficit needs to be purchased off of the wholesale market. In this case, the emissions from the wholesale power may or may not produce more emissions.

Question 5: RUS requests comment on the one percent cap on interest rates that utilities may charge under this program, where the utility uses RUS financing to make Consumer loans to finance these investments on the Consumers' premises. RUS also requests comment on the four percent limit of the loan budget that may be used on administration and other soft costs, such as marketing expenses.

As previously stated, we strongly believe the 1% cap is inadequate and should be increased.

Question 6: RUS requests comment on the appropriate funding cap for this program. Should it be $250 million?

NRECA believes that the proposed funding cap of $250 million is appropriate for the program's initial year. The cap should be re-evaluated after the initial year giving consideration to program

participation and funding requests received, and the potential availability of other funding sources.

ADDITIONAL COMMENTS

We recommend that the rule clarify that a broad range of certification systems for auditors will be allowed. In particular, we recommend that national certification not be required for most projects, and certainly not for small residential and commercial, but that certifications like BPI or state-level certifications be recommended instead. Rural areas are likely to have a limited number of auditors available, who may or may not have national certification. This has cost implications as well. The use of Certified Energy Auditors should be extended to include other qualified professionals, in line with the Treasury's guidance referred to in the comments above.

Respectfully submitted,

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