

# Energy Efficiency in the American Power Act of 2010



## Summary & Recommendations | May 2010

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The *American Power Act* (APA), released as a discussion draft on May 12<sup>th</sup> by Senators John Kerry (D-MA) and Joseph Lieberman (I-CT), supports energy efficiency through several important provisions but these provisions should be significantly strengthened – and efficiency investments tripled – by requiring that *all utilities* invest free allowances in cost-saving efficiency programs for consumers. This summary provides: (1) a brief overview of efficiency provisions in APA; (2) detailed section-by-section summaries of efficiency provisions; and (3) recommendations for strengthening the bill through increased support for efficiency.

### 1. Efficiency Overview

APA provides modest funding to overcome market barriers to efficiency through allowance allocations for particular classes of energy consumers. The largest source of efficiency funding is provided by minimum efficiency investment requirements for the allocations to natural gas and heating oil consumers. At least 1/2 of the allowances allocated to states on behalf of heating oil and propane consumers and at least 1/5 of the free allowances allocated to natural gas utilities for consumers must be invested in cost-saving consumer efficiency programs. These minimum efficiency requirements for natural gas, heating oil, and propane allocations represent approximately 2.5% of allowances per year from the start of the program in 2013 until the allocations end in 2030 (on the order of \$2-4 billion per year, based on economic analyses of the Waxman-Markey *American Clean Energy and Security Act* or “ACES”). However, the draft fails to make a corresponding minimum efficiency investment requirement for the much larger free allocation of allowances to electric utilities. Small allocations, on the order of 1.9% of allowances from 2013-2021 (equivalent to about \$1.5-3 billion per year, based on ACES) are provided to state, rural and industrial efficiency programs.

### 2. Detailed Summary of APA Efficiency Provisions

<b>TITLE I</b>	<b>DOMESTIC CLEAN ENERGY DEVELOPMENT</b>
<b>Subtitle D</b>	<b>Renewable Energy and Energy Efficiency</b>
SEC. 1601	<b><i>Renewable Energy and Energy Efficiency:</i></b> establishes that the deployment of large-scale renewable energy and substantial improvement in energy efficiency are critical to the purposes of the Act
SEC. 1602	<b><i>Rural Energy Savings Program</i></b> <ul style="list-style-type: none"><li>• Amends Subtitle D of the Consolidated Farm and Rural Development Act</li><li>• Creates loans and limited grants for cost-effective energy efficiency programs run by public power and rural electric coops</li></ul>
SEC. 1603	<b><i>Support of State Renewable Energy and Energy Efficiency Programs</i></b> <ul style="list-style-type: none"><li>• Distribution of allocation: 0.5% competitively among Indian tribes; remainder to states: 1/3 equally among the 50 states, 1/3 based on population, and 1/3 based on energy consumption</li><li>• Allowable uses: energy efficiency programs, renewable technology deployment, smart grid technology, or surface transportation capital projects (up to 10%)</li><li>• Prioritizes existing efficiency program expansion and requires supplementing not supplanting existing programs</li></ul>
<b>TITLE II</b>	<b>GLOBAL WARMING POLLUTION REDUCTION</b>

<b>Subtitle B</b>	<b>Disposition of Allowances</b>
SEC. 2101	<ul style="list-style-type: none"> <li>• From 2013-2015, 51% of allowances, and from 2016-2025, 35% of allowances are allocated to electric local distribution companies (LDCs) on behalf of electricity consumers; allocation declines to zero from 2026 to 2030 (Sec. 781(a)(1))</li> <li>• Beginning in 2016, 9% of allowances are allocated to natural gas LDCs on behalf of natural gas consumers; allocation declines to zero from 2026 to 2030 (Sec. 781(a)(2))</li> <li>• From 2013-2015, 1.9% of allowances, and from 2016-2025, 1.5% of allowances are allocated to states on behalf of heating oil and propane consumers; allocation declines to zero from 2026 to 2030 (Sec. 781(a)(3))</li> <li>• From 2013-2015, 0.5% of allowances, not to exceed a cumulative allowance value of \$1.55 billion are allocated to industrial energy efficiency (Sec. 781(b)(2))</li> <li>• From 2013-2015, 0.5% of allowances, not to exceed a cumulative allowance value of \$1 billion are allocated to the rural energy savings program (Sec. 781(c)(5)(B))</li> <li>• From 2013-2018, 2%, from 2019-2020, 1%, and in 2021, 0.5% of allowances are allocated to state energy efficiency and renewable energy programs (Sec. 781(c)(5)(C))</li> </ul>
<b>TITLE III</b>	<b>CONSUMER PROTECTION</b>
<b>Subtitle A</b>	<b>Investing in Low-carbon Electricity and Energy Efficiency for Consumer Protection</b>
SEC. 3001	<p><b><i>Electricity Consumers:</i></b></p> <ul style="list-style-type: none"> <li>• Up to 10% of allocation to merchant coal generators and up to 4.3% of allocation to long term contract generators;</li> <li>• Remaining allowances distributed among LDCs based 75% on emissions and 25% on sales;</li> <li>• Allowance value to be used for consumer benefit, with oversight by public utility regulators; benefits to be distributed among ratepayer classes on a pro-rata basis, based on electricity deliveries to each class, and equitably among individual ratepayers within each ratepayer class;</li> <li>• EPA, in consultation with state utility regulators, to develop guidelines for use of allowance value for consumer benefit; income or profits to shareholders of an electric LDC shall not constitute ratepayer benefits;</li> <li>• Utilities to develop through regulatory proceedings and make public plans for use of allowance value;</li> <li>• EPA and Government Accountability Office (GAO) audits of allowance usage for consumer benefit; EPA report within 1 year of enactment on projected effect of allowance distribution system on retail electric rates.</li> </ul>
<b>Subtitle B</b>	<b>Investing in Low carbon Heating and Energy Efficiency for Consumer Protection</b>
SEC. 3101	<p><b><i>Natural Gas Consumers:</i></b></p> <ul style="list-style-type: none"> <li>• Allowances distributed among LDCs based on gas deliveries;</li> <li>• Allowance value to be used for consumer benefit, with oversight by public utility regulators; benefits to be distributed among ratepayer classes on a pro-rata basis, based on electricity deliveries to each class, and equitably among individual ratepayers within each ratepayer class;</li> <li>• At least 20% of allowances must be used to support cost-effective energy efficiency programs for natural gas consumers; overseen by state PUCs;</li> <li>• EPA, in consultation with state utility regulators, to develop guidelines for use of allowance value for consumer benefit; income or profits to shareholders of a natural gas LDC shall not constitute ratepayer benefits;</li> </ul>

	<ul style="list-style-type: none"> <li>• Utilities to develop through regulatory proceedings and make public plans for use of allowance value;</li> <li>• EPA and Government Accountability Office (GAO) audits of allowance usage for consumer benefit; EPA report within 1 year of enactment on projected effect of allowance distribution system on retail electric rates.</li> </ul>
SEC. 3102	<p><b><i>Home Heating Oil and Propane Consumers:</i></b></p> <ul style="list-style-type: none"> <li>• Allocation distributed among states based on share of national emissions from heating oil and propane</li> <li>• Allowance value to support state-supervised efficiency programs and rebates for consumers;</li> <li>• At least 50% must support cost-effective efficiency programs, with priority given to existing programs and to comprehensive, fuel-blind, coordinated programs;</li> <li>• States to report to EPA annually on use of allowance value including demonstration of cost-effectiveness and energy savings achieved by efficiency program investments;</li> <li>• EPA may withhold allowance value from states not acting in accordance with consumer benefit requirements and distribute such allowance value to other states.</li> </ul>

### 3. Reactions and Recommendations

While APA sets the table for improvements in energy efficiency, it does not do enough to promote efficiency in the electric sector. Investing cap and trade proceeds in efficiency for *all types of energy* is arguably the most important way to protect consumers, improve economic competitiveness, and create jobs. Efficiency investments reduce GHG emissions and the demand for carbon allowances, resulting in lower carbon prices and lower cap and trade costs. In addition to producing lower prices for carbon allowances, investing in efficiency programs reduces commercial, industrial, and residential energy bills by billions of dollars, replacing fossil fuel expenditures with energy service jobs retrofitting buildings and replacing old equipment. Efficiency savings flow back into the economy, boosting economic output and creating additional employment.

The multiple benefits of energy efficiency investments led member states of the Regional Greenhouse Gas Initiative (RGGI) to **invest over half of allowance proceeds in efficiency**, and in order to build on this important precedent, **the American Power Act could should require that at least one-third of allowances given for free to electric and natural gas local distribution companies (LDCs) be invested in energy efficiency.**

The justification and benefits of such a requirement are abundant:

- By reducing energy demand and lowering the price of energy and carbon, efficiency programs benefit all consumers
- Efficiency programs typically save consumers approximately \$3 for every \$1 invested. In addition, consumer energy savings lead to increased spending in the local economy, increasing GDP by \$6-12 for every \$1 invested according to some studies.<sup>1</sup>
- By 2020 a 1/3<sup>rd</sup> efficiency investment requirement for the electric utility allocation would.
  - Generate \$100 billion in electric efficiency investments;
  - Reduce consumers' energy bills by approximately \$300 billion, and;
  - Create more than 900,000 new construction, energy service, and building maintenance and operations jobs, and many more additional jobs at plants that supply these sectors <sup>2</sup>

<sup>1</sup> Howland, et al, 2009, available at: <http://env-ne.org/resources/open/p/id/964/resource/Energy%20Efficiency%20Engine%20of%20Economic%20Growth>

- Within APA, natural gas utilities are required to invest at least 1/5<sup>th</sup> of free allowance value in efficiency programs for consumers,<sup>3</sup> and the same cost saving opportunities exist for efficiency programs for electric consumers.

Requiring that a minimum portion of LDC allowances be invested in efficiency is needed to ensure that existing state-level programs are not undermined by the passage of federal legislation. In the absence of a minimum efficiency requirement, the legislative language governing the use of allowance value becomes even more important. Current language would essentially prohibit utility regulators from directing allowance value to existing efficiency programs. This problem was identified last year in [a letter](#) sent by the National Association of Regulatory Utility Commissioners (NARUC) to the Senate Environment and Public Works Committee, in which commissioners stated that restrictive language requiring the “equitable” distribution of allowance value among “individual” consumers created problems for using allowance value to fund consumer efficiency programs.<sup>4</sup> Efficiency investments will benefit all consumers economy wide. APA should (i) be modified to set a minimum efficiency investment level for electric utilities in order to explicitly qualify investments in cost-saving consumer efficiency programs as an acceptable use of allowance value and (ii) enable the continuation of programs that can deliver billions of dollars in customer savings and create hundreds of thousands of new jobs.

### ***For Further Information:***

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<sup>2</sup> Based on ENE analysis of ACES, available at: <http://env-ne.org/resources/open/p/id/948>

<sup>3</sup> In ACES and in the Kerry-Boxer Clean Energy Jobs and American Power Act, natural gas utilities are required to invest at least one-third of free allowance value in energy efficiency.

<sup>4</sup> NARUC letter to Senate Environment and Public Works Committee, October 28, 2009, available at: <http://www.naruc.org/Testimony/09%201028%20NARUC%20Ltr%20to%20EPW%20re%20S%201733.pdf>