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April 5, 2024

Submission Via Docket No. 23-DECARB-01

California Energy Commission
Docket Unit, MS-4
Docket No. 23-DECARB-01
715 P Street
Sacramento, California 95814

Re: **Comments of the Labor Coalition on the Inflation Reduction Act Home Efficiency Rebate Program Pay for Performance Pathway Workshop**

Dear Commissioners and Staff:

We write on behalf of the Joint Committee on Energy and Environmental Policy, Western States Council of Sheet Metal, Air, Rail and Transportation Workers, California State Pipe Trades Council, and the International Brotherhood of Electrical Workers-National Electrical Contractors Association Labor Management Cooperation Committee (collectively “the Labor Coalition”) to comment on the California Energy Commission’s (“Commission”) proposals for design and implementation of the Inflation Reduction Act (“IRA”) Home Efficiency Rebate (“HOMES”) Program.

California will be allocated \$292 million to support whole home efficiency projects that help households save money on energy bills, improve energy efficiency, reduce greenhouse gas (“GHG”) emissions, improve indoor air quality. As the we emphasized in our comments on the Request for Information,¹ when designing and implementing the HOMES Program, the Commission should prioritize ensuring that low-income consumers receive high quality installations, while at the same

¹ See TN 254191, Letter to California Energy Commission from Andrew J. Graf, Adams Broadwell Joseph and Cardozo re: Comments of the Labor Coalition on the Inflation Reduction Act Home Efficiency Rebate Program Request for Information (Jan. 26, 2024) (hereinafter “Labor Coalition HOMES RFI Comments”), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=254191&DocumentContentId=89548>.

time creating good, high road jobs and providing job development and employment opportunities for workers in the community.

The Commission is evaluating a two-pronged approach for HOMES Program funding, whereby approximately 60% of the funds would be braided with the Equitable Building Decarbonization Direct Install Program and 40% of the funds would be allocated to a Pay for Performance (“P4P”) Pathway.² The P4P Pathway would provide incentive payments based on actual savings at the meter.³ To receive a rebate payment, the overall portfolio must reach 15% savings in kilowatt hour equivalent.⁴ Funds cannot be used prior to savings verification.⁵ Incentives amounts are estimated upfront and the value is passed on to the customer.⁶ States must plan for excess (underestimated) savings and who will benefit from higher-than-expected incentives.⁷ States must also develop a consumer protection plan, which includes an eligible contractor list.⁸

The Commission identifies two potential options for administering the P4P Pathway.⁹ The first option is a single, state-administered program.¹⁰ The Commission would contract with a statewide implementer who then provides funds to aggregators (or installers directly).¹¹ The statewide implementer could also serve as the measurement and verification (“M&V”) provider, or the Commission could contract with an M&V provider in addition to the implementer.¹²

The second option would be to pass through funding to local programs.¹³ In this scenario, the Commission would contract with local entities would either self-administer the program or select a program implementer who then provides funds

² TN 255313, California Energy Commission, IRA Home Efficiency Rebate (HOMES) Pay for Performance Pathway Workshop (Mar. 21, 2024) p. 15 (hereinafter “P4P Workshop”), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=255313&DocumentContentId=90992>.

³ *Id.* at p. 18.

⁴ *Id.* at p. 20.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Id.* at p. 47.

⁸ U.S. Department of Energy, State and Community Energy Programs, Inflation Reduction Act Home Energy Rebates: Program Requirements & Application Instructions (Oct. 13, 2023) p. 39, *available at* https://www.energy.gov/sites/default/files/2023-10/home-energy-rebate-programs-requirements-and-application-instructions_10-13-2023.pdf.

⁹ P4P Workshop at p. 100-01.

¹⁰ *Id.* at p. 100.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Id.* at p. 101.

to aggregators (or installers directly).¹⁴ Local entities would not be responsible for M&V as the Commission would contract with a statewide M&V provider.¹⁵

Overall, the Labor Coalition supports the proposed 60/40 split and a single, state-administered P4P Pathway. However, we urge the Commission to incorporate strong workforce standards and requirements into all aspects of the HOMES Program, including the P4P Pathway. Well-designed workforce standards not only maximize energy efficiency savings and GHG reductions, but they also promote creation of high-road jobs.

I. A PAY FOR PERFORMANCE PATHWAY ENCOURAGES QUALITY INSTALLATIONS, BUT IT DOES NOT ENSURE CREATION OF HIGH-ROAD JOBS

The Labor Coalition generally supports a P4P Pathway because it inherently promotes high quality installations to achieve the minimum energy efficiency savings required before receiving the rebate. However, without adoption of additional workforce standards and requirements, a P4P Pathway does not ensure the creation of high-road jobs.

Climate investments represent a significant opportunity for inclusive economic growth, but without a thoughtful approach, this transition can become a missed opportunity leaving many communities and workers behind.¹⁶ As a result, California has developed a framework for maximizing positive labor market outcomes of climate investments: to simultaneously advance equity and mobility for Californians, while delivering skills and competitiveness for California employers.¹⁷ When policymakers are crafting climate policies and programs, they must keep three factors in mind:

1. Labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.
2. California can achieve greater social equity in labor market outcomes for disadvantaged workers and communities when policymakers pay attention to

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ California Workforce Development Board, Putting California on the High Road: A Jobs and Climate Action Plan for 2030 (June 202) p. ii, available at <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

¹⁷ *Ibid.*

job quality. Identifying high-quality careers (i.e., ones that supporting wages, employer-provided benefits, worker voice, and opportunities for advancement) first, and then building pathways up and into such careers, is critical to ensuring that investments in workforce education and training meaningfully improve workers' economic mobility.

3. Deliberate policy interventions are necessary to advance job quality and social equity as California transitions to a carbon neutral economy, just as such efforts are required to reduce pollution, protect human and environmental health, and to safeguard communities from an already-changing climate.

The HOMES Program is an opportunity for the Commission to simultaneously promote equity and mobility for workers, skills and competitiveness for employers and industry, and long-term environmental sustainability and climate resiliency for the state.¹⁸ As discussed in greater detail below, California prevailing wage requirements are likely to apply to projects funded by HOMES Program grants. Because of this, adoption of skilled and trained workforce requirements for the P4P Pathway would promote the creation of high road jobs at no additional costs.

A. California Prevailing Wage Requirements Apply to Projects Funded by Federal HOMES Grants

Labor Code section 1771 generally requires the payment of prevailing wages to workers employed on public works. Section 1720(a)(1) defines public works to include: "Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds" Section 1720(b)(1) defines "paid for in whole or in part out of public funds" to mean "the payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor or developer." California Code of Regulations, title 8, section 16001(b) provides: "The application of state prevailing wage rates when higher is required whenever federally funded or assisted projects are controlled or carried out by California awarding bodies of any sort." Section 16001(d) further provides: "Residential projects consisting of single family homes and apartments up to and including four stories are subject to payment of prevailing wage when paid for in whole or in part of out public funds, including federally-funded or assisted residential projects controlled or carried out by an awarding body."

¹⁸ *Ibid.*

Projects funded under the HOMES Program meet the elements of a public works under the above statutory and regulatory provisions. Projects receiving rebates through either the Direct Install Program or P4P Pathway entail construction, alteration, demolition, installation, or repair work that is to be performed under contract and paid for with public funds. These residential projects are funded either in whole or in part by a federal grant. Under the regulations cited above governing federally funded or assisted projects, California's prevailing wage law applies because the project is controlled or carried out by the Energy Commission, a California awarding body.

B. Skilled and Trained Workforce Requirements Should Be Added to the Pay for Performance Pathway

While prevailing wage requirements ensure that construction workers are paid a fair wage, they do not ensure the creation of high road jobs. As we previously explained, state-certified apprenticeship programs are the most effective way to promote high-road jobs, and the simplest way to increase demand for apprenticeship graduates is to adopt skilled and trained workforce requirements.¹⁹ Because prevailing wage requirements are likely to apply to projects funded through the HOMES Program, a skilled and trained workforce requirement would not increase program costs.

If there are legitimate concerns over the availability of a sufficient number of contractors and workers able to meet the skilled and trained workforce requirements in the residential market, the Commission should design the P4P Pathway to prioritize participation by high road contractors. This would mean awarding work first to those contractors that meet the skilled and trained workforce requirements, then turning to contracts that meet softer standards should such additional contractors be needed. The Direct Install Program's requirement that administrators establish an initial priority period that limits funding applications and awards to high road contractors is an example of how a prioritization scheme can be implemented.²⁰

¹⁹ See Labor Coalition HOMES RFI Comments at pp. 8-9.

²⁰ California Energy Commission, Equitable Building Decarbonization Direct Install Program Guidelines (Oct. 2023) p. 29, *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=252682&DocumentContentId=87762>.

II. A SINGLE, STATEWIDE P4P PATHWAY PROVIDES GREATER BENEFITS THAN ONE ADMINISTERED BY MULTIPLE LOCAL ENTITIES

The Labor Coalition supports a statewide implementation over pass through funding to local programs. A statewide program ensures consistency in services and standards, which helps avoid disparities and better ensures that all eligible individuals receive similar benefits regardless of their location. Centralized administration often leads to streamlined processes and reduced administrative costs compared to multiple localized programs. Resources can be allocated more effectively, avoiding duplication of efforts and minimizing hurdles. Finally, concentrating resources and expertise at the state level can lead to better specialization and proficiency in program management, allowing for the development of best practices and the adoption of innovative approaches based on a broader range of experiences. Given the objectives of the HOMES Program, statewide implementation is the most prudent course of action.

III. THE HOMES PROGRAM SHOULD BE BRAIDED WITH THE EQUITABLE BUILDING DECARBONIZATION DIRECT INSTALL PROGRAM, AND INCORPORATE ITS WORKFORCE STANDARDS AND REQUIREMENTS

The Commission proposes braiding approximately 60% of the HOMES Program funds with the Direct Install Program.²¹ The Labor Coalition continues to strongly support integration of the HOMES Program with the Direct Install Program given the workforce standards and requirements already adopted by the Commission for the later program.²² These standards and requirements provide a framework for creating and implementing a qualified contractor list required by the HOMES Program and would need very few amendments to meet federal mandates.²³

IV. CONCLUSION

All aspects of the HOMES Program should be designed to ensure the use of adequately trained and qualified construction workers while also supporting a pipeline for disadvantaged workers that leads to job placement and retention in the energy sector. The adoption of strong workforce standards will improve energy efficiency outcomes, reward high road contractors, protect the safety of consumers, improve customer satisfaction with energy efficiency measures, and provide career opportunities to disadvantaged workers.

²¹ P4P Workshop at p. 15.

²² Labor Coalition HOMES RFI Comments at pp. 2-3.

²³ *Id.* at p. 3.

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Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew J. Graf".

Thomas A. Enslow
Andrew J. Graf

AJG:acp