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MEMORANDUM

To: NEFI Government Affairs Committee
From: Jim Collura, Vice President for Government Affairs
Cc: Sherri Cabrera, PMAA
John Huber, NORA
Bob Hedden, OMA
Date: March 9, 2010
Subj: Summary of Home Star Legislation

Background

“Home Star,” otherwise known in the media as “Cash for Caulkers,” was first proposed in 2009 as a possible supplemental federal stimulus program modeled after the “Cash for Clunkers” program, which offered direct consumer rebates for trade-in of inefficient motor vehicles. Home Star would be a similar program, in that it would offer direct consumer rebates and other financial incentives to homeowners who make significant home efficiency retrofits.

U.S. President Barack Obama formally announced his support for such a proposal on December 8, 2009, launching a formal debate within the home energy industry and the Congress on how such a program should be structured. The President also pushed for the program as part of his 2010 State of the Union Address and proposed paying for the legislation with unused or returned TARP funds.

On Wednesday, February 17th, Sherri Cabrera and Rob Underwood of PMAA and I met with Senate Energy Committee Staff to discuss elements of the proposed program as they relate to heating oil, especially what would qualify oil-fired heating equipment for the tax credit. We received a commitment from the staff that 86 AFUE rated oil furnaces (with an electrically commutated blower motor) and 86 AFUE rated boilers (with temperature reset or thermal purge controls) would be eligible for the rebate under the draft proposal. This language was in fact included, as you will see below.

On March 2, 2010, President Obama again announced his strong support for the program as discussion draft legislation was circulated by the U.S. Senate Committee on Energy and Natural Resources. The committee has scheduled a hearing on the draft legislation for 10am, Thursday, March 11th, 366 Dirksen Senate Office Building.

The legislation, called “Home Star Act of 2010” currently enjoys no Senate bill number (S.____). The legislation will likely undergo a hearing and may be modified further prior to formal introduction. Senator Bingaman has said that he expects this legislation to make its way to the

Senate floor as one of a series of “jobs bills.” The program would be funded \$6 billion under the committee draft for fiscal years 2010 and 2011, to be made available until expended.

Eligible Homes:

In order for a home to be eligible under the program, it must be a “principal residential dwelling unit in a building with no more than four stories” located within the United States, and must have been built before the Act goes into effect. [Sec. 2 – Definitions (10)]

Qualified Home Contractors:

In order for any retrofit made under the Act to be eligible for the rebate, it must be performed by a “qualified home contractor” which is defined as a “residential energy efficiency contractor” that meets “minimum applicable state contractor requirements” as well as the following: [Sec. 2 – Definitions (17)]

- (A) contractor licensing requirements or (if the State has no State licensing requirement) a Federal identification number;
- (B) Insurance of at least \$1,000,000 for general liability and such other levels as may be required by the State; and
- (C) Warranties that completed work under the program will (i) be free of defects; (ii) installed in accordance with the specifications of the manufacturer, and (iii) perform properly for a period of at least 1 year after the date of completion.

Additionally, these contractors will be made subject to the quality assurance requirements under the Act, which are carried out by the States. States will be required to maintain a list of prequalified contractors, who must meet the following criteria

- Accreditation;
- Legal Compliance Procedures;
- Proper classification of employees;
- Use of ‘certified workforce; and
- Maintain records needed to verify compliance.

Administration of the program:

The program and requirements under the Act would be administered and enforced by the Department of Energy, who must promulgate all regulations necessary for the implementation of the program within 60 days of enactment. The Secretary of Energy, in consultation with the Secretary of Treasury and EPA Administrator, must also establish a system for the rebate program, including a national website that provides both information to homeowners (within 30 days of enactment) and rebate aggregators, contractors, and state quality assurance providers (within 60 days of enactment). [Sec. 3]

The DOE must, within 60 days, initiate a public information campaign to create awareness of the benefits of home energy retrofits and the availability and details of rebates under the Home Star’s Silver and Gold programs [Section 12].

In delivering rebates to participating contractors, the Secretary is to develop a “network of rebate aggregators” who are (a) “Home Performance with Energy Star partners;” (b) an entity

administering a residential energy efficiency retrofit program established or approved by a State; (c) a Federal Power Marketing Administration, an electric utility or a natural gas utility that has an approved energy efficiency retrofit program and an established quality assurance provider network; or (d) an entity that can “perform the functions of rebate aggregator” without disrupting existing residential retrofits in the States that are incorporating the Home Star Program and meeting certain other criteria [Sec. 4(b)].

Upon receiving applications for rebates from contractors, the aggregators will review rebate applications and eligibility, file with a Federal processing center, and within 30 days, distribute funds received from the DOE to contractors, vendors, etc. [Sec. 4(a)]

The Secretary must also report to Congress within a year of enactment on the success of the program [Section 9]. Included in the report must be energy saved, jobs created, details on entities implementing the program and principles benefited, way the funds were used, the types of financing used by beneficiaries to finance expenses not covered by the rebate program, and the results of the verification requirements under the bill.

Silver Star Program:

The following home efficiency measures performed by a qualified contractor (see above) after enactment are eligible under the Silver Star rebate program. Note: Installation costs (labor, installation-related costs properly allocable to the onsite preparation, assembly, or original installation of the component) may be counted in the rebate [Sec. 3(c)].

- **Whole house air-sealing measures** in accordance with BPI or other standards approved by DOE [Sec. 3(b)(1)]
- **Attic insulation** that includes (A) sealing of leakage between attic and conditioned space, in accordance with BPI standards or the attic portions of DOE or EPA thermal bypass checklist or other standards approved by DOE; (B) add at least R-19 to existing insulation; result in at least R-38 in DOE climate zones 1-4 and R-49 in climate zones 5-8 but within the limit of structural capacity (see http://www.eia.doe.gov/emeu/recs/climate_zone.html); and (D) cover at least 100 percent of accessible attic or 75 percent of total conditioned floor space [Sec. 3(b)(2)]
- **Duct seal replacement** installed under BPI standards or other approved by DOE and in the case of duce replacement, replaces a minimum of 50 percent. [Sec. 3(b)(3)]
- **Wall insulation** installed under BPI standards or other approved by DOE, is full-stud in thickness and covers at least 75 percent of total wall area [Sec. 3(b)(4)]
- **Craw space insulation or basement wall and rim joint insulation** installed under BPI standards or other approved by DOE and (A) covers at least 500 sqft of that space and adds at least (i) R- 19 of cavity insulation or R-15 of continuous insulation to existing crawl space insulation, or (i) R-13 of cavity insulation or R-10 of continuous insulation to basement walls; and (B) fully covers the rim joist with at least R-10 of new continuous or R-13 of cavity insulation [Sec. 3(b)(5)]
- **Window replacement** replacing at least 8 individual or 75 percent of exterior windows/skylights in a home, whichever is less, with certified windows under NFRC and IRS Section 25(c) [Sec. 3(b)(6)]

- **Door replacement** of at least 1 exterior door with doors that comply with IRS Section 25(c) [Sec. 3(b)(7)]
- **Home heating system** that replaces an existing furnace or boiler described in this section, is installed in accordance with ANSI/ACCA Standard 5 QI-2007, and meets the following system efficiency standards [Sec. 3(b)(8)]:
 - *Natural gas or propane furnace*: 92 AFUE or greater
 - *Natural gas or propane boiler*: 90 AFUE or greater
 - *Oil furnace*: 86 AFUE or greater with an electrically commutated blower motor
 - *Oil boiler*: 86 AFUE or greater with temperature reset or thermal purge controls
 - *Wood or wood pellet furnace, boiler or stove*: that (I) is the primary heating system in the home and meets at least 75 percent of the heating demands of the home, has a distribution system (i.e., ducts/vents) that allows heat to reach all or most of the home, and in the case of a stove, replaces an existing wood stove; and (II) a third part certifies that the new system has a thermal efficiency with a lower heating value of at least 75 percent for stoves and 80 percent for furnaces and boilers, and has particulate emissions of less than 4.5 gph for stoves.
- **Air-Conditioner or heat-pump** replacement with a new unit installed in accordance with ANSI/ACCA Standard 5 QI-2007 and meets the following standards [Sec. 3(b)(9)]:
 - *Air-conditioner*: SEER 16 and EER 13
 - *Heat-pump*: SEER 15 and EER 12.5 and HSPF 8.5
- **Water heater** – replaced of or with [Sec. 3(b)(10)]:
 - *Natural gas or propane water heater* with a storage water heater with an energy factor of .80 or more or a thermal efficiency of 90 percent or more
 - *Tankless natural gas or propane water heater* with an energy factor of at least .82
 - *Natural gas or propane storage water heater* with an energy factor of at least .67
 - *Indirect water heater* with insulated storage tank that has at least 30 gallon capacity insulated to at least R-16 and is installed in conjunction with a qualifying boiler, above
 - *Electric water heater* with energy factor of 2.0 or more
 - *Solar hot water system* that is certified by the SRCC or meets technical standards established by the State of Hawaii

In order to be eligible for rebates under the program, at least 20 percent of the retrofits performed by each “qualified contractor” must be subject to random third-party field verification of all work associated with the retrofit by a quality assurance provider or, in the case of a qualified contractor that uses a “qualified workforce” (BPI, NATE, Laborers’ International Union of North America or other certification/standards approved by DOE), at least 10 percent of retrofits are randomly subject to third-party quality assurance verification [Sec. 3(e)(3)]. Any defective work found must be remedied in 14 days [Sec. 3(e)(4)].

Amount of rebates under Silver Star Program:

\$1,000: Any measure listed above is eligible, except per the following...

\$1,500: Attic insulation, air duct sealing and wall insulation described above are eligible.

\$125: Per door for up to 2 Energy Star doors described above.

\$250: For a tankless natural gas or propane water heater described above.

\$250: For a rim joist insulation described above.

Maximum rebate shall be the sum of all amounts per measure described above, not to exceed \$3,000 or at least 50 percent of the total project costs (whichever is less).

Additional notes about the rebates:

The initial sum invested in the program, like we've seen for the Cash-for-Clunkers program, may deplete rapidly, and may be an issue for the program. Of course, Congress could always pass supplemental funding for the program. But the legislation also permits the Secretary of Energy to adjust rebate amounts based on how the program does.

Also, the rebates would not be considered taxable income and shall reduce any credit allowed under Section 25(c) of the IRS code (home efficiency tax credits). It is the responsibility of the contractor to inform the customer of this before beginning work [sec. 11].

Gold Star Program:

To be eligible for a "Gold Star" rebate, a home owner must make reductions in whole home energy consumption as determined by a "comparison of the simulated energy consumption of the home before and after the retrofit of the home" [Sec. 6(c)(1)]. This can be done by implementing measures under the Silver Star program and, again, must be performed by a "qualified contractor" and subject to random third-party field verification of the whole-home retrofit by a quality assurance provider.

In order to be eligible for rebates under the program, at least 15 percent of the whole-home retrofit performed by each "qualified contractor" must be subject to random third-party field verification of all work associated with the retrofit by a quality assurance provider or, in the case of a qualified contractor that uses a "qualified workforce" (BPI, NATE, Laborers' International Union of North America or other certification/standards approved by DOE), at least 10 percent of retrofits are randomly subject to third-party quality assurance verification. Any defective work found must be remedied in 14 days. However, verification is not required if a post-retrofit home energy rating is conducted by a certifier using RESNET, a qualified state-specified rating network, or HERS rating system required by state law. The certifier must also be independent of the contractor that conducted the work and include field verification measures [See Sec. 6(e) for more details on quality assurance requirements].

To document these reductions, proper software is required (e.g. as used under the federal WAP program, RESNET, or other equivalent performance test as determined by DOE) [for more details see Sec. 6(c)(2) and (3)].

Amount of rebate under Gold Star Program:

\$3,000: For 20 percent reduction in whole-home energy consumption [Sec. 6(b)(1)]

\$1,000: For each additional 5 percent reduction up to either \$8,000 or 50 percent of total retrofit costs [Sec. 6(b)(2)]

State & Tribal Grants, Existing State Programs & Quality Assurance

States would be responsible for implementation of quality assurance programs under the legislation. States and tribes to deliver \$380 million in Home Star grants under existing state retrofit or quality assurance programs [Section 7] provided they meet certain criteria. Energy service companies, utilities, independent administrators or local governments may all be eligible entities in implementing state or tribal compliance, marketing, consumer financing, retrofit program implementation and quality assurance programs.

States and tribes must, to the greatest extent practicable, prevent duplication with existing programs through coordination of Home Star with the Energy Start rebate program under ARRA (the 2009 federal stimulus bill) and other programs within states, including utilities programs. Priority must be given to retrofit programs already in existence, including those under the supervision of State utility regulators and use the funds under the bill to enhance and extend existing programs [Sec. 7(h)].

180 days after providing funds to the states, the states shall submit their plans to implement quality assurance programs, and implement them no later than January 1, 2011. As was mentioned, states must assure that contractors are qualified under the requirements of the bill, and maintain a list of contractors qualified to carry out the retrofit work [Sec. 8(c)]. States are also required to set targets for recruiting small minority or women-owned businesses; employment of graduates from training programs that serve low-income areas (200 percent below poverty line); and plan to link workforce training for energy efficiency retrofits with training for the broader range of skills and occupations in construction of emerging clean energy industries.

Violations under the Act

Civil Penalties of not more than the higher of either \$15,000 for each violation, or 3 times the value of any associated rebate under the Act. In addition, the violator could be subject to criminal prosecution in the case of fraud.

Financing Program

The bill establishes a “Home Star Energy Efficiency Loan Program” as well for a homeowner to receive financing for eligible retrofits under Silver or Gold Star programs from qualified financing entities [Section 14]. Qualified financing entities may include:

- State/tribal financing entities or political subdivisions
- Utilities
- Non-profit or community organizations

- Energy service companies
- Retailers
- Any other entities that meet eligibility requirements under the Act [see Section 14(a)(3)] and is designated as such by the State Governor.

The loans would be established using funds overseen or provided by the state, or through energy loan programs under the Federal National Mortgage Association (FNMA). Eligible repayment methods to be determined for use by the State include on-utility bill repayment, tax assessment or other form of property assessment financing, municipal service charges, energy or energy efficiency service contracts, energy efficiency power or purchase agreements, unsecured loans applying to underwriting requirements of the energy loan program of the FNMA, or alternative structural contractual repayment mechanisms. Those have been demonstrated to have appropriate risk mitigation features. Section 14(a)(6) outlines the eligible uses of the financing product.