Model Legislation for Fair Share Payment Program to Assure Affordable Electric and Natural Gas Services

DEVELOPED FOR AARP

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March, 2003

AN ACT TO ADOPT THE FAIR SHARE PAYMENT PROGRAM

TO ASSURE AFFORDABLE ELECTRIC AND NATURAL GAS SERVICE

Section I. Purpose of Fair Share Payment Program (FSPP).

a. The Legislature finds that:

1. The high costs associated with the billing and collection of unaffordable bills incurred by utilities are reflected in rates paid by all ratepayers;
2. The families and households of low-income electric and natural gas customers are unable to afford essential utility services and pay for other necessities, such as food, shelter, and medical care;
3. Widespread use of disconnection of service as a response to unaffordable utility bills compromise public health and safety; and
4. Society benefits if essential electricity and natural gas services are affordable, and the health and safety of those who are unable to afford essential electricity and natural gas services suffer when the monthly payments for these services exceed a reasonable percentage of the customer's household income.

b. The purposes of the FSPP are to create a statewide bill payment assistance program for low-income residential customers that will:

1. Bring participants' electric bills into the range of affordability;
2. Provide incentives for participants to make timely payments;
3. Encourage participants to reduce usage and participate in conservation and energy efficiency measures that reduce the customer's bill and payment requirements.

Comments:

This section sets for the general purposes of the Fair Share Payment Program and subsequent sections provide more detail, particularly with respect to what constitutes "affordable" payments for essential energy services. These purposes are broad and intended to guide any regulatory or court interpretation of the implementation of this Act.

Almost every state that has adopted retail electric competition and comprehensive retail natural gas competition has adopted a universal service program targeted to low-income residential customers that is funded by all customers through local electric and natural gas utilities. In several states, this has meant the expansion and increased funding for existing programs (e.g., California, Maine, Pennsylvania, Ohio, and Massachusetts). In other states, this directive has resulted in the funding, design, and implementation of new programs (e.g. Maryland, New Hampshire, Illinois, New Jersey, Michigan, and Texas). These programs typically address both energy efficiency or weatherization programs and bill payment assistance programs targeted to qualified low-income customers.

While it is fair to say that states have adopted a variety of bill payment assistance programs targeted to low-income residential customers, most fall into one of either two categories: percentage rate discounts and variations on the Percentage of Income Payment Program (PIPP) design. In the rate discount programs, eligible low-income customers receive a discount off the otherwise applicable residential rate, usually in the range of 20 percent (California) to 30 percent (Massachusetts). A variation on the rate discount approach has been adopted in New Hampshire in which the amount of the rate discount reflects several tiers or ranges of household income so that the lowest income families obtain the largest utility rate discount.

With respect to Percentage of Income Payment Programs, benefits are calculated based on the relationship between the customer's household income and annual energy (natural gas or electricity or both) costs. In Ohio, the program subsidizes the difference between the customer's actual winter bill and 15 percent of the customer's household income (10 percent for heat and 5 percent for electricity). Therefore, these latter programs target benefits based on a customer's energy burden and typically result in a higher benefit amount for a smaller group of customers compared to the tariffed rate discount approach.

In a third approach to bill payment assistance, some states (e.g., Maryland and Illinois) have allocated ratepayer funds of a specified amount to existing energy assistance programs, such as the federally funded and state operated Low Income Home Energy Assistance Program (LIHEAP). These state programs use ratepayer funds to supplement the fuel assistance program and do not create a separate energy affordability program.

This legislation proposes to adopt the fixed credit percentage of income payment plan model, similar to that adopted by the Nevada Legislature[1] and the focus of detailed development and implementation in New Jersey[2]. This approach also builds on the considerable experience with fixed credit percentage of income payment programs in Pennsylvania, Ohio, and Maine. It is entitled the "Fair Share Payment Program" because this approach best targets benefits to those with energy burdens (i.e., annual electricity and natural gas bills) that exceed a percentage of household income. The benefit is provided to customers who pay more than a specified percentage of their household income for natural gas or electricity. Such customers are deemed to have an unaffordable energy burden. The difference between the customer's percentage of income payment and the annual utility bill represents the bill payment assistance amount that is funded by ratepayers. The amount of the credit is calculated annually and then applied in equal installments over a 12-month period. The structure of the payment plan thus resembles a budget or levelized payment plan in which the payment requested is equal to a fair percentage

[1] 58 NRS §§26.1-26.95 (2001).
[2] http://www.bpu.state.nj.us/wwwroot/energy/EX00020091bORD.pdf (October 2002 Order adopting the general principles associated with a fixed credit percentage of income payment plan for the electric and natural gas low income program).

of household income, with the balance of the bill paid via the fixed monthly credit (subsidy). Unlike rate discount programs that provide a relatively small benefit to all qualified low-income customers, the fixed credit percentage of income program will target assistance only to those low-income customers who must pay more than the specified percentage of income for electricity and natural gas. Those with low incomes and high energy bills receive more assistance than those with higher incomes and lower energy bills. The incentive to conserve and manage energy usage is built into the program design because participating customers must participate in no cost energy management programs and customers are responsible for any increased usage during the program year because the monthly bill credit (subsidy) is fixed at the onset of the program year.

These programs typically serve very poor customers. According to a recent U.S. Census Bureau report,[3] the poverty rate in 2001 was 11.7 percent, up from 11.3 percent in 2000. This means that 11.7% of the people in the U.S. (32.9 million) had an annual income at or below 100 percent of the federal poverty guidelines.[4] These individuals lived in 6.8 million poor families. Children represent a disproportionate share of the poor and children under the age of six have been particularly vulnerable to poverty. Even more importantly the ratio of "severely poor" (those with incomes of 50 percent of poverty or less) represented 40.8 percent of the poor population in 2001.

The impact of poverty on a household's ability to afford essential utility services is significant. Low-income households have an energy burden (percentage of income that must be spent to keep the heat and lights on) that has varied from 9% to 14% on average over the past decade, reflecting both prices and weather conditions.[5] This energy burden contrasts with that of families who are not poor, where the median is 3%. If the median income family in the U.S. had a 20% energy burden, as do the lowest

[3] "Poverty in the United States: 2001," U.S. Census Bureau, September 2002 (P60-219).
[4] The poverty level in 2001 varies by size of household, from $9,214 for an individual to $14,269 for a family of three (one adult and two children).
[5] Powers, Meg, "The Winter Behind, The Summer Ahead: A Harsh Spring Faces Low-Income Energy Consumers," *Economic Opportunity Studies*, May 2001, available at http://www.ncaf.org/enprs2rp.pdf.

income families, its energy costs would exceed $9,000; with a 5% burden they would exceed $2,350. Furthermore, families with incomes below the poverty line are more likely to be disconnected for nonpayment than other residential customers, thus triggering adverse health and welfare consequences due to the physical disconnection itself and the sacrifices in payment for other essential services in order to avoid the disconnection of service.[6]

Section II. Definitions.

a. Administrator. "Administrator" means the director of the office or agency appointed by the commission or by this Act to implement the Fair Share Payment Program.

b. Amount Overdue. "Amount overdue" means the amount that an electric or natural gas distribution company has properly billed to a customer that has not been paid in full by the due date of the bill or by a date otherwise agreed upon.

c. Commission. "Commission" means the _________________________ [name of state public utilities regulatory agency].

d. Fair Share Payment Program. The "Fair Share Payment Program" (FSPP) is a statewide program to assist low-income customers in paying their electric and natural gas bills. The design, administration and funding criteria for the FSPP are set forth in this Act.

e. Eligible Customer. "Eligible customer" means any residential customer of an electric or natural gas distribution company who meets the following criteria:

1. The customer is taking or is eligible for residential service on a continuing year-round basis; and either

[6] "Beyond Poverty, Extended Measures of Well-Being: 1992," U.S. Census Bureau, P70-50RV, November 1995. This study documented that while 1.8% of non-poor families had experienced a disconnection of utility service, 8.5% of poor families had suffered a disconnection.

2. The customer’s household qualifies for assistance from Food Stamps, Medicaid, TANF, or LIHEAP; or
3. The customer’s household income is at or below 175% of federal poverty guidelines as defined by the U.S. Department of Health and Human Services annually.

f. LIHEAP. “LIHEAP” is an acronym that stands for “Low Income Home Energy Assistance Program,” which is a federally funded program that provides financial assistance grants to needy households for home energy bills.

g. Participating Customer. A “participating customer” is a customer who is eligible for the FSPP and who will receive a fixed credit or FSPP benefit under the FSPP criteria set forth in this Act and in the rules of the commission. Participating customers are a subset of eligible customers.

h. Pre-Program Arrears. “Pre-program arrears” means a customer’s amount overdue at the time the customer is determined to be eligible for the FSPP. This amount may consist of a customer’s overdue amount that is currently billed on the customer’s account and any prior unpaid debt owed to the electric or natural gas distribution company, but which was not transferred to the customer’s account prior to the determination of eligibility for the FSPP.

i. Residential Customer. “Residential Customer” means any person who has applied for, been accepted and is receiving residential service from an electric or natural gas distribution company. This term also includes a person who was a customer of the same electric or natural gas distribution company within the past thirty (30) days and who requests service at the same or different location.

Section III. DESIGN FEATURES OF THE FSPP

a. No later than _______________ [a date certain should be specified], the commission shall implement a FSPP that will provide a fixed monthly credit to qualified low-income residential customers in an amount that assures that the resulting annual electricity and natural gas service bill is affordable in comparison to the percentage of household income expended for these services by median income households in this State.

b. The commission shall adopt a Fair Share Payment Program by rule that contains the following minimum design features:

1. Maintain Existing Levels of Assistance. The FSPP is designed to continue existing levels of financial assistance for low-income households and to meet future increases in need caused by economic exigencies.
2. Statewide Availability. The FSPP is available to eligible low-income residential customers served by electric distribution and natural gas distribution companies subject to the jurisdiction of the commission.
3. Program Implementation and Administration. The commission shall implement this Act and appoint an Administrator as set forth in Section V.
4. Program Funding. The FSPP will be funded by an assessment on the electric distribution and natural gas distribution companies subject to the jurisdiction of the commission, as described further in Section IV.
5. Percentage of Income. The commission shall establish a payment obligation for participating customers in the form of a percentage of household income after an analysis and balancing of the needs of eligible low-income customers and the costs of the program to meet those needs. In no case shall the commission establish a percentage of income that exceeds the median percentage of household income spent for electricity and natural gas service statewide. The commission may establish a separate percentage of income for electricity and natural gas service and the percentage of income may vary within the state

if the commission determines that the percentage of income for natural gas and electricity paid by median income households also varies significantly within this State.

6. Estimated Cost of Service. An eligible customer's estimated cost of electric or natural gas service shall be calculated by multiplying the customer's estimated annual usage (determined in the same manner used by the company to calculate a budget or levelized payment plan for residential customers) by the residential service rates in effect at the time of the determination of eligibility. These rates shall include any fixed monthly charges, variable distribution service charges, and the charge for electric generation or natural gas supply charges.
7. Customer Payment. A customer's payment amount shall be calculated by multiplying the customer's annual household income, as determined by the method used to determine eligibility for an existing statewide financial assistance program, by the percentage of income that is applicable to the customer. The annual customer payment shall not be less than twelve times any minimum monthly bill required by the applicable electric or natural gas distribution company tariff for the customer's residential service rate classification.
8. Minimum Credit Amount. The commission may establish a minimum credit amount that, if applicable, will result in a participant's exclusion from the FSPP when the cost of administrating the benefit amount exceeds the actual amount of any monthly benefit to the customer.

9. Determination of FSPP Benefit. Eligible customers will be screened for participation in the FSPP by determining whether a customer's projected payments for electric service or natural gas service over a 12-month period exceed the customer's payment that, pursuant to this Act and the commission's rules, represents an affordable payment. The difference

between the customer's calculated monthly payment and the estimated cost of electric service will be divided by 12 and applied to the customer's monthly electric or natural gas service bill in the form of a fixed credit. Any non-crisis LIHEAP benefit shall be subtracted from the total amount of the otherwise applicable fixed credit. Any other emergency or crisis assistance payment shall not be subtracted from the amount of the fixed credit, but shall be applied to the customer's account. A participating customer is responsible for all actual charges for electric or natural gas service in excess of the flat monthly credit. A customer with substantial pre-program arrears amount may be eligible for arrears forgiveness.

10. Levelized Payment Plan. The Administrator (or the electric or natural gas distribution company, as determined by the commission) may require the customer to enter into a levelized payment plan for the balance of the estimated annual bill in excess of the fixed monthly credit. Any such levelized payment plan shall be administered by the electric distribution or natural gas company so that a customer's actual usage and required payments are reviewed regularly and adjustments made to assure payment in full by the end of the payment plan.

11. Impact of Customer's Actual Usage. The participating customer shall be responsible for actual usage during the program year such that a participating customer who uses less than the estimated usage used to calculate the fixed credit shall benefit from this lower usage and a customer who uses in excess of the annual usage used to calculate the fixed credit shall be responsible for the payment of the additional charges. The utility shall review the levelized payment plan in the same manner as other budget or levelized payment plans are administered. The commission may provide an exemption to this rule to require an adjustment to the customer's monthly credit amount when the customer moves to a new

location, when electrically powered life support equipment is installed at the customer's location and the customer notifies the electric distribution company; or when adults who reside in an FSPP household legally separate and change the responsible name on the account.

12. <u>Arrears Forgiveness.</u> At the time a customer is found to be eligible for the FSPP, the customer's pre-program arrears will not be included in the calculation of the levelized payment plan. During the term of the FSPP payment plan, each electric or natural gas distribution company shall offer a participating customer with pre-program arrears an option to obtain forgiveness of some or all of the customer's deferrable arrears balance. The company shall forgive $2 of a customer's deferrable arrears for every $1 of deferrable arrears paid by the customer during the term of the payment plan.

13. . [*This subsection is applicable only in those states that have adopted retail electric or natural gas competition.*] <u>Portability of Benefits.</u> A participating customer may enroll with a competitive electricity or natural gas supplier and continue to receive benefits under the FSPP. In such cases, the electric or natural gas distribution company or both shall allocate the customer's monthly credit amount to the amount billed for regulated distribution services.

14. <u>Relationship to Energy Management Services</u>. As a condition of program enrollment, an FSPP participant shall accept all no-cost, demand-side management measures and programs offered to the participant by the Administrator pursuant to Section VII of this Act for the participant's dwelling or rental unit unless the participant is a renter and the owner or landlord withholds the required consent.

15. <u>Impact on Means-Tested Assistance Programs.</u> The intent of this program is that FSPP assistance will not be counted as income or as a resource in other means-tested assistance

programs for low-income households. The FSPP will therefore be administered in a way that ensures that FSPP assistance will not result in the loss of other federal or state assistance dollars.

16. No Right or Entitlement. This Act establishes a pool of eligible applicants but does not confer any automatic right or entitlement on any person or eligible entity.

Comments:

This proposed legislation includes the key program details that will be required to implement the Fair Share Payment Program. While many of these program details could be left to the development of rules by the regulatory agency, the policies and basic design features of this program should be set forth in legislative policy so as to (1) give the proper guidance to regulators who may not be familiar with this program model; and (2) prevent the long delays and arguments associated with the program design that have resulted in significant delays and lack of consistent implementation in some states even though legislative policy has been enacted.

The calculation of the eligible customer's benefit requires knowledge of both the customer's annual usage (known usage based on prior 12 months or estimated in the same manner as done for an annual budget payment plan) and household income. While utilities can readily calculate the estimated annual usage, they do not have household income or poverty status in their customer billing systems. Therefore, programs of this type typically are implemented by financial assistance agencies (community action program agencies in Pennsylvania, Ohio, and Maine) that have already qualified the customer for assistance programs based on an analysis of household income. Such agencies typically obtain the usage information from the utility (electronic data transfer is preferable) and calculate the customer's fixed credit benefit as follows where:

X = household income

Y = program percentage of income

Z = annual usage or energy bill

The customer's benefit is equal to the difference between the estimated annual energy bill (electricity or natural gas) and the customer's mandatory payment obligation (calculated by X * Y). Once the benefit is known, the amount is divided by 12 and applied in equal amounts as a credit. The remaining annual bill is typically billed on a 12 month levelized payment plan so that the customer can plan and budget for a fixed monthly payment amount. If the customer uses more than the estimated annual bill, the customer's payment plan is adjusted similar to that of a budget payment plan and the customer remains obligated to pay the actual bill amount in excess of the fixed monthly credit. As a result, there is no incentive to ignore usage or use more than the previous year.

If the customer enters this type of payment program with a large arrears balance, the affordable nature of the required payment to meet the budget payment plan obligation and the arrears balance can threaten the affordable purpose of the program. If the customer is required to pay 6% of household income for electricity and natural gas, for example, but enters the program owing a back balance of $1,000, the payments required to pay off the arrears balance can double or more than double the required monthly payment and result in payments of 12% or more of household income for electric and natural gas service. It is unlikely that such households can continue to make regular monthly payments when a large arrears balance is present. As a result, this legislation proposes an arrears forgiveness program so that customers who enter the program with a large arrears balance can pay off a reasonable portion of the balance and obtain forgiveness for the balance owed if regular payments are maintained. The arrears balance payment plan approach recommended here is similar to that adopted in Pennsylvania.

Section IV. PROGRAM FUNDING

a. Funding Amount for First Program Year. The initial total statewide budget for the FSPP for the program year beginning [ ]shall be established by the commission based on an analysis of the needs of low-income customers, the program design features required by this Act or adopted by the commission by rule, and the determination of reasonable administrative costs submitted by the Administrator of the FSPP. In no case, shall the initial funding year amount be less than one-half of one percent of the total electric and natural gas distribution revenues subject to the jurisdiction of the commission. The funding amount shall be available for FSPP benefits, including arrears forgiveness payments, and administrative costs incurred by the Program Administrator. Any administrator costs incurred by an electric or natural gas distribution company shall be subject to inclusion in the company's next base rate case as an allowable expense.

b. Funding Amount for Subsequent Program Years. The Commission shall monitor the affordability of prices for essential electricity and natural gas services and the energy burden of the State's low-income electric and natural gas service customers and shall establish FSPP funding and expenditure levels and program design features that conform to an analysis of the needs of low-income customers and the benefits of the FSPP every two years. For the program year beginning the year after the initial program year and for all subsequent program years, the commission will make any adjustments to the funding amount or other program design features that conform to the minimum provisions of this Act after an evaluation and review of the program's operation, cost, benefits to low-income customers and its effect on the collection costs otherwise incurred by the utility. Any changes in the program design or budget for the FSPP shall be adopted after notice and opportunity for public hearing and a finding by the commission that the changes and program budget will ensure that the assistance provided by the FSPP is consistent with the needs of participating customers and the reasonable costs of the program as reflected in the rates of all ratepayers. In no case, shall the funding for the FSPP be reduced below an amount specified in subsection (a) of this Section.

c. The commission shall order the electric and natural gas distribution companies to transfer the FSPP funds necessary to meet the needs of participating customers and administrative expenses to the Administrator of the FSPP according to the terms of the agreement between the Administrator and the commission.

d. Each transmission and distribution utility shall be entitled to receive funds from the Administrator in an amount that reflects the actual expenditures by the utility for FSPP benefits on a quarterly basis to the extent that the Administrator has sufficient funding for the individual utility expenditures available for this purpose. No transmission and distribution utility shall have any right or cause of action against the Administrator as a result of a lack of funding.

e. Program funding associated with the costs of the FSPP shall be recovered from all customers of each electric and natural gas distribution company by means of a non-bypassable per kilowatt-hour charge. Any cost recovery methodology may adopt a maximum per customer charge in addition to the per-kilowatt hour charge as long as the commission determines that all customer classes are contributing an equitable amount to the funding of the FSPP.

f. The commission shall require the utilities to maintain sufficient data on participating customers so that the net costs of the program can be determined, including, but not limited to, participating customer arrearages, incidence of nonpayment, disconnection of service, terms for reconnection of service, frequency of bill payment, and overdue balances incurred.

Comments:

Funding levels for these programs vary among the states, but in general the rate impact of the program costs is modest. The Ohio Percentage of Income Payment Program results in rate impacts that vary from less than 0.5 percent of revenues for electric companies to generally about 1 percent of revenues for natural gas utilities. In Maine, the cost of the low-income payment assistance program is 0.5

percent of revenues per the Maine Public Utility Commission order, but this amount does not include additional ratepayer dollars that are targeted to low-income customers for energy management programs. The rate discount costs in Massachusetts vary, but are generally between 0.5 percent and 1 percent of revenues. In Pennsylvania the targeted customer payment assistance programs (Customer Assistance Program or CAP) are generally in a ramp-up stage as a result of electric and natural gas restructuring proceedings. The funding level is set individually for each utility based on a needs analysis. As a result of the electric and natural gas proceedings, funding for this program has been increased three and four-fold at most utilities. With respect to energy management services (Low-Income Usage Reduction Program or LIURP), the Pennsylvania PUC by rule requires a spending target of 0.2 percent for natural gas utilities (the typical home heating fuel) and less for electrics. In each of these states, the costs for the bill payment assistance and energy management programs provided to low-income customers is reflected in ratepayer rates, either in the form of a separate Public Benefits Charge identified on the monthly bill or included in the rates charged for distribution service. The costs of these programs must also be compared to the amount of ratepayer dollars used by the utilities to collect arrearages. Some of the more obvious expense categories which are routinely included in rates without significant review include: working capital costs of financing late payments; collection activities, including letters, phone calls, on-site visits; the negotiation of payment arrangements and monitoring such arrangements for required payments; disconnection activities, including the cost of physically disconnecting at the meter; costs of writing off uncollectible expenses and the costs associated with attempting to collect debt by means of collection agencies, courts and direct contact with debtors. An efficient and effective low-income bill payment assistance program will reduce costs otherwise incurred by utilities to collect amounts due from customers who cannot pay in full no matter what type of payment arrangement is offered. Pennsylvania has documented that its Customer Assistance Programs[7] result in a higher frequency of payment by participating customers.

Section V. PROGRAM ADMINISTRATION.

a. It is the intent of this Chapter that the commission selects an Administrator to implement the FSPP in coordination with the delivery of LIHEAP and the Weatherization Assistance Program or other statewide financial assistance programs that will assure the most efficient delivery of FSPP in coordination with existing programs in this State.

b. The commission may establish an interest-bearing account to receive and disperse FSPP funds. Any interest earned on the account shall be applied to FSPP benefits and administrative expenses authorized by this Act.

c. The commission shall establish criteria and select an Administrator after opportunity for public hearing and public comment. *[Alternatively: a State may wish to identify the Administrator in the Act itself.]*.

d. It is the intent of this Act that the Administrator selected by the commission shall, to the maximum extent possible, coordinate the implementation of the FSPP through and by community-based organizations that already have a vital role in the implementation of energy and financial assistance programs supervised by the Administrator or comparable state agency.

e. During each program year, the Administrator shall track and monitor program costs, available funds, and cumulative benefit expenditures. The Administrator shall not be responsible for implementation of FSPP without sufficient funding. The Administrator shall file quarterly reports with the Commission in an electronic data format satisfactory to the Commission. The quarterly

[7] Pennsylvania PUC, Bureau of Consumer Services, 2001 "Report on Utility Activities Report and Evaluation," available at http://puc.paonline.com/com_info/Bureau%20Reports/UCARE_2001.pdf

reports shall include information as required by the commission to track the implementation and performance of the FSPP in meeting the purpose of this program.

f. The Administrator shall be entitled to a maximum of 10% of the program-funding amount established by the Commission for any program year for administrative costs incurred for the implementation and administration of the FSPP. Included in this 10% maximum amount shall be costs incurred by any local community based organizations that are associated with the implementation and administration of the FSPP.

g. The Administrator shall develop an automatic enrollment method such that potentially eligible participants are identified by the Administrator and enrolled in the FSPP annually. This methodology will require the matching of a customer's estimated annual electricity or natural gas usage (and resulting estimated annual bill for service), amount overdue, and the customer's annual household income by the Administrator. The use of such a methodology shall require that either the Administrator or the customer's electric or natural gas distribution company inform the customer in writing about their qualification for the program and provide the customer an opportunity to opt out of the program at any time.

Comments:

With respect to implementation, programs are typically implemented by either the distribution utility directly (Massachusetts, Pennsylvania, California) or by a statewide administrative entity, usually the LIHEAP administrator (Ohio, Illinois, Maryland, and Texas). In either case, there is a widespread reliance on local community-based organizations or governmental agencies to provide intake, evaluation and determination of eligibility for the programs. This integrated use of local community-based organizations to provide outreach and administrative functions for the utility-funded program is a common theme for both types of programs because the use of these organizations to determine customer eligibility is cost-effective compared to utility evaluation of customer income information.

One of the more innovative developments in recent years has been the use of automatic enrollment techniques to expand the eligible customers in the utility bill payment assistance programs. In Ohio, a client who applies for LIHEAP is automatically screened for eligibility for the PIPP for electricity. In Texas, over 400,000 low-income clients were automatically enrolled in the electricity discount program in five months through the use of electronic matches of financial assistance program files with utility customer lists. The Texas program automatically qualifies a customer based on income (125 percent of federal poverty guidelines) or participation in Food Stamps or medical assistance programs. Eligible customers are identified by agencies that operate programs serving eligible clients, and a Program Administrator selected by the Texas PUC electronically matches the program agency client list with the utility customer database. The California PUC has approved the use of automatic enrollment through electronic file matching between the utilities and several state financial assistance programs for the discount program provided by each electric and natural gas utility. This type of approach is likely to reduce administrative costs associated with more traditional one-by-one enrollment methods and result in a higher penetration rate for these programs.

Section VI. Obligations of Electric and Natural Gas Distribution Companies.

a. It is the Legislature's intent that the FSPP be implemented as efficiently as possible and that administrative costs be kept as low as reasonably possible. The commission shall require that the Administrator and electric and natural gas distribution companies work together to identify cost-effective ways to transfer information electronically and to employ available protocols that will minimize administrative costs.

b. The commission may require electric and natural gas distribution companies to provide such information on customer usage and billing and payment information as required by the Administrator to implement the FSPP and provide written notices and communications to participating customers as required by the commission's rules.

c. The electric distribution and natural gas distribution companies shall bill and collect the monthly bill of an FSPP customer pursuant to the same programs and policies as applicable to residential customers generally.

d. Each transmission and distribution utility shall coordinate its funding and delivery of energy management and demand side management programs with the implementation of the FSPP as required by the commission pursuant to Section VII.

e. Each transmission and distribution utility shall file quarterly and annual reports with the Administrator and the Commission that cumulatively summarize and update program information as required by the commission's rules.

f. Electric distribution and natural gas distribution companies shall reflect the costs assessed to provide the benefits for the FSPP and reasonable administrative costs incurred to implement the FSPP, but shall also reflect the reduced collection costs and customer account savings associated with the implementation of the FSPP in its revenue requirement and rates for distribution service.

Comments:

This section establishes the obligations and duties of the distribution utilities to provide the necessary information to allow benefits to be calculated and to implement the payment plan, including the application of the fixed monthly credit. Utilities are required to collect the resulting monthly bill in the same manner as for other residential customers.

This proposed legislation does not require that utilities reflect the costs of the FSPP in the form of a line-item on all customer bills. While several states require that the costs associated with low income assistance programs (as well as energy efficiency programs for all customers) appear on all customer bills, there is no policy reason for doing so. The revenue requirement for any utility includes costs and customers, even in a retail competitive environment, that are controversial for some customers, and they are all subject to commission approval. In most cases, these costs and expenses reflect special contracts for large industrial customers or economic development programs. These programs are typically not disclosed in any separately disclosed charge on customer bills. Unfortunately, the only purpose served by public disclosure of the costs associated with low-income programs is to make clear that utility customers are paying for certain "extra" programs separately. However, the FSPP is an essential service program that reflects the obligation of utilities to provide service to all customers. Utilities may also reflect the internal administrator costs and savings associated with this program (in the form of reduced collection costs) in their rates for distribution service.

Section VII. Low Income Energy Efficiency Programs.

a. Beginning _______________, the commission shall require a mandatory non-bypassable charge per kilowatt-hour for customers of electric and natural gas distribution companies to fund energy efficiency programs and services for low-income customers, including, but not limited to, demand-side management and weatherization programs.

b. The amount of the funding for this purpose shall be based on need.

c. The commission shall ensure that programs funded by this charge are delivered in a cost-effective manner by the Program Administrator of the FSPP, who shall be required to prioritize the delivery of programs and services to eligible customers with existing federal energy efficiency and weatherization programs.

d. The energy efficiency programs provided to low-income customers shall be implemented by the Program Administrator with the objective of standardizing program implementation and delivery mechanisms statewide. The commission shall require that the electric and natural gas distribution companies implement these programs on a statewide basis through the Administrator of the FSPP where the commission finds that such an approach is likely to lead to cost effective program design and implementation.

Comments:

Energy efficiency programs targeted to low-income utility customers have also expanded in a number of states that have adopted retail restructuring. These programs typically focus on supplementing the Department of Energy's Weatherization (Wx) Assistance Program or expanding the types of energy efficiency services that can be offered to low-income customers. Unlike energy efficiency programs targeted to other customers, programs targeted to low-income customers are provided at no cost to the customer and often have results that go beyond classic energy savings because these programs can make the underlying bill more affordable and reduce the utility's collection costs.

DOE's Weatherization Assistance Program[8] is targeted to low-income households with household income of less than 125% of federal poverty guidelines. Above all, weatherization reduces the ongoing expenses of needy families thereby making them more self-sufficient. Weatherization permanently reduces energy bills by making the clients' homes more efficient. Nationwide, the average reduction in energy bills is 15%, worth $300 per year.

Although more than 60,000 low-income homes have been weatherized annually throughout the 1990s, only 16% of currently eligible households have received weatherization services. There remain 30

[8] This description of the Weatherization Program and its impacts is from the DOE website: http://www.eren.doe.gov/buildings/weatherization_assistance/25years_service.html

million American families who are eligible for and in need of service. These households spend much more of their income, 19% on average, on energy bills than do the rest of U.S. families. According to the DOE statistics:

- 49% of Wx clients are occupied by a person with disabilities or an elderly resident with special needs.
- 90% of our clients have incomes less than $15,000, and two-thirds earn less than $8,000 per year.
- The average energy expenditure of these families is $2,000 per year, a much higher burden than for other families.
- The energy spikes from winter 2001 caused hardship for many low-income families. During last winter, there was an increase of one million low-income families applying for assistance compared with the previous year, according to a June 2001 press release by the National Energy Assistance Directors' Association

In addition to its impacts on reducing energy usage by low-income families, the Weatherization Program permanently increases the energy efficiency of homes owned or occupied by low-income families. The result is to decrease the potential dependency of these families on heating assistance or aid and increase their spending power in their neighborhoods. Specifically, the Wx Program:

- Supports 8,000 jobs in the home energy industry, or about 52 jobs for every $1 million of DOE investment.
- Leverages $3.39 in federal, state, and private-sector investment in weatherization for every $1 of DOE investment.
- Provides services locally carried out by more than 1,000 local and nonprofit agencies that participate in the program. These agencies provide weatherization services to every county in the nation and are a very important part of the home energy industries in their states.

States have built upon the WAP and required utilities to fund energy efficiency programs targeted to low-income customers to (1) expand the ability of WAP to serve the needs of eligible households because the federal funding for WAP has typically been far below the need; and (2) use utility funding for certain types of energy efficiency measures or programs that cannot be funded by WAP, such as appliance repair and replacement and consumer education. For example, Pennsylvania's LIURP (Low Income Usage

Reduction Program) has documented[9] that utility funding of energy efficiency for low-income customers with high bills and significant collection programs can have a positive benefit on low-income customers as well as all ratepayers. LIURP is targeted toward customers with annual incomes at or below 150% of the federal poverty level. However, beginning in 1998, the LIURP regulations permit utility companies to spend up to 20% of their annual LIURP budgets on customers with incomes between 150% and 200% of the federal poverty level. LIURP places priority on the highest energy users who offer the greatest opportunities for bill reductions. Generally, electric utilities target customers with annual usage of at least 6,000 kWhs. When feasible, the program targets customers with payment problems (arrearages). The program is available to both homeowners and renters. LIURP services all housing types, including single family homes, mobile homes, and small and large multi-family residences. The LIURP funds are included in utility rates as part of the distribution cost that is passed on to all residential customers. Program measures are installed on a simple payback (the time it takes to recover the cost of the installed program measure though projected energy savings) basis of 7 years or less for most program measures. There are exceptions that must meet a 12-year simple payback and these include sidewall insulation, attic insulation, furnace replacement, water heater replacement and refrigerator replacement. Examples of the program measures include: air infiltration measures using the blower door air sealing techniques; all types of insulation such as attic and sidewall; heating system treatments and replacements; water heating tank and pipe wraps; water heater replacements; compact fluorescent lighting; refrigerator replacement; water bed replacement with a form-fitted foam mattress; incidental repairs (not home rehabilitation); and conservation education. Bill savings vary by type of measures installed, but typically amount to 9-10% of the customer's annual bill.

[9] Pennsylvania PUC, Bureau of Consumer Services, Universal Service Reporting Requirements, Pennsylvania Electric Distribution Companies (2000), available at http://puc.paonline.com/com_info/Bureau%20Reports/EDC_UniServ_RptRequ_00.pdf

Significant public benefit programs targeted to low-income customers is not limited to states that have restructured. Many other states have adopted ratepayer-funded bill payment assistance programs or energy efficiency programs or both. For example, the Division of Energy in Wisconsin's Department of Administration (the LIHEAP and WAP grantee) released its first-year evaluation of three state low-income energy assistance and energy efficiency programs: the Wisconsin Home Energy Assistance Program (WHEAP), the Weatherization Assistance Program (WAP), and the Targeted Home Performance with Energy Star Program (Targeted HPWES).[10] Both WHEAP and WAP receive a combination of state and federal funding: the state funding from the low-income portion of a public benefits fund, the federal portion from LIHEAP and WAP funds. WHEAP and WAP serve households with incomes up to 150 percent of the federal poverty level. Targeted HPWES is a new program that expands weatherization to low-income households between 150 and 200 percent of poverty.

[10] http://heat.doa.state.wi.us/liheap/frame_establish_manuals.asp