

Justice Center *et al.* Late-Filed Exhibit No. 1
Cost-Shifting as a Result of Percentage of Income Payment Plans
Docket Nos. E-7, Sub 1214 & E-2, Sub 1219

Request: At the August 31, 2020 consolidated hearing, Commissioner Duffley asked Mr. Howat whether there had been any academic studies on the issue of shifting costs due to various affordability programs.¹

Response: It is important to start by noting that Duke Energy’s residential customers currently pay to cover uncollectible expenses such as unpaid bills (DEC’s customers pay an average of \$0.46 per month and DEP customers pay an average of \$.53 per month).² Therefore, cost shifting already occurs to some degree due to customers’ inability to afford their electricity bills. Any costs associated with new affordability programming should take into account that baseline cost to ratepayers. In addition, customers who struggle to afford electricity service today are burdened with additional costs (such as late fees and disconnection fees) that operate as an additional tax that mostly burdens low-income customers. While I am not aware of a comprehensive report or academic paper on all low-income bill assistance funding mechanisms and volumetric charges, I am attaching several additional resources that may be valuable to the Commission:

First, Duke Energy has already implemented a Percentage of Income Payment Plan (“PIPP”) program in its Ohio territory, which is recovered via the Universal Service Fund (“USF”) rider. The USF rider is funded through a declining block rate design. The current Duke PIPP Rider is \$0.0009847, while the average residential use is 872 kWh, which results in an average of approximately \$0.86 per month per residential customer. I have attached the Opinion and Order by the Public Utilities Commission of Ohio setting the PIPP rider as well a spreadsheet with updated calculation of the USF rider for all Ohio utilities.

Second, is the Colorado Public Utilities Commission rule describing the funding mechanism for the electric service low-income program. The Colorado Commission’s rule sets the maximum fixed monthly universal service charge for residential customers at \$0.31/month. 4 CCR 723-3 Sec. 3412(g)(b). I would note that the Colorado program is funded at about \$15 million per year, far short of the funding needed to support a meaningful participation rate. I would recommend avoiding a specific cap on any funding mechanism for this kind of program.

Third, is the National Consumer Law Center’s 2013 report on arrearage management programs. The report notes that arrearage management programs are often seen as a win-win for all interested parties: “terminating service to low-income customers who do not have the ability to pay is a lose-lose situation for company and customer, and more flexible approaches to working with those customers yield favorable results for all affected parties.” *Id.* at p. 17. Adopting solutions that enhance affordability allow more customers to keep up with timely

¹ *Transcript of Consolidated Hearing Held via Videoconference on August 31, 2020 – Volume 10*, Docket Nos. E-7, Sub 1214, E-2, Sub 1219, E-7, Sub 1213 at pp. 142-43 (Sept. 9, 2020).

² *See Direct Testimony of Jonathan Wallach*, Docket No. E-7, Sub 1214 at p. 32 (Feb. 18, 2020) & Docket No. E-2, Sub 1219 at p.33 (Apr. 13, 2020).

monthly payments; reduce uncollectibles, collections, and related customer-service expenses; and reduce the disruptions caused by service disconnections.

Finally, I have attached a brief report describing the low-income discount and arrearage management programs implemented by Eversource in Massachusetts. The discount rates provide a 36% reduction on the total monthly bills of participating customers with household income at or below 60% of the State Median Income. The report includes a description of the programs' funding mechanism and bill impacts by customer class. The residential assessment is \$ 0.00481 per kWh, resulting in an average monthly assessment of \$2.59 for residential customers.

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE OHIO DEVELOPMENT SERVICES
AGENCY FOR AN ORDER APPROVING
ADJUSTMENTS TO THE UNIVERSAL
SERVICE FUND RIDER OF
JURISDICTIONAL OHIO ELECTRIC
DISTRIBUTION UTILITIES.

CASE NO. 19-1270-EL-USF

OPINION AND ORDER

Entered in the Journal on December 18, 2019

I. SUMMARY

{¶ 1} The Commission adopts the Joint Stipulation and Recommendation filed on December 3, 2019, to resolve all the issues presented by the Ohio Development Services Agency's application to adjust the Universal Service Fund rider rates of jurisdictional Ohio electric distribution utilities.

II. DISCUSSION

A. *Applicable Law and Background*

{¶ 2} The Universal Service Fund (USF) was established, under the provisions of R.C. 4928.51 through 4928.58, for the purposes of providing funding for the low-income customer assistance programs, including the consumer education programs authorized by R.C. 4928.56, and for the administrative costs of those programs. The USF is administered by the Ohio Development Services Agency (ODSA), in accordance with R.C. 4928.51. The USF is funded primarily by the establishment of a universal service rider on the retail electric distribution service rates of jurisdictional electric utilities, namely Cleveland Electric Illuminating Company (CEI), Dayton Power & Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), Ohio Edison Company (OE), Ohio Power Company (OP or AEP Ohio),¹ and

¹ By Entry issued on March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Company (CSP) with OP (jointly, AEP Ohio), effective December 31, 2011, with OP as the surviving entity. *In re AEP Ohio*, Case No. 10-2376-EL-UNC, Entry (Mar. 7, 2012). The USF rider rates of CSP and OP were not initially consolidated; however, commencing with bills-rendered January 1, 2019, the USF rider rates were consolidated. *In re ODSA*, Case No. 15-1046-EL-USF, Opinion and Order (Oct. 28, 2015); *In re ODSA*, Case No. 18-976-EL-USF, Opinion and Order (Dec. 19, 2018) at 5-6.

Toledo Edison Company (TE). Each of the entities, CEI, DP&L, Duke, OE, OP and TE, is an electric distribution utility, as defined in R.C. 4928.01(A)(6), and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.52(B) provides that, if ODSA, after consultation with the Public Benefits Advisory Board, determines that revenues in the USF and revenues from federal or other sources of funding for those programs will be insufficient to cover the administrative costs of the low-income customer assistance programs and the consumer education programs and to provide adequate funding for those programs, ODSA shall file a petition with the Commission for an increase in the USF rider rates. R.C. 4928.52(B) also provides that the Commission, after reasonable notice and opportunity for hearing, may adjust the USF riders by the minimum amount required to provide the necessary additional revenues. To that end since 2001, the Commission has approved USF rider rate adjustments each year for each of the Ohio jurisdictional electric utilities.

{¶ 4} In the most recent USF case, the Commission adopted the Joint Stipulation and Recommendation filed on December 5, 2018, by ODSA and several parties to resolve the issues regarding the adjustment of and to adjust the USF rider rates of each of the jurisdictional electric distribution utilities (EDUs), in accordance with R.C. 4928.52(B). The new USF rider rates became effective on a bills-rendered basis with each EDU's first billing cycle in January 2019. *In re ODSA*, Case No. 18-976-EL-USF, Opinion and Order (Dec. 19, 2018) (*2018 USF Adjustment Order*) at ¶ 20, ¶ 21, ¶ 34.

B. History of This Proceeding

{¶ 5} Since 2005 the USF proceedings have been a two-phase process. In the first phase of the USF case, the notice of intent (NOI) phase, ODSA files, by May 31 each year, an application with its proposed methodology to calculate the USF revenue requirement and rate design, as well as any other matters that ODSA deems appropriate. In the second phase of the USF proceeding, ODSA files, by October 31 each year, an application to adjust the USF rider rates of the EDUs, as necessary. ODSA agreed to continue to follow the two-phase

process in the most recent USF case. The two-phase process allows the Commission and the parties to the proceedings to consider, on a timely basis, any objections that may be raised by the parties. *In re Ohio Department of Development*, Case No. 04-1616-EL-UNC, Opinion and Order (Dec. 4, 2008) at 8. ODSA committed to continue to follow the two-phase USF process in this case. *2018 USF Adjustment Order*, Opinion and Order (Dec. 19, 2018) at ¶25.

1. NOTICE OF INTENT PHASE

{¶ 6} On May 30, 2019, in the above-noted case, ODSA filed its NOI to file an application to adjust the USF riders of the EDUs in accordance with R.C. 4928.52 and the *2018 USF Adjustment Order*. In summary, ODSA's 2019 NOI application indicated that the adjustment application would request that each of the USF riders be revised to more accurately reflect the current costs of operating the Percentage of Income Payment Plan (PIPP) Plus program, the Electric Partnership Program (EPP), including consumer education programs, and associated administrative costs and to reflect known and measurable changes that will take effect during the test period and the post-test period. Further, in its NOI, ODSA presented the methodology to be followed to determine the USF rider revenue requirement and the USF rider rate design.

{¶ 7} Motions to intervene were timely filed by, and intervention granted to, Industrial Energy Users-Ohio (IEU), Ohio Consumers' Counsel (OCC) and Ohio Partners for Affordable Energy (OPAЕ).

{¶ 8} By Order issued September 11, 2019, the Commission approved, pursuant to a Joint Stipulation and Recommendation, ODSA's proposed methodology for determining the USF revenue requirement and USF rate design. *In re ODSA*, Opinion and Order (Sept. 11, 2019) (*2019 NOI Order*).

2. ADJUSTMENT PHASE

{¶ 9} On October 31, 2019, ODSA filed its application, and supporting testimony, to adjust the USF riders of the EDUs in accordance with the requirements of R.C. 4928.52 and the *2019 NOI Order*.

{¶ 10} By Entry issued on November 1, 2019, the procedural schedule for the adjustment phase of this case was established, including a prehearing conference scheduled for November 14, 2019, if requested by any party, and a hearing scheduled to commence on December 3, 2019.

{¶ 11} No party requested a prehearing conference.

{¶ 12} On November 26, 2019, ODSA filed an amended application to adjust the USF rider rates and the supplemental testimony of Megan Meadows.

{¶ 13} On December 3, 2019, a Joint Stipulation and Recommendation was filed by ODSA, IEU, OPAE, Duke, DP&L and OP (Signatory Parties). ODSA also filed the testimony of Megan Meadows in support of the stipulation.

{¶ 14} Admitted into evidence at the hearing in the adjustment phase of this USF case, were: ODSA's NOI application filed on May 30, 2019 (ODSA Ex. 1), the application filed October 31, 2019 (ODSA Ex. 2), the amended application filed November 26, 2019 (ODSA Ex. 3); the testimony of Megan Meadows filed October 31, 2019 (ODSA Ex. 4), the supplemental testimony of Ms. Meadows filed November 26, 2019 (ODSA Ex. 5); the Joint Stipulation and Recommendation (Stipulation) filed December 3, 2019 (Joint Ex. 1 or 2019 Adjustment Stipulation); and the testimony of Ms. Meadows in support of the Stipulation filed December 3, 2019 (ODSA Ex. 6). The Stipulation includes, as Appendix A, a copy of the proposed customer notice regarding the adjusted USF riders (Joint Ex. 1 at 10).

{¶ 15} Staff, as a result of its limited role in USF cases, and OCC state that they neither support nor oppose the Stipulation. CEI, TE and OE noted an unresolved concern with the

reserve component of the revenue requirement as its reason for not signing the Stipulation, but otherwise CEI, TE and OE do not support nor oppose the 2019 Adjustment Stipulation. (Tr. at 11-12; Joint Ex. 1 at 1, ODSA Ex. 6 at 3).

C. *Summary of the Amended Adjustment Application*

{¶ 16} In the amended application, ODSA requests that each of the USF riders be adjusted to more accurately reflect the current costs of operating the PIPP program, EPP, consumer education programs and the associated administrative costs. Based on ODSA’s analysis of the revenues that the current USF rider rates would generate based on test period sales volumes, and utilizing the USF rider revenue requirement methodology approved in the *2019 USF NOI Order*, ODSA has determined that, on an aggregated basis, the total annual revenues generated by the current USF riders will be \$89,811,105 less than the annual revenues necessary to fulfill the objectives identified in R.C. 4928.52(A). More specifically, ODSA’s analysis reveals that the revenues that would be generated by the current USF riders of each of the EDUs will fall short of the annual revenue requirement to carry out the objectives set forth in R.C. 4928.52(A) for 2020. Therefore, ODSA requests an increase in the USF rider rates of CEI, DP&L, Duke, OE, OP and TE.

Current USF Rider					Proposed USF Rider	
EDU	First 833,000 kWh ²	Above 833,000 kWh	2019 Adjusted Test Period USF Rider Revenue	2020 Required Annual USF Rider Revenue Requirement	First 833,000 kWh	Above 833,000 kWh
CEI	\$0.0017446	\$0.0005680	\$ 27,890,761	\$ 36,408,079	\$0.0023743	\$ 0.0005680
DP&L	\$0.0010858	\$0.0005700	\$ 14,186,628	\$ 23,791,119	\$0.00119585	\$ 0.0005700
Duke	\$0.0006774	\$0.0004690	\$ 13,085,514	\$ 17,942,763	\$0.0009847	\$ 0.0004690
OE	\$0.0021150	\$0.0010461	\$ 46,991,355	\$ 69,274,524	\$0.0032881	\$ 0.0010461
OP	\$0.0024978	\$0.0001756	\$ 84,526,343	\$121,750,075	\$0.0036634	\$ 0.0001756 ³

² Kilowatt hours (kWh).

³ OP’s USF rider rate for usage greater than 833,000 kWh is based on the average of CSP’s and OP’s 1999 USF rider rates of \$0.0001830 and \$0.0001681, respectively.

Current USF Rider					Proposed USF Rider	
EDU	First 833,000 kWh ²	Above 833,000 kWh	2019 Adjusted Test Period USF Rider Revenue	2020 Required Annual USF Rider Revenue Requirement	First 833,000 kWh	Above 833,000 kWh
TE	\$0.0019295	\$0.005610	\$ 14,151,816	\$ <u>21,476,961</u>	\$0.0031912	\$ 0.0005610
Totals			\$200,832,417	\$ 290,643,522		
Deficiency				\$ (89,811,105)		

(ODSA Ex. 3 at 4-11 and Ex. I; ODSA Ex. 5 at 5- 11 and Ex. MM-19 through MM-30.)

{¶ 17} The amended application and the supplemental testimony of Megan Meadows states that the USF revenue requirement, which the proposed USF riders are designed to generate, consists of the following elements:

- (1) Cost of PIPP. The cost of PIPP component of the USF rider revenue requirement is intended to reflect the total cost of electricity consumed by the EDU’s PIPP customers for the 12-month period January 2019 through December 2019 (test period), plus pre-PIPP balances, less the monthly installment payments billed to PIPP customers, less payments made by or on behalf of PIPP customers, including agency payments, to the extent that these payments are applied to outstanding PIPP arrearages over the same period. The calculation utilizes actual data available for January 2019 through September 2019, and projected data, based on the actual data for October 2018 through December 2018, for the remaining three months of the test period. ODSA submits that the test period cost of PIPP must be adjusted for the following reasons: (1) to recognize the impact of Commission-approved EDU rate changes that will take effect on and after January 1, 2020; (2) to annualize the

impact of Commission-approved EDU rate changes that took effect during the 2019 test year; and (3) to account for projected increases in PIPP enrollment activity during the 2020 collection period. The total adjusted cost of PIPP is \$229,863,761. (ODSA Ex. 3 at 5-6 and Exs. A, A.1, A.1.a through A.1.d, and A.2 (Column F); ODSA Ex. 5 at 3-6 and Ex. MM-1 – MM-6.)

- (2) Electric Partnership Program and Consumer Education Costs. This element of the USF rider revenue requirement reflects the costs associated with the low-income customer energy efficiency programs and the consumer education program, referred to collectively as the EPP, and their associated administrative costs, which are recovered through the USF riders pursuant to R.C. 4928.52(A)(2) and (3). In its NOI, ODSA proposed an allowance for these items of \$14,946,196, which is identical to the allowance for these programs previously accepted by the Commission in approving all prior USF rider rate adjustments; however, ODSA also agreed to review and amend the projection of its EPP costs. Based on its review, ODSA amended its proposed EPP and consumer education program costs to \$11,540,256. ODSA notes that, consistent with the *2019 USF NOI Order*, this component of the USF rider revenue requirement is allocated to the EDUs based on the ratio of their respective cost of PIPP to the total cost of PIPP. (ODSA Ex. 1 at 4-5; ODSA Ex. 3 at 6-7 and Ex. B; ODSA Ex. 5 at 7-8.)
- (3) Administrative Costs. This element of the USF rider revenue requirement represents an allowance for the costs incurred by ODSA in connection with its administration of the PIPP program, which are recoverable pursuant to R.C. 4928.52(A)(3).

ODSA states that the proposed allowance for administrative costs, \$5,388,856 has been determined in accordance with the standard approved by the Commission in the 2019 USF NOI Order. The requested allowance for administrative costs has been allocated to the EDUs based on the number of PIPP customer accounts as of March 2019, which is the test period month exhibiting the highest PIPP customer account totals. In addition, pursuant to R.C. 4928.544(B), ODSA is authorized to include reimbursement of the Commission's costs incurred for aggregation of PIPP Plus customers as an administrative cost. (ODSA Ex. 3 at 7 and Ex. C; ODSA Ex. 5 at 8.)

- (4) December 31, 2019 PIPP Account Balances. Because the USF rider is based on historical sales and historical PIPP enrollment patterns, the cost of PIPP component of an EDU's USF rider will, in actual practice, either over-recover or under-recover its associated annual revenue requirement over the collection period. Over-recovery creates a positive USF PIPP account balance for the particular EDU, which reduces the amount needed on a forward-going basis, to satisfy the USF rider revenue requirement. Conversely, where under-recovery has created a negative USF PIPP account balance as of the effective date of the new riders, there will be a shortfall in the cash available to ODSA, which will impair its ability to make the PIPP reimbursement payments due the EDUs on a timely basis. Thus, the amount of any existing positive USF PIPP account balance must be deducted in determining the target revenue level that the adjusted USF rider is to generate, while the deficit represented by a negative USF PIPP account balance must be

added to the associated revenue requirement. In this case, ODSA requests that the proposed USF riders be implemented on a bills-rendered basis effective January 1, 2020. Accordingly, the USF rider revenue requirement of each EDU has been adjusted by the amount of the EDU's projected December 31, 2019, USF PIPP account balance to synchronize the new riders with the EDU's USF PIPP account balance as of their effective date. According to ODSA, this conforms to the methodology approved by the Commission in the 2019 USF NOI Order. (ODSA Ex. 3 at 7-8 and Ex. H; ODSA Ex. 5 at 8 and Ex. MM-7 through MM-12.)

- (5) Reserve. PIPP-related cash flows can fluctuate significantly throughout the year, due in large measure, to the weather-sensitive nature of electricity sales and PIPP enrollment patterns. These fluctuations have, from time-to-time, resulted in negative USF PIPP account balances, which means that, in those months, ODSA had insufficient cash to satisfy its reimbursement obligations to the EDUs on a timely basis. To address this problem, ODSA has previously included an allowance to create a cash reserve as an element of the USF rider revenue requirement. However, in the 2019 USF NOI Order, the Commission approved a modification to the calculation of the reserve to consider the highest monthly deficit during the test period for the EDUs in the aggregate, as opposed to individually, since the funds are deposited in one USF account for all EDUs. The approved process also requires consideration of the aggregate projected year end account balance to determine whether a reserve allowance is needed. Based on

ODSA's analysis, which projects the aggregate account balance of \$2,538,918 at December 31, 2019, ODSA has determined that a reserve allowance needs to be included in the USF rider rate calculation. (ODSA Ex. 1 at 7-8; ODSA Ex. 3 at 8-9, Ex. F and Ex. H; ODSA Ex. 4 at 25-26; ODSA Ex. 5 at 8-9.)

- (6) Allowance for Undercollection. This component of the USF rider revenue requirement is an adjustment to recognize that, due to the difference between amounts billed through the USF rider and the amounts actually collected from customers, the rider will not generate the target revenues. ODSA states that, in accordance with the methodology approved by the Commission in the 2019 USF NOI Order, the allowance for undercollection for each EDU is based on the collection experience of the particular EDU. The total requested allowance for undercollection is \$3,596,052. (ODSA Ex. 3 at 9 and Ex. G; ODSA Ex. 5 at 9 and Ex. MM-13 through MM-18.)
- (7) PIPP Program Audit Costs. In the prior USF case, ODSA included an allowance of \$99,000 for audits to be performed on CSP, OP, DP&L and Duke, during 2019, with the actual cost of each audit to be based upon the amount expended to conduct the audit of each EDU. In this proceeding, ODSA reconciles the allowance for the audit to the actual cost. In addition, as approved in the 2019 NOI Order, ODSA proposes an allowance of \$150,000 to conduct audits of CEI, OE and TE during the 2020 collection period to evaluate PIPP-related accounting and reporting by the EDUs. Based on the actual cost of the audits performed in 2019, ODSA revises the allowance to \$79,000. Each EDU will be charged based on a fixed cost for the 2020

collection period. (ODSA Ex. 3 at 9-10 and Ex. D; ODSA Ex. 4 at 28).

{¶ 18} Accordingly, ODSA requests that the Commission find that the USF rider rate adjustments proposed in the amended application represent the minimum adjustments necessary to provide the revenues necessary to satisfy each EDU's respective USF rider revenue requirement. ODSA further requests that the Commission direct the EDUs to incorporate the new USF rider rates in their tariffs to be effective, on a bills rendered basis, January 1, 2020. (ODSA Ex. 4 at 10-13.)

D. Summary of the Stipulation

{¶ 19} In the 2019 Adjustment Stipulation, to resolve all the issues raised in this phase of the USF proceeding, ODSA, IEU, OP4E⁴, Duke, DP&L and OP (Signatory Parties) stipulate and agree as follows:⁵

1. This matter is properly before the Commission pursuant to R.C. 4928.52(B). The Commission has jurisdiction to approve this Stipulation as submitted and to issue an order authorizing adjustments to the current EDU USF riders in the minimum amount necessary to provide the revenues sufficient to cover the administrative costs of the low-income customer assistance programs and the consumer education program and provide adequate funding for those programs. (Joint Ex. 1 at 2-3.)
2. The application, amended application, and supporting exhibits and testimony filed in this docket by ODSA on October 31, 2019 and on November 26, 2019, this Stipulation and the supporting testimony of

⁴ OP4E does not join in Paragraphs 6 and 7 of the Stipulation.

⁵ The summary of the Stipulation is not intended to supersede or replace the Stipulation.

ODSA witness Meadows shall be admitted into evidence and made a part of the record in this case (Joint Ex. 1 at 3).

3. If called to testify, an appropriate representative of each EDU would verify that the kWh sales data and other information supplied by the specific EDU to ODSA upon which ODSA relied in developing the USF rider revenue requirement and rider rate for each EDU, as set forth in the amended application, is true and accurate to the best of each EDU's knowledge and belief (Joint Ex. 1 at 3).
4. As set forth in ODSA's amended application, and as further described in and supported by the supplemental testimony of ODSA witness Meadows, the annual USF rider revenue requirement for each EDU shall be as follows:

AEP Ohio	\$121,750,075
DP&L	\$ 23,791,119
Duke	\$ 17,942,763
CEI	\$ 36,408,079
OE	\$ 69,274,524
TE	\$ 21,476,961

(Joint Ex. 1 at 3.)

5. The methodology for determining the respective USF rider revenue requirements is consistent with the methodology accepted by the

Commission in the Opinion and Order issued September 11, 2019 in the NOI phase of this proceeding (Joint Ex. 1 at 4).⁶

6. The annual USF rider revenue requirement set forth in Paragraph 4 of the Stipulation shall be collected by the respective EDUs through a USF rider that incorporates a declining block rate design consisting of two consumption blocks. The first block of the rate is to apply to all monthly consumption up to and including 833,000 kWh. The second block of the rate is to apply to all consumption above 833,000 kWh per month. For each EDU, the rate per kWh for the second block is to be set at the lower of the PIPP charge in effect in October 1999, or the per kWh rate that would apply if the EDU's annual USF rider revenue requirement were to be recovered through a single block per kWh rate. The rate for the first block is to be set at the level necessary to produce the remainder of the EDU's annual USF rider revenue requirement. The USF rider for each EDU, determined in accordance with the aforementioned methodology, is as set forth below:

EDU	First 3,000 kWh	Above 3,000 kWh
CEI	0.0023743	0.0005680
DP&L	0.0019585	0.0005700
Duke	0.0009847	0.0004690
OE	0.0032881	0.0010461

⁶ The Stipulation further states that [t]o be clear, the NOI proposed an allowance of \$14,946,196 for the EPP based upon projected annual costs. ODSA explained that it would re-examine this projection, including prior year surpluses, before filing its application. See, ODSA Ex. 1 at 5. Re-examination revealed that EPP revenues of \$3,405,940 would be carried over from the previous year. Therefore, in its adjustment application ODSA revised the EPP allowance to \$11,540,256. The carryover revenues from the prior year plus the \$11,540,256 allowance in this proceeding will permit ODSA to fully fund EPP at \$14,946,196.

AEP Ohio	0.0036634	0.0001756
TE	0.0031912	0.0005610

(Joint Ex. 1 at 4-5.)

7. The rate design methodology utilized in calculating the recommended USF rider rates, as set forth in Paragraph 6 of the Stipulation, is identical to the methodology accepted by the Commission in its Opinion and Order issued September 11, 2019 in the NOI phase of this proceeding and in all prior USF rider rate adjustment proceedings. Any change in the existing relative customer class revenue responsibility resulting from the use of this rate design methodology is well within the range of estimation error inherent in any customer class cost-of-service analysis and does not violate R.C. 4928.52(C), which prohibits against shifting the cost of funding low-income customer assistance programs among customer classes. By stipulating to the use of the EDU's October 1999 PIPP charge as a cap on the second block of the rider for purposes of this case, no Signatory Party waives its right to contest the continued use of the October 1999 PIPP charge as a cap on the second block of the rider in any future R.C. 4928.52(B) USF rider rate adjustment proceeding. (Joint Ex. 1 at 5.)
8. The rates for all EDUs represent the minimum rates necessary to satisfy their respective rider revenue requirements as set forth in Paragraph 4 of the Stipulation (Joint Ex. 1 at 5).
9. The current USF rider of each EDU shall be withdrawn and canceled and shall be replaced by the USF riders containing the rates provided in Paragraph 6 of the Stipulation, such riders to be filed within seven

days of the Commission order adopting the Stipulation. The new USF riders shall be effective upon filing with the Commission and shall apply on a bills-rendered basis beginning with the first billing cycle of the month following their effective date. The EDUs shall notify customers of the adjustments to their respective USF riders by means of the notice attached to the Stipulation as Appendix A. (Joint Ex. 1 at 5-6).

10. Unlike traditional ratemaking, where the objective is to establish rates which will provide the applicant utility with a reasonable earnings opportunity, the USF riders must actually generate sufficient revenues to enable ODSA to meet its specific USF-related statutory and contractual obligations on an ongoing basis. To this end, ODSA shall file, not later than October 31, 2020, an application with the Commission for such adjustments to the USF riders as may be necessary to assure, to the extent possible, that each EDU's USF rider will generate its associated revenue requirement, but not more than its associated revenue requirement, during the annual collection period following Commission approval of such adjustments. ODSA shall serve copies of such application upon all other parties to this proceeding. In the event ODSA fails to file such application on or before October 31, 2020, ODSA shall notify the Signatory Parties in writing of its intentions with respect to an application for adjustments to the USF riders, including its anticipated filing date. Such notice shall not affect the right of any Signatory Party to pursue such legal recourse against ODSA as may be available for failure to comply with the Stipulation, if any. (Joint Ex. 1 at 6.)

11. The Signatory Parties recognize that the EDU USF rider rates proposed in ODSA's annual USF rider adjustment applications are predicated on the assumption that the new USF riders authorized by the Commission will be effective on a bills-rendered basis during the January billing cycle of the following year. Although the October 31, 2020 filing deadline established in Paragraph 10 of this Stipulation for the filing of next year's application will provide adequate time for the Commission to act upon the application prior to January 1, 2021, if the application is not contested, the Signatory Parties recognize that this two-month interval may not be sufficient in the event that a party to the proceeding objects to the application and wishes to litigate the issue(s) raised in its objection(s).⁷ To address this concern, the Signatory Parties propose and agree that ODSA should again follow the NOI process first adopted in Case No. 04-1616-EL-UNC. Specifically, on or before May 31, 2020, ODSA shall file with the Commission a notice of its intent to submit its annual USF rider adjustment application and shall serve the NOI on all parties to this proceeding. The NOI shall set forth the methodology ODSA intends to employ in calculating the USF rider revenue requirement and in designing the USF rider rates in preparing its 2020 USF rider rate adjustment application and may also include such other matters as ODSA deems appropriate. Upon the filing of the NOI, the Commission will open the 2020 USF rider adjustment application docket and will establish a schedule for the filing of objections or comments, responses to the objections or comments,

⁷ The Signatory Parties are referring to an objection to something other than the mathematical accuracy of ODSA's calculations, as an objection to the accuracy of an ODSA calculation an almost certainly be resolved informally in a time frame that will permit the Commission to issue a final order on the application in advance of the January billing cycles.

and, if a hearing is requested, a schedule for discovery, the filing of testimony, and the commencement of the hearing. The Commission will use its best efforts to issue its decision with respect to any objections raised not later than September 30, 2020. ODSA will conform its 2020 USF rider adjustment application to any directives set forth in the Commission's decision. If the order is not issued sufficiently in advance of the October 31, 2020 filing deadline to permit ODSA to incorporate such directives, ODSA will file an amended application conforming to the Commission's directives as soon as practicable after the order is issued. (Joint Ex. 1 at 6-8.)

12. The Signatory Parties support initiatives intended to control the costs that ultimately must be recovered through the USF riders. In furtherance of this objective, the Signatory Parties agree to the continuation of the USF Rider Working Group (Working Group) formed pursuant to the Stipulation approved by the Commission in Case No. 03-2049-EL-UNC. The USF Rider Working Group is charged with developing, reviewing, and recommending cost control measures.⁸ Although recommendations made by the Working Group shall not be binding upon any Signatory Party, the Signatory Parties shall give due consideration to such recommendations and shall not unreasonably oppose the implementation of such recommendations. (Joint Ex. 1 at 8.)

{¶ 20} Accordingly, the Signatory Parties respectfully request that the Commission issue an order adopting the Stipulation and directing each EDU to file new USF riders in

⁸ *In re Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 03-2049-EL-UNC, Opinion and Order (Dec. 3, 2003).

accordance therewith, said riders to be effective with the January 2020 billing cycle on a bills-rendered basis. (Joint Ex. 1 at 8.)

E. Consideration of the Stipulation

{¶ 21} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 22} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. See, e.g., *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for the Commission's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- a. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- b. Does the settlement, as a package, benefit ratepayers and the public interest?
- c. Does the settlement package violate any important regulatory principle or practice?

{¶ 23} The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994), citing Consumers' Counsel at 126. The Supreme Court of Ohio stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

{¶ 24} ODSA witness Meadows, Deputy Chief of ODSA's Office of Community Assistance, directly oversees the preparation of the USF rate application and has testified in prior USF cases before the Commission. Ms. Meadows testified that the 2019 Adjustment Stipulation meets the three-part test criteria utilized by the Commission to evaluate stipulations: (1) the stipulation is a product of serious bargaining among capable, knowledgeable parties; (2) the stipulation does not violate any important regulatory principle or practice; and (3) the stipulation, as a package, will benefit customers and the public interest. Ms. Meadows states that the parties to this case have been actively participating in the USF proceedings, and other Commission cases, for several years, all parties are represented by experienced, competent counsel, and were afforded the opportunity to participate in a prehearing conference and to engage in settlement discussions on the proposed stipulation. ODSA witness Meadows notes that many of the parties in this USF proceeding are signatories to stipulations filed in prior USF cases. On that basis, Ms. Meadows reasons the 2019 Adjustment Stipulation meets the first condition used by the Commission to evaluate a stipulation. (ODSA Ex. 4 at 2, 3; ODSA Ex. 6 at 2-4.)

{¶ 25} ODSA witness Meadows testified the 2019 Adjustment Stipulation benefits consumers, and the public interest, as the stipulation ensures adequate funding for the low-income customer assistance programs and the consumer education programs administered by ODSA at the lowest rider rates necessary to collect each EDU's USF rider revenue requirement. Accordingly, ODSA witness Meadows concluded that the stipulation complies with the second criteria used by the Commission to evaluate a stipulation. Finally,

Ms. Meadows testified that the 2019 Adjustment Stipulation does not violate any important regulatory principles or practices and further states the USF rider revenue requirement and the USF rider rates were determined consistent with the NOI methodology approved by the Commission in the 2019 USF NOI Order issued in this case. (ODSA Ex. 6 at 4.)

III. COMMISSION CONCLUSION ON THE STIPULATION

{¶ 26} The Commission notes that, unlike other proceedings before the Commission where we are charged with balancing the interest of the utilities and the public, in this matter the Commission's role is limited primarily to facilitating the process by which ODSA files for and the EDUs implement their respective USF rider rates. In USF proceedings, in accordance with R.C. 4928.52(B), the Commission cannot decrease the USF rider without the approval of the director of ODSA. Thus, in light of the Commission's limited role in these USF proceedings, our evaluation of the issues raised in this proceeding and Staff's participation in this case, is restricted. Given that there are no issues to be litigated and several of the parties to this matter have entered into a stipulation resolving all the issues raised in this case, the Commission will consider the stipulation filed. We also note that no party to the case opposes the stipulation.

{¶ 27} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding on the Commission, the terms of such an agreement may be accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 28} After reviewing the 2019 Adjustment Stipulation and the record evidence in this matter, the Commission finds that the Stipulation and proposed customer notice are reasonable. Further, the Commission concludes that the USF rider rates set forth in the Stipulation reflect the minimum level necessary to produce the required revenues for ODSA to cover the administrative costs of the low-income customer assistance programs and the

consumer education program and to provide adequate funding for those programs. We also find that the process involved serious bargaining by knowledgeable, capable parties whom were represented by competent counsel familiar with the USF process. We note that the 2019 Adjustment Stipulation is not opposed by any party to this proceeding. Further, we find that the 2019 Adjustment Stipulation is in the public interest to the extent it provides adequate funding, at the lowest USF rider rate feasible, for the low-income customer assistance programs and the consumer education program offered by ODSA and does not violate any important regulatory principle or practice. Accordingly, the Commission finds that the Stipulation and the USF rider rates established therein for OP, CEI, DP&L, Duke, OE, and TE, should be approved.

{¶ 29} Finally, to facilitate the retrieval of USF cases in the future, the Commission directs ODSA to continue to file future USF cases with the USF purpose code.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 30} The USF was established, pursuant to R.C. 4928.51 through 4928.58, for the purposes of providing funding for the low-income customer assistance programs, including the consumer education program, authorized by R.C. 4928.56, and for payment of the administrative costs of those programs.

{¶ 31} The USF is administered by ODSA, in accordance with R.C. 4928.51.

{¶ 32} ODSA filed an application on October 31, 2019, as amended on November 26, 2019, to adjust the USF riders of the EDUs, in accordance with the requirements of R.C. 4928.52.

{¶ 33} The hearing was held on December 3, 2019. At the hearing, the 2019 Adjustment Stipulation was admitted into the record, which, if approved, purports to resolve all issues in this case.

{¶ 34} The 2019 Adjustment Stipulation and proposed customer notice are reasonable and should be adopted.

{¶ 35} The two-step, declining block USF rider rates set forth in the Stipulation reflect the minimum level necessary to produce the required revenues for ODSA to cover the administrative costs of the low-income customer assistance programs and the consumer education program and to provide adequate funding for those programs.

V. ORDER

{¶ 36} It is, therefore,

{¶ 37} ORDERED, That the 2019 Adjustment Stipulation and the proposed customer notice be approved. It is, further,

{¶ 38} ORDERED, That the EDUs be authorized to file, in final form, four complete copies of their tariffs consistent with this Opinion and Order, within seven days after the date of this Order. Each EDU shall file one copy in its TRF docket and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

{¶ 39} ORDERED, That the effective date of the new tariffs be a date not earlier than both the date of this Opinion and Order and the date upon which the copies of the final tariffs are filed with the Commission. The new USF riders shall be effective upon filing with the Commission and apply on a bills-rendered basis in the first billing cycle of the month following their effective date. It is, further,

{¶ 40} ORDERED, That the EDUs notify all customers affected by the tariff by the customers' first bill that will include the new USF rider rate. It is, further,

{¶ 41} ORDERED, That ODSA file all subsequent USF cases under the USF purpose code. It is, further,

{¶ 42} ORDERED, That a copy of this Opinion and Order be served on ODSA, the electric-energy list serve, and all persons of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

GNS/hac

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in

Case No(s). 19-1270-EL-USF

Summary: Opinion & Order that the Commission adopts the Joint Stipulation and Recommendation filed on December 3, 2019, to resolve all the issues presented by the Ohio Development Services Agency's application to adjust the Universal Service Fund rider rates of jurisdictional Ohio electric distribution utilities. electronically filed by Docketing Staff on behalf of Docketing.

Electric Distribution Utility	Universal Service Fund Rider ¹		Residential Customers	
	First 833,000 kWh	Above 833,000 kWh	Monthly Usage/Customer (kWh)	Monthly Universal Service Charge
AEP	\$0.0036634	\$0.0001756	872	\$3.19
DPL	\$0.0019585	\$0.0005700	872	\$1.71
Duke	\$0.0009847	\$0.0004690	872	\$0.86
CEI	\$0.0023743	\$0.0005680	872	\$2.07
OE	\$0.0032881	\$0.0010461	872	\$2.87
TE	\$0.0031912	\$0.0005610	872	\$2.78
Average	\$0.0025767	\$0.0005650	872	\$2.25
2019 Residential Usage (Million kWh) ²	52,372			
2019 Residential Customers ²	5,007,479			
2019 Average Monthly Usage per Customer (kWh)	872			

¹ Ohio Electric Distribution Utility Universal Service Fund riders from Stipulation Agreement approved by the Ohio Public Utilities Commission in Cose No. 19-1270-EL-USF

² U.S. Energy Information Administration

<https://www.eia.gov/beta/states/states/oh/data/dashboard/consumption>

-
- (D) Should the participant exit the program prior to the full forgiveness of all pre-existing arrearages, the amount of remaining pre-existing arrearages shall become due in accordance with the utilities tariff filed under rules 3401, 3407, and 3408.
 - (E) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the program.
 - (F) A participant may receive arrearage credits under this section even if that participant does not receive a credit toward current bills, if the participant enters into and maintains a levelized budget billing plan.
- (VIII) Portability of benefits. A participant may continue to participate without reapplication should the participant change service addresses, but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the levelized budget billing amount to reflect the changed circumstances. A participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.
- (IX) Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. Missed, partial or late payments shall not result in the removal of a participant from the program.
- (f) Program implementation.
- Each utility shall maintain effective terms and conditions in its tariffs on file with the Commission containing its low-income program.
- (g) Cost recovery.
- (I) Each utility shall include in its low income tariff terms and conditions how costs of the program will be recovered.
 - (II) Program cost recovery.
 - (A) Program cost recovery shall be based on a fixed monthly fee.
 - (B) The maximum impact on residential rates shall be no more than \$00.31 per month.
 - (C) In order to determine monthly rates applicable to rate classes other than residential, program costs shall be allocated to each retail rate based on each rate class's share of the test year revenue requirement established in the utility's last Phase II rate case, or under another reasonable methodology supported by quantifiable information. The monthly rate per this subparagraph to be charged each rate schedule customer shall be clearly stated on a tariff sheet.
 - (D) Utilities shall separately account for the cumulative program cost recovery and cumulative program and administrative costs to determine if the net of program cost recovery and program and administrative cost are in balance during the program year.
-

- (i) By December 31, 2016, utilities shall determine if the total cumulative cost recovery amount exceeds total cumulative program and administrative costs through September 30, 2016. If at that time total cumulative cost recovery exceeds total cumulative program and administrative costs by 50 percent or more, the over collected amount shall be refunded to all customers in accordance with rule 3410.
- (ii) Beginning December 31, 2017 and in each year thereafter, the utility shall file a report with the Commission in the most recent miscellaneous proceeding for annual low-income filings detailing the net difference between program cost recovery and program costs as of September 30 of each year.
 - (1) Should the net difference of program cost recovery over program costs be greater than 50 percent derived in (ii) above, either positive or negative, and the utility is not currently at the maximum impact for non-participants, the utility shall file with the Commission an advice letter and tariff pages seeking approval for the rates determined in subparagraph 3412(g)(II)(D) in order to bring the projected recovery in balance for the ensuing 12 month period. The revised charge shall not exceed the maximum impact for non-participants in subparagraph 3412(g)(II)(C).
- (III) The following costs are eligible for recovery by a utility as program costs:
 - (A) program credits or discounts applied against bills for current usage.
 - (B) program credits applied against pre-existing arrearages.
 - (C) program administrative costs; and
 - (D) Commission-sponsored program evaluation costs required under paragraph 3412(k)
- (IV) The utility shall apply, as an offset to cost recovery, all program expenses attributable to the program. Program expenses include utility operating costs; changes in the return requirement on cash working capital for carrying arrearages; changes in the cost of credit and collection activities directly related to low-income participants; and changes in uncollectable account costs for these participants.
- (V) LEAP grants.

The utility shall apply energy assistance grants provided to the participant by the LEAP program to the dollar value of credits granted to individual program participants.

- (A) A utility shall apply any energy assistance benefit granted to the participant by LEAP to that portion of the program participant's full annual bill that exceeds the participant's affordable percentage of income payment.
- (B) If the dollar value of the energy assistance grant is greater than the dollar value of the difference between the program participant's full annual bill and the participant's affordable percentage of income payment, the dollar amount by which the energy assistance grant exceeds the difference will be applied:

- (i) first, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding; and
 - (ii) second, to the account of the program participant as a benefit to the participant.
 - (C) No portion of an energy assistance or LEAP grant provided to a program participant may be applied to the account of a participant other than the participant to whom the energy assistance grant was rendered.
 - (D) If an all-electric utility's low-income customers do not benefit widely from LEAP grants, the utility shall not apply the dollar value of credits granted to individual LEAP grantees to the dollar value of credits granted to individual program participants.
- (h) Other programs. In addition to the utility's low-income program, with Commission approval, a utility may offer other rate relief options to eligible households.
 - (I) Other programs offered by the utility under rule 3412 must be intended to reach low-income households that do not substantially benefit from the provisions of the low-income program. Such programs may take the form of discount rates, tiered discount rates or other direct bill relief methods where the low-income household benefitting from the program is granted a reasonable preference in tariffed rates assessed to all residential utility customers.
 - (II) Cost recovery for other programs combined with the Percentage of Income Payment Plan shall not exceed the maximum impact on residential rates described in subparagraph 3412(g)(II)(C).
- (i) Energy efficiency and weatherization.
 - (I) The utility shall provide all program participants with information on energy efficiency programs offered by the utility or other entities and existing weatherization programs offered by the state of Colorado or other entities.
 - (II) The utility shall provide the Colorado Energy Office with the name and service address of participant households for which annual electricity usage exceeds 10,000 kWh annually.
- (j) Stakeholder engagement. A utility shall conduct annual meetings with low-income stakeholders for the purpose of seeking solutions to issues of mutual concern and aligning program practices with the needs of customers and other stakeholders.
- (k) Program evaluation. A triennial evaluation of the program provisions under rule 3412 beginning in 2019 shall be undertaken in order to review best practices in similar low-income assistance programs in existence in other regulatory jurisdictions, as well as evaluate operation of each utility's program for effectiveness in achieving optimum support being provided to low income participants. The evaluation shall also recommend modifications if available that improve the delivery of benefits to participants and increase the efficiency and effectiveness of each program as they exist at the point of evaluation.
 - (I) Procurement of the third-party vendor that will perform the evaluation will be undertaken by the Colorado Energy Office. The CEO shall seek the involvement of interested stakeholders including, but not limited to, Commission staff, all Commission regulated electric and gas utilities, LEAP, the Office of Consumer Counsel, and Energy Outreach Colorado in the design of the requirements regarding study focus and final reporting.

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Helping Low-Income Utility Customers Manage Overdue Bills through Arrearage Management Programs (AMP)

September 2013

Charlie Harak
National Consumer Law Center®

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ABOUT THE AUTHOR

Charlie Harak is senior attorney on energy and utility issues at the National Consumer Law Center (NCLC), Inc. He represents consumers before regulatory agencies, legislative bodies, and other policy forums; provides legal and technical support to low-income advocates, legal services lawyers, and government officials; and leads workshops and training sessions for lawyers and advocates. He is the author of numerous publications, including *Utilities Advocacy for Low-income Households*, *Guide to the Rights of Utility Consumers*, *Up the Chimney: How HUD's Inaction Costs Taxpayers Millions and Drives Up Utility Bills for Low-Income Families*, and *Access to Utility Service* (co-author and editor). Mr. Harak is a member of the Massachusetts Energy Efficiency Advisory Council. He earned his B.A. from Cornell University and his J.D. from Northeastern University, and is admitted to the Massachusetts bar.

ACKNOWLEDGEMENTS

The views and conclusions presented in this report are those of the author alone.

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ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

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EXECUTIVE SUMMARY

Across the country, low-income customers struggle to pay their utility bills. Their incomes are simply too low to keep up with gas and electric bills. Fortunately, Massachusetts has one of the strongest panoplies of low-income programs and policies in the country to make sure low-income households can maintain critical utility services. These programs include protections against termination for the most vulnerable (elderly customers, households with someone seriously ill, or an infant under 12 months); a well-designed fuel assistance program that targets the highest payments to those with the lowest incomes and the most expensive heating sources; discounted utility rates for low-income customers; and Arrearage Management Programs (AMP programs or AMPs).

The Massachusetts AMP programs provide relief for low-income gas and electric utility customers who have significant past due amounts (arrears) on their utility bills. Each time an AMP participant makes a levelized monthly payment, the arrearage is reduced until it is completely eliminated. The AMP program is an important tool to respond to spiraling energy costs and the increasing numbers of utility customers who cannot afford to pay their bills, particularly when the customer gets behind and is asked to pay off both current charges and the arrears.

The AMP programs are a major success in Massachusetts. Customers avoid utility termination and can obtain a fresh start by making payments during the plan. Just as importantly, the customer enters into a cooperative relationship with the utility, increasing the likelihood that the customer makes whatever payments she can afford to make rather than ceasing to make payments altogether. Moreover, a positive relationship allows the utility to insure that the customer receives fuel assistance benefits, low-income discount rates, and energy efficiency services to which the customer is entitled. In some cases, the customer may also receive advice on budgeting, other public benefits, and financial management.

Other ratepayers and the utilities also benefit from the AMP program. The best available evidence is that AMPs have a positive impact on utility revenues—customers in the plan make higher payments than if they were not in the plan and continue to make higher payments even after completing the plan. The utility's costs to administer the AMP are offset by reduced collection and termination costs with these reduced costs leading to lower rates for all ratepayers. Perhaps the best evidence that AMP is good for utilities is the enthusiasm with which Massachusetts utilities — including high-ranking executives — embrace the program.

State agencies are also enthusiastic about the AMP program. It is in the state's interest to have fewer utility terminations. Beside the direct benefit of avoiding disconnection for some of its citizens, an AMP also helps the state avoid the indirect costs of utility terminations — increased fires as residents turn to other forms of heat, increased Medicaid expenses as disconnected customers become ill, and increased costs due to higher numbers of homeless and decreased school attendance.

This report details how the AMP program works in Massachusetts and how each stakeholder benefits. The report also examines some of the best practices in designing an AMP based upon the Massachusetts experience, including standards for income eligibility and guidelines for customer challenges (e.g. missed payments). The design issues will be relevant to those in Massachusetts interested in the development of an optimal program, and also to those in other states interested in implementing an AMP.

Whatever the specifics of a particular AMP design, the Massachusetts experience clearly establishes that the program is a success for all interested parties, should be continued, and should be expanded to as many eligible Massachusetts customers as possible. Those in other states should consider implementing a similar program to help low-income customers avoid utility termination. Massachusetts demonstrates that a properly designed program benefits not just low-income customers, but other ratepayers, the utilities, and the state.

Best Practices for Designing an Arrearage Management Program (AMP)

Following are key issues to consider when designing an AMP program based on the experience of representatives from utilities, advocacy groups, and state government in Massachusetts.

Should enrollment in an AMP be automatic or only if requested by the customer?

Massachusetts utility data show that automatic enrollments reach more customers but fewer of those participants complete the plan. Even those not completing their AMPs, however, receive benefits from the program. Moreover, certain families who will complete the program after automatic enrollment might never have gotten the chance from an opt-in system. On the other hand, those failing an AMP may never get another chance to enroll. If a utility does not use automatic enrollment, it should make every effort to reach out to its customers to encourage them to enroll, including information in multiple languages, as appropriate to its customer base.

What should be the income eligibility standards?

For ease of administration, Massachusetts AMP eligibility is set at 60% of the state median income (the same cut-off for fuel assistance eligibility and utility discount rates).

How much discretion should utilities have to design their own program?

The Massachusetts model provides limited flexibility so that each utility can design its own AMP program. Of course, standardization ensures that all customers in the state will be treated equally and have the same level of benefits, and state agency review of the program is also simplified. On the other hand, each service territory and service type (gas or electric) has distinct demographics and economic issues. Each utility may also have different computer software systems. Moreover, much can be said for allowing experimentation with different approaches in the early years of an AMP program. It is recommended that one standard name be used for all AMPs within a state to avoid confusion.

Should the customer’s level monthly payment be computed to incorporate the amount of fuel assistance payments?

Yes, utilities should use the best estimate of future likely payments. An alternative approach is to use the prior year’s fuel assistance amount. That level payment amount can then be adjusted once a more accurate fuel assistance number is available. Including expected fuel payments results in a lower, more affordable monthly payment for the customer.

How fast should the arrearage be forgiven if the customer makes payments?

Experience indicates that the faster the forgiveness, the more likely it is that the customer will complete the AMP and be motivated to make payments. Some utilities in Massachusetts with pilots with slower forgiveness have now switched to faster forgiveness for their programs.

Who should administer the program?

The Massachusetts utility companies screen and enroll customers in the AMPs. However, community action programs (CAPs) assist with education and enrollment as well as financial counseling during the AMP. The CAPs also enroll the customer for other public benefits, such as federal fuel assistance. If a customer is falling behind in an AMP, the CAP can play an important role in getting the customer caught up and back on the plan.

How should utility staff be trained?

Massachusetts utilities that experimented with training *only* the AMP specialists now train all customer service personnel about the program. While the utility’s first point of contact should be familiar with AMP, the customer could then be referred to a specialist who can more closely work with the customer to develop the AMP.

What is the role of discount rates and fuel assistance benefits in making monthly payments affordable?

Key to level monthly payments being affordable is the level of federal fuel assistance. (Anticipated fuel assistance receipts are subtracted from the estimated annual energy bill *before* computing the monthly payment amount.) A state or utility has no control over the level of federal fuel assistance funding, but the AMP will work best when this level is adequate. Other ways of reducing monthly payments are also critical, including placing the customer on an adequate low-income rate plan and providing energy efficiency or weatherization services.

What is the relationship of AMPs to a winter moratorium?

AMP payments should be made by the customer during a winter moratorium period. Otherwise, payments after the moratorium may be at an unaffordable level. Too often customers stop making AMP payments during the moratorium which results in their removal from the program. If a consumer makes no payments during the moratorium, it may be unaffordable to catch up on missed payments before the plan expires so that the customer never completes the plan. In many cases, utilities do not offer customers a second chance at a

new plan, so stopping payments during a moratorium can have serious consequences. Companies and low-income advocates should work together to provide customers support in keeping up with their payments.

Should a customer who misses a payment be allowed to remain in or re-enroll in an AMP?

If a customer misses one or two level payments, utilities will remove the customer from the program. All Massachusetts utilities will reinstate the customer if he/she can make up all past due AMP payments before the scheduled end of the plan. Experience indicates that even with low level payments, AMP participants will sometimes have difficulty making a particular month's payment. While it may be appropriate to remove a non-compliant customer from the program, there should be effective, flexible rules to reinstate that individual if the customer gets caught up on AMP payments. Massachusetts utilities offer this option and it is recommended that the ability to reinstate should be effectively communicated to the delinquent participant.

Should an AMP be offered to customers whose service has been disconnected?

AMPs should be available even to those who have been disconnected. Often disconnection is caused by an individual's inability to pay the same arrearage that an AMP plan will forgive. In Massachusetts, there are rules for consumers to reinstate their service while at the same time enrolling in an AMP. This makes sense if the rules for reinstating service are not too onerous on the customer.

Should a customer be allowed to enroll in an AMP a second time?

In Massachusetts, at the end of the AMP plan period—whether the individual completes the plan or not—the individual becomes ineligible to enroll in a future AMP if the individual again gets behind in payments. However, some Massachusetts utilities state that they will offer a second AMP in individual cases. The argument for allowing multiple AMP enrollments is straight-forward. Those in poverty are particularly vulnerable to unexpected events, such as an illness or loss of a job. Thus, even with all the learning experience of the first AMP, sometimes individuals simply need a second fresh start. The counter-argument is that the continued availability of an AMP will encourage customers to build up arrears knowing that they will be forgiven in a second AMP. Utility companies can use their discretion, aided by information from a CAP regarding a client's circumstances, as to whether to offer a second AMP.

I. Introduction

Across the country, low-income customers struggle to pay their utility bills. Their incomes are simply too low to keep up with gas and electric bills.¹ Fortunately, Massachusetts has one of the strongest panoplies of low-income programs and policies in the country to make sure low-income households can maintain critical utility services. These programs include protections against termination for the most vulnerable (elderly customers; households with someone seriously ill or an infant under 12 months); a well-designed fuel assistance program that targets the highest payments to those with the lowest incomes and the most expensive heating sources; discounted utility rates for low-income customers; and Arrearage Management Programs (AMP programs or AMPs).

Since 2008, all Massachusetts electric and gas utilities have offered their customers an AMP. An AMP is a financial assistance program for low-income customers with overdue utility bills. Similar, more limited programs are found in a few other states, but none are of the size and breadth of the Massachusetts program.

This report focuses on the Massachusetts AMP program. It examines how AMPs work, whether the AMP programs have been a success, and issues that should be considered in designing an AMP both in Massachusetts and in other states.

The Massachusetts AMP has won the enthusiastic support of the state's utilities, customers, state agencies, and organizations representing Massachusetts consumers. One audience for this report thus are those interested in replicating an AMP program in other states—utilities, community action agencies, policy makers, state agencies, and legislatures in other states. But the same groups in Massachusetts may find this report helpful because of the discussion of possible program changes to further its goals.

II. The Need for AMPs: Overwhelming Energy Burdens on Low-Income Customers

Hundreds of thousands of low-income Massachusetts households — largely comprised of the elderly, working poor, and families with young children — depend on state-run programs to help keep them warm in the winter and keep the lights on year-round. 200,000 low-income households received assistance in paying their heating bills under the FY 13 Low-Income Home Energy Assistance Program (LIHEAP).² Approximately 400,000 were on the discounted gas or electric utility rates in 2012.³ These numbers help to define just how many households are in need.

LIHEAP-eligible households are estimated to need 15% or more of their total annual income to keep up with their energy bills.⁴ Many of course cannot afford to do so. They frequently face

termination of their utility service. For example, one major electric utility terminated just under 19,000 electric accounts from March through September 2012.⁵ AMP programs provide an additional tool to help struggling low-income families, one that guarantees that service will not be terminated if the customer makes the agreed-upon monthly payments.

III. How AMPs Work

A. The Big Picture

Arrearage management programs (AMPs) offer a fresh start to low-income gas and electric customers who are behind on their utility payments. The utility forgives the arrearage if the customer consistently pays for new utility charges over a period of time (often one year; sometimes longer). As the customer makes regular, on-time payments on new utility charges, a portion of the arrears is forgiven. When all payments for new charges have been made over the length of the plan, the arrears is totally cancelled and the customer has a clean slate.

An AMP also puts tools at the customer's disposal to succeed at that fresh start when the plan concludes. These tools include low-income discount rates, fuel assistance, energy efficiency services, and level billing (in which the company estimates what the bills will be over the next 12 months and divides that amount by 12, so the customer is asked to pay the same, level amount each month). To the extent the customer uses these available tools, it is less likely that the company will have to engage in expensive collection actions or write off bad debt, which helps keep the utility rates down for all customers. The customer may receive financial counseling and budgeting assistance and help with applying for other public benefits. By making regular payments during the plan, the customer displays financial discipline and responsibility and develops good budgeting habits. As a result, when coming off the plan and not owing any arrears, the consumer is well situated to make regular payments on future utility charges.

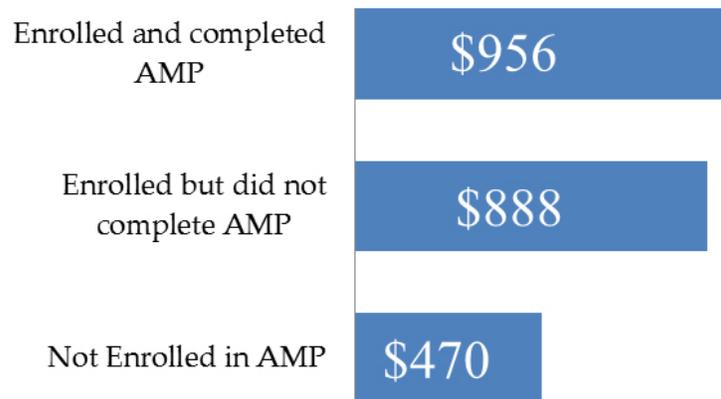
Another key feature of an AMP is that by offering the consumer a carrot of arrearage forgiveness instead of a stick of utility termination, the relationship between the utility and customer is fundamentally altered for the better. Under the traditional relationship, the utility threatens disconnection and asks the customer to make current payments and additional payments toward the arrears. The customer, whose financial problems have already shown that paying current charges is difficult, sees little hope in paying both new charges and catching up with the arrears. The customer thus sees the utility as the adversary, and may avoid the utility's attempts at communication. The utility's response may be additional warnings of disconnection, instigation of collection activities, and furthering the downward spiral between the parties.

An AMP changes this dynamic completely. Instead of threats of disconnection, the utility offers the customer a bonus for making affordable payments. Credit and collection managers at

each of the state’s utility companies are seeing that consumers respond positively to the AMPs and develop closer working relationships with the utility. With that relationship established, the utility can assist the consumers with their financial problems in a number of ways. It can insure the consumer is receiving low-income discount rates and fuel assistance, and is obtaining energy efficiency or weatherization services. The utility may even provide assistance in obtaining other public benefits, and help with budgeting and financial education.

AMPs are also good for other utility ratepayers, for the utilities, and for the state. Collection and termination costs and uncollectible debt may be reduced. A utility will typically recover a larger percentage of amounts billed from AMP participants than if those individuals were not in an AMP. Data for the one-year period ending October 31, 2012 provided by Columbia Gas of Massachusetts on a random sample of low-income customers shows that the “bill coverage ratio” (the percent of amounts billed that are actually paid by the customer) increased fully 50% when comparing low-income customers not on the AMP versus those who were on the AMP during the same 12 months. Low-income customers not on the AMP paid 44% of the amounts billed. Low-income customers who were on the AMP during the same period paid 67% of the amounts billed, on average. National Grid reports similarly favorable results (see chart below).

AMP Customers Paid More Toward Their Bills



Source: National Grid. Based on a review of 170 random electric accounts (100 low-income customers not enrolled in AMP; 50 customers who enrolled in AMP but failed to complete; and 20 who were in AMP and successfully completed the program). All customers had comparable annual bills (\$1,100 ± \$60).

These limited data from Columbia Gas and National Grid are consistent with one of the key underlying premises of AMPs: that by providing a way for low-income customers to address accumulated arrearages, those customers are more likely to engage in better payment behaviors. Going forward, after successfully completing the AMP, the customer will be in a better position to make regular payments. Higher revenues benefit other ratepayers and the utilities. The enthusiasm by which utilities have embraced the AMP programs is perhaps the best evidence that AMPs work for utilities and ratepayers, and not just for plan participants.

The state and its citizens also benefit from reduced utility terminations, which affect public safety, revenues, and the health of customers (especially the elderly and young children) in a number of ways. Utility disconnections can lead to homelessness, higher medical costs, unemployment, school absences, and even fires, as individuals use less safe forms of heat.

A seminal paper written in 1995 by a now-retired utility accounts manager provided a solid business case for utilities taking a more flexible approach to collecting from payment-challenged customers, and provided empirical evidence that this more flexible approach benefitted customer and company alike (see page 16).

The AMP programs are a major success in Massachusetts, as judged by the participating customers, the utilities, low-income advocates, and the state. But AMPs are not a cure-all. If new utility charges are unaffordable, the consumer cannot pay them no matter what incentives or financial education services are provided. Utility charges must be kept at an affordable level through adequate low-income discounts, energy efficiency and weatherization, and most importantly, by an adequate level of fuel assistance.

B. The Regulatory Background

In Massachusetts, gas or electric utilities are required to offer AMPs to their low-income customers within parameters set by state legislation and by the state department of public utilities (DPU). Chapter 140 of the Mass. Acts of 2005, § 17(a)⁶ requires that utilities develop AMPs in which they work with eligible low-income customers “to establish an affordable payment plan and provide credits to those customers toward the accumulated arrears where such customers comply with the terms of the program.” The legislation also required a DPU proceeding to develop AMP standards. Individual utilities file plans annually and the DPU approves those plans, with any necessary modifications.

On December 1, 2005, the DPU initiated an investigation relative to AMP standards, leading to a February 28, 2006 Order.⁷ The Order requires every gas and electric utility to offer an AMP to heating and non-heating customers. The customer must be offered an affordable payment plan with credits toward the arrearage for program compliance. Companies must coordinate their AMPs with the low-income weatherization and fuel assistance agencies and services within the company’s service territory. The utilities are allowed to recover all costs from the program as part of their rate filings.

The Order also set up the Best Practices Working Group on Low-Income Arrearage Management Plans (Best Practices Working Group). This group meets quarterly to evaluate the AMP program. The group consists of representatives of the state’s utilities, community action programs, National Consumer Law Center staff, DPU, and Office of the Attorney General.

On February 12, 2008, the DPU opened a separate investigation into expanding low-income consumer protections and assistance, including AMPs. A September 15, 2008 Order⁸ in that docket requires that all low-income customers who have an account in arrears be provided the opportunity to participate in an AMP. To implement this requirement, the Order requires each utility to administer its own AMP program. Until 2008, the local nonprofit CAPs ran smaller

One major advantage of an AMP is that the customer sees the arrearage balance decrease each month, and thus sees the incentive that accompanies each payment.

pilot AMPs in close cooperation with the utilities. The CAPs performed most of the intake and screening functions. After the initial pilot period, the CAPs and utilities agreed that the latter had far more resources at their disposal and were best suited to significantly expand what had been successful smaller programs.

The 2008 DPU order also requires that the utility enroll each AMP participant in its low-income discount rate program. The utility must also work with the participant to help the recipient receive fuel assistance and energy efficiency services as appropriate. The DPU order leaves additional AMP program specifics to the utilities themselves.

One issue that was left to the utilities is whether enrollment would be automatic or whether the consumer must affirmatively opt-in. The utilities also decide other terms, including how quickly arrearages are to be forgiven, the consequences of missing a payment, and whether a consumer can enroll in an AMP twice.

Utilities file annual reports with the DPU showing compliance with DPU orders and proposing any changes to the utility's AMP. The DPU has found that all utility AMP programs comply with DPU standards and the legislation.

C. The Specifics of Current Massachusetts AMPs (based upon 2012 utility company filings with the Department of Public Utilities, 12-AMP-01 through 12-AMP-07)

Eligibility. While each utility sets its own eligibility standards, typically the individual must be the customer of record, and have an arrearage of at least \$300 that is at least 60 days overdue. To be eligible, the individual's utility service cannot be disconnected, the individual (and not the landlord) must be obligated for the service, and the individual must agree to various program requirements.

The individual must also be low-income, defined as eligible for a means-tested public benefit from the state or eligible for the utility's low-income discount rate. Currently, in Massachusetts this means that the individual's income is 60% or less of the state median income.

While not a legal requirement, utilities also encourage enrollment only among customers who have some ability to make the monthly payments for current charges. Otherwise the customer will drop out of the program and may become ineligible for an AMP in the future.

Computing the Level Monthly Payment. Utilities compute a level monthly payment for the first year of the AMP, based upon 1/12th of estimated utility charges for that residence for the coming year. The estimated charges are based on anticipated usage and the low-income discount rate, not the standard rate. Anticipated fuel assistance payments are deducted from the annual charges before computing the monthly level payment.

Periodically, the utility will re-compute the expected annual charges, factoring in changes in prices, changes in the fuel assistance payment amount, and changes in the customer's usage. The level monthly charges that have already been assessed at the old level are deducted from this new annual amount. What remains is then divided by the remaining months in the plan to compute the new level monthly payment.

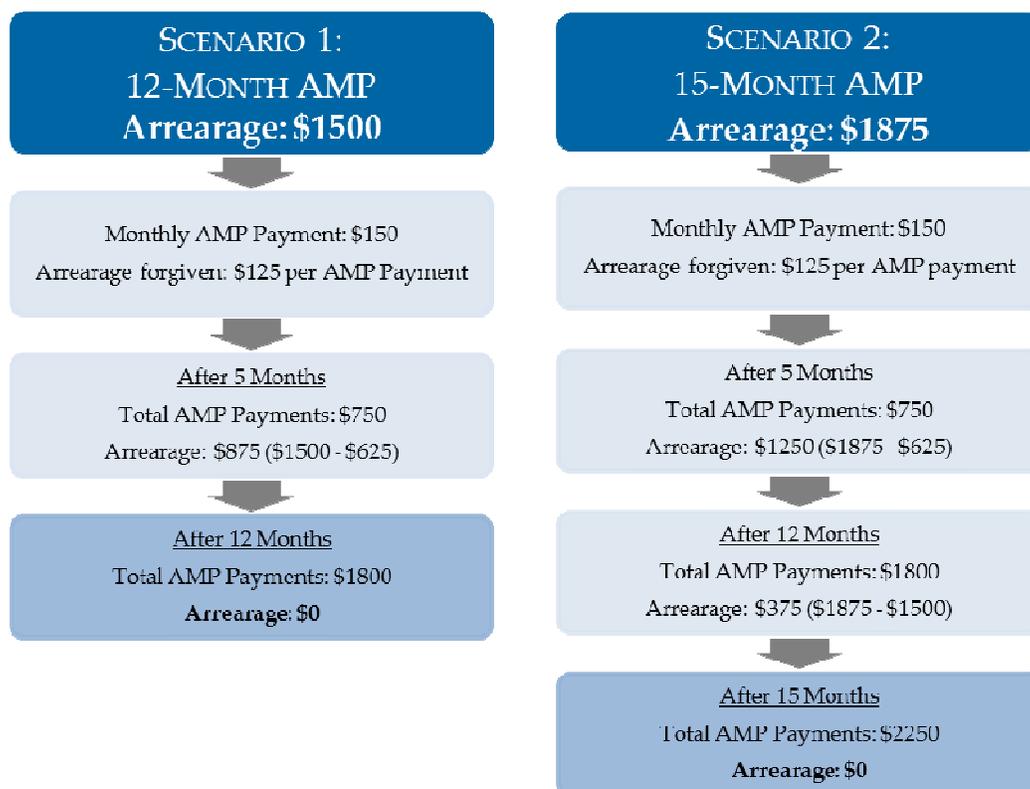
Computing the Arrearage to Be Forgiven. If the individual makes an AMP payment, a portion of the arrearage is forgiven. For example, National Grid will forgive as much as \$1500 of an arrearage during the first year of payments.⁹ For larger arrearages, the customer makes level payments for a specified number of months beyond a year to cancel the full arrearage (see two scenarios on next page).

Berkshire Gas Company has a similar plan to National Grid's, but will forgive an annual maximum of \$3000. Bay State Gas will forgive \$3600 in the first year.¹⁰ Unitil will forgive \$1200 in the first year for either electric or gas and \$2400 for both.¹¹ With all of these utilities and National Grid, if the arrears exceed the maximum, the AMP plan extends beyond a year to forgive the full arrears.

NSTAR has a somewhat different plan. If the arrearage is under \$1000, then \$100 in arrearage is forgiven with each month's level payment. If the arrearage is greater than \$1000, then \$200 is forgiven with each month's payment. Thus NSTAR allows cancellation of the full arrearage in less than a year if the arrearage is under \$2400. A \$1200 arrearage is forgiven after six monthly payments.¹²

WMECo (Western Massachusetts Electric Company) is even more generous, forgiving the full arrearage after one year of payments of current charges, no matter the size of the arrearage. In addition to arrearage forgiveness based on AMP payments, the utility also forgives 10% of the original arrears if the customer attends a money management workshop.¹³

How to Compute the Arrearage to Be Forgiven*



*Scenario 1 (12-month program): AMP level payments are \$150 a month [For example, the company estimates that the customer's usage over the next 12 months will be \$2,400; that the customer will be receiving \$600 in fuel assistance payments; and that the net amount due from the customer will be \$1,800: $\$1,800/12$ months = \$150/month]. Every month the customer makes a \$150 payment, then 1/12 of the arrearage is forgiven, or \$125 for \$1500. After making 5 payments of \$150, the consumer will see on his bill that the arrearage has shrunk by \$625 to \$875.

Scenario 2 (15-month program): If the arrearage starts off above the \$1500 maximum, the arrearage forgiveness takes longer. If the arrearage is \$1875, after one year of payments, \$1500 is forgiven (as in the previous example) and the arrearage shrinks to \$375. The consumer must remain on the plan for another 3 months to cancel out the last \$375 of arrearages.

Immediate Arrearage Reduction for the Customer. While the consumer is on the plan, there is no threatened utility disconnection or other collection efforts. Even if the consumer does not succeed in staying on the plan long enough to cancel the full arrearage, staying on the plan for part of the scheduled period still significantly reduces the consumer's arrearage. Any partial arrearage cancellation is permanent and not forfeited if the consumer goes off the plan.

Consumers see an immediate payback from making a payment, thus encouraging continued participation. The first payment and each succeeding payment automatically lead to arrearage forgiveness, even if the customer does not complete the plan. An early AMP version required

six on-time payments before the consumer would see any arrearage forgiveness. This did not provide an immediate payback and was less helpful to encourage consumer participation.

As one director of a fuel assistance program remarked:

“There was one change that was very, very helpful. When it first started, you [the customer] had to make six consecutive payments before it would show upon your bill which made it hard to focus. Now, you make a payment and you see it credited immediately.”

— Elizabeth Berube, director of fuel assistance, Citizens for Citizens, Inc., Fall River, MA (Oct. 18, 2011 interview).

Notifying the Customer about the Reduced Arrearage. One major advantage of an AMP is that the customer sees the arrearage balance decrease each month, and thus sees the incentive that accompanies each payment. As one utility customer service representative stated:

“It’s immediate satisfaction and tangible. I definitely think it is one reason the program is so successful.”

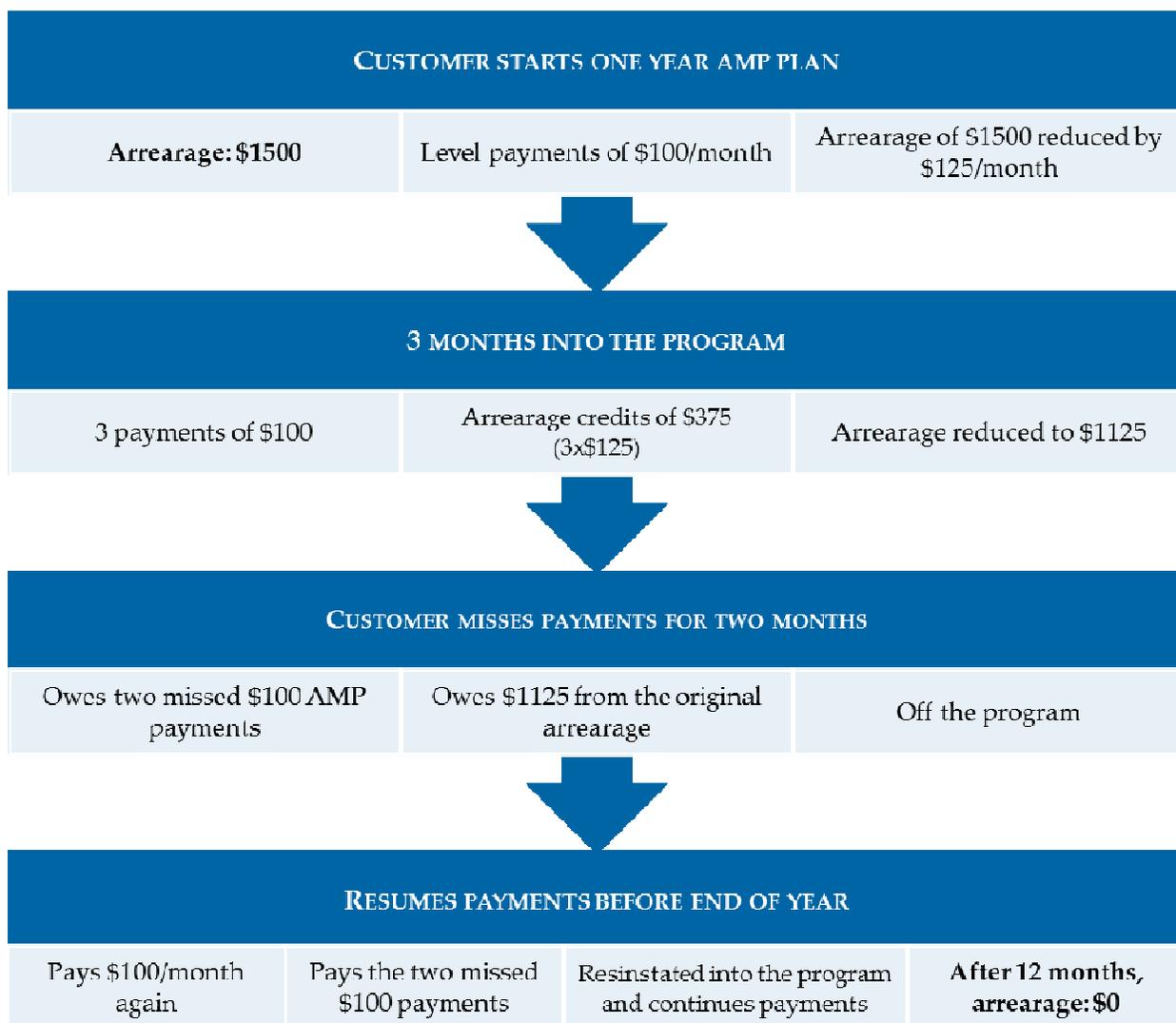
— Sue Corson, customer assistance programs administrator, Unitil (Oct 25, 2011 interview).

Since this incentive is a key motivator for plan participation, it is important for the utility to effectively communicate this arrearage reduction to the customer. Utilities notify customers of their arrearage reduction in different ways. NSTAR and National Grid include a statement of the arrearage size and how much that arrearage was reduced in the last month on the monthly bill. WMECo sends a letter each month thanking the customer for the payment and indicating how much the arrearage has been reduced. Unitil sends a letter and also places the information on the monthly bill.

Consequences of the Consumer Missing a Payment. If a consumer misses one or two level payments, utilities will remove the consumer from the program. Nevertheless, all Massachusetts utilities will reinstate the consumer if the consumer can make up all past due AMP payments before the scheduled end of the plan, as detailed in the following example on the next page.

Utilities have different standards as to how many times a plan can be reinstated before its scheduled end. Some utilities seem to have no limit as long as all plan payments are made before the plan’s scheduled termination. WMECo will reinstate a consumer only twice.¹⁴

Reinstating Customers on the AMP Track after Missed Payments



Multiple Enrollments. Massachusetts utilities generally have a rule that there is only one AMP plan available to a customer over a lifetime. The consumer cannot enroll in another AMP whether he or she completes the AMP or not. There are some exceptions to this rule. Most utilities allow customers who participated in early pilot AMPs to re-enroll in the utility's current AMP. If a utility offers both a gas and an electric AMP, the customer may be able to enroll in one after having enrolled in the other. In addition, several utilities state that they make exceptions to the rule in appropriate cases.

D. The Role of Community Action Programs (CAPs)

In Massachusetts there are more than 20 CAPs that often locally administer the state's fuel assistance and weatherization programs, and which often also offer housing and Head Start programs. In addition, each utility selects CAPs to deliver low-income energy efficiency services funded by the utility.

Under the mandate of the state law requiring utilities to offer AMPs, the Massachusetts AMPs began as pilot programs administered by several CAPs in cooperation with the utilities. During the first few years of the program, the CAPs notified consumers about the program, performed the initial intake, and placed the individuals on the program. However, the CAPs did not have the resources to expand the initial pilot programs to all eligible customers. Therefore, in 2008, the primary administration for the program was moved to the utilities; they now do the screening and enrollment.

Nevertheless, CAPs continue to play an important role in utilities' AMP programs. For example, CAPs educate consumers about the program. To a varying degree they also help customers enroll in the AMP program. After enrollment, they may offer financial counseling and support during the AMP. They also enroll the customer for fuel assistance, utility energy efficiency services, and weatherization, as well as helping the consumer sign up for other public benefits. If a customer is falling behind in an AMP, the CAP can play an important role in getting the customer caught up and back on the plan.

E. AMP Statistics

As of December 31, 2012, 17,300 Massachusetts gas and electric customers were enrolled in an AMP. Statistics from the four quarters of 2012 indicate that AMP participants made utility payments of \$17.8 million, and that \$15.9 million in arrears were forgiven. About 80% of these payments and forgiveness amounts were on electric accounts and the remaining 20% gas accounts.

F. Program History

In the mid-1990s, Brooklyn Union Gas (which later became part of Keyspan, and which is now part of National Grid) instituted an On-Track program, which bears some similarities to an AMP and is the "parent" of all of the subsequent AMPs in Massachusetts. On-Track came to Massachusetts in 2003 as a pilot program administered by Action, Inc. in Gloucester (a CAPs), and paid for by Keyspan; a Boston CAP (ABCD) was also an early administrator of an AMP pilot program. According to Joe Bodanza, a Keyspan senior vice president, who testified before the Massachusetts DPU:

“On-Track had already been operating successfully in New York State for seven years when Keyspan brought it to Massachusetts. The program premise was that by directing extra resources towards payment-troubled customers, not only those payment-troubled customers but also the company itself and all other ratepayers would stand to benefit. Reports on On-Track showed that customers in the program paid \$190 more annually toward their energy bills than they did prior to entering the program.¹⁵ On-Track had demonstrated that once customers entered the program, the company needed to make fewer collection-related visits and fewer service terminations, compared to the time before the customers entered the program.”¹⁶

Bodanza also testified that an On-Track type program was a good business proposition for the company:

“It is a good business proposition from the perspective of evaluating it on the basis that the participants show a history of paying their bills better than they had previous to their participation in the program. So there’s a good track record and shows in the fact that on average they’re paying \$190 more than they previously had.”¹⁷

Because Keyspan did not request that any costs of operating On-Track be included in its rates, the Massachusetts DPU did not need to formally approve or rule on the program. However, the DPU did note:

The On-Track program may likely enable the Company to lower its bad debt expense which, in the future, could benefit all ratepayers. Evidence indicates that a similar program has enjoyed some success in New York. The Department supports the implementation of the On-Track Program and, if managing payment and bad debt programs in this way is beneficial to all ratepayers, encourages all gas and electric distribution companies to explore the implementation of low-income programs similar to On-Track.

Key to the strategy in developing the AMP programs in Massachusetts was the initial use of relatively small pilot projects, to learn from the initial program design and make adjustments while expanding. AMPs grew slowly, administered first by two CAPs, then four and then six CAPs.¹⁸ Keyspan (now National Grid) and NSTAR utilities were early proponents of the current AMP programs. Now all Massachusetts utilities enthusiastically participate in the AMPs.

IV. All Parties Benefit from an AMP

A. Introduction

An AMP truly is a win-win situation for the various affected stakeholders: the customer, the utility, the average ratepayer, and the state’s citizens. Participating customers clearly are winners in that they can obtain a fresh start and are far better equipped to meet future utility charges. But everyone else also benefits from an AMP program. Utility ratepayers and utilities benefit from decreased collection costs and increased revenues, and receive other benefits from the program. Massachusetts and its citizens also benefit from decreased utility terminations that would otherwise have far-reaching adverse impacts.

While the following sections focus on the benefits that AMPs have recently yielded in Massachusetts, the theoretical underpinnings for alternative approaches to collecting utility debts from struggling customers can be found in “Win-Win Alternatives for Credit & Collections,” written by utility accounts manager Ron Grosse in 1995.¹⁹ The paper documents how working cooperatively with customers in arrears, rather than simply threatening termination, can reduce terminations, “burn-out” among employees involved in collections, and per-account cost of collections while producing “write-off” percentages comparable to, or even less than, industry averages. It describes an “innovative approach to customer service” that Wisconsin Public Service Corporation undertook in the 1980s, with the goal of reducing “the number of disconnections and at the same time producing good business results by limiting losses and arrears.”

Terminating service to low-income customers who do not have the ability to pay is a lose-lose situation for company and customer, and more flexible approaches to working with those customers yield favorable results for all affected parties.

The company succeeded at its goal, through an unusual route. Its effort began by employing a research firm to conduct a “lifestyle survey” of 200 customers in Green Bay. To the utility’s surprise, only 12% of “payment-troubled” customers were found to have adequate funds and ability to pay their bills on time. Just under half (47%) of the payment-troubled customers were simply too poor to pay their bills and 41% had the money to pay but were poor money managers who could not manage keeping up with their bills. Thus, 88% of the payment-troubled customers did not fit Wisconsin Public Service Corporation’s “preconceived picture” that these customers were simply “deadbeats” who only paid their bills if threatened with termination.

In fact, the company concluded that most of the payment-troubled customers had the desire to pay, but that the company needed to take a new approach to reduce its own collection costs and

minimize terminations that did not produce payments. Early intervention and personal contact were considered key to success.

In response, Wisconsin Public Service Corporation created a new position of Customer Assistance Advisor (CAA), employees considered full members of the credit and collections team. The CAAs were required to have a background in social work and their role was to help the customer access assistance programs and community resources. The Grosse paper notes that, until then, most utilities saw threatening termination as the only way to resolve accounts in arrears. Wisconsin Public Service concluded that this approach simply does not work with customers who don't have the means to pay:

Risk [of non-payment] is best avoided by not disconnecting service; and a commitment to pay the bill can generally be reached with the customer by showing that the Company has a genuine interest in helping the customer do whatever they can to assure continuity of service and at the same time avail themselves of whatever resources may be available.²⁰

The results? The company saw fewer terminations of service, less burnout among its employees, and a “significant reduction in the number of fraud cases” as customers no longer felt compelled to lie when applying for new service after a disconnection. After adopting its new approach, the company’s “write-offs as a percentage of revenues” remained below the industry average and disconnects per 1,000 customers were a small fraction of the industry average. In addition, the “cost of collection per account” was below the industry average because fewer terminations and other collections activities offset the cost of hiring the Customer Assistance Advisors.²¹

The Massachusetts AMPs are not exactly the same as the Wisconsin model. However, the key underlying theory, vindicated by the well-documented data from the Wisconsin program, is the same: terminating service to low-income customers who do not have the ability to pay is a lose-lose situation for company and customer, and more flexible approaches to working with those customers yield favorable results for all affected parties.

B. AMP Participants Are Big Winners

Clearly AMP participants are well-served by the program. By definition they are customers with significant overdue bills (arrearages) that can lead to utility disconnection. While participants remain on the AMP, they are safe from disconnection and other collection efforts, even if they have a large arrearage that has been overdue for some time.

Avoiding utility disconnection is thus the most immediate benefit from the program. Utility shut-offs are extremely serious for a household, with documented potential for homelessness, illness, eviction from public housing, retraction of subsidies for assisted housing, loss of employment, absences from school, and even increased likelihood of fires in the residence. A

utility disconnection can also stay on a consumer's credit rating for seven years and can affect not only applications for credit, but also for employment, housing, and insurance.

The AMP participant also benefits from the arrearage reductions themselves. With each payment, there is a corresponding decrease in the amount of the AMP participant's obligation to repay the arrears. If the customer stays on the plan, the arrearage is totally forgiven. Then he or she can begin again with no amount due. The future risk of disconnection is dramatically reduced. Even if the participant does not complete the plan, making just some monthly payments will permanently reduce the arrearage.

A reduction in the arrears can have other beneficial financial impacts for the family. Threatened by disconnection, a family not in an AMP program may turn to predatory lenders to stave off the utility termination, which will eventually lead to even worse financial pressures and possibly to foreclosure on a home. Similarly, a family on an AMP may not have to face as many trade-offs between keeping the heat and lights on or obtaining medical attention or food.²²

One of the most beneficial aspects of an AMP for a participant is the permanent change a plan can have on the customer's future utility payments. The AMP provides customers an opportunity to work with the utility customer service staff and the local CAP to take advantage of other potential programs and benefits.

Customers who don't open or rip up collection notices and don't answer collection calls because they believe they cannot possibly catch up on their bills may not realize that they are entitled to a number of benefits that will help them pay their utility bills. When a utility presents the AMP offer instead of threatening disconnection, the consumer is often highly responsive and in a position to learn about other ways to help pay utility bills. Sue Corson, customer assistance programs administrator for Unitil, stated that AMP "gives me another tool to get them into other programs. I tell them about fuel assistance and energy efficiency. I talk with them during the summer when the program isn't open and I make a note to call them when the fuel assistance season opens."²³

"I was so happy being on the plan that I could handle my other bills, my rent and grocery bills. ...I'm elated that I can pay my bills and not be behind. It's been years since I have had a cut-off notice."

— Participant, Columbia Gas Arrearage Management Program

Since AMP eligibility is the same as eligibility for low-income discount rates, when an eligible customer seeks AMP enrollment and is not yet on the discount rate, the utility simultaneously enrolls the customer for low-income discount rates. The utility's customer service department or the CAP may also help with budgeting and with other public benefits.

In fact, with the original On-Track program (the predecessor to AMP) social workers helped customers stay in their homes and apply for all eligible benefits, provided financial counseling,

and gave social services support. Massachusetts utilities do not employ social workers to work with AMP participants, but the utilities and the CAPs do offer similar services.

The following story, in which a customer who is a disabled adult on Supplemental Security Income (SSI) explains what the AMP program meant to her, demonstrates the value of this cooperative relationship. The customer explained that the utility's collection efforts were giving her panic attacks, and she was also very worried about disconnections because of her medical condition. All that changed when she went onto the AMP program.

“My balance during the winter months was over \$1,000. I had no where to turn and I was a wreck. Enter Virginia Anthony [of Columbia Gas] and the program. I was crying. She told me to calm down and about the plan and how it operates. It fit my budget. I was getting threatening letters, threatening to cut me off. I had panic attacks. I'm not a very emotional person. I have never in my life been cut off by utilities and this would have been a first and it was very scary. I have a medical condition and a daughter at home. I get cold very easily. ...

I was able to take my back payments down in one year. If it wasn't for that arrearage program I don't know what I would have done. I had no one to borrow from. I had used all my fuel assistance. I still had a staggering bill due. ...

I was so happy being on the plan that I could handle my other bills, my rent and grocery bills. ...I'm elated that I can pay my bills and not be behind. It's been years since I have had a cut-off notice. Virginia Anthony has been wonderful.... She's always patient and calm. Very informative and beyond. It's so nice to deal with one person and not have to make repeated calls and have to explain it over and over to different people.

You really have to be consistent with the plan to be successful. Don't take a chance. When the bill is due, just pay it. I had little respect for money but no more. I always pay on time. I budget much better. Groceries, everything is budgeted, my electric and phone is budgeted, everything. When I go into a department store, I put money in a separate pocket and that's all I spend. I was someone who wasn't disciplined with my bills and it's helped me to pay my other bills on time also. I learned my lesson the hard way. We're real people and we all have different personal and financial situations. I never want to have that panic attack again. I have a daughter at home and I'm teaching her responsibilities too. She's 17 and she will want to move out on her own and I'm teaching her the virtues and the values too. I have no regrets. When I go into that department store or get a package of cookies, if I can't afford it, I just don't get it. I'm scared straight. If I didn't have this program to give me a chance that would never have happened. I just don't know where I'd be now.”

According to Darlene Gallant, the community services director at Lynn Economic Opportunity, “When our clients become successful with anything, it's a big deal. It's an enormous, enormous boost to them. We've had people come back, who have said ‘now I'm in school. If I can get this one thing under control, life doesn't feel so chaotic.’”²⁵

“Paying my bills gives me a sense of dignity and integrity. It helped me to catch up on my bills which gave me a sense of financial freedom, dignity and self-respect. It also helped me to catch up on my other bills too.”²⁴

— Disabled former Marine,
AMP participant

Of course, not everyone who starts on an AMP completes it. If a consumer’s income, fuel assistance, and other support are not adequate to make regular monthly payments, an AMP plan cannot be seen through to completion. The consensus of Massachusetts utility companies is that even if the consumer doesn’t keep up with the entirety of the payments, the program can still be successful. Why? Because it helps minimize the number of terminations and reduces losses for a company.

And even where a participant cannot make all of the required plan payments, that person still benefits. The arrearage is still reduced, although not in full. The consumer is placed on a low-income discount rate plan,

signed up for the fuel assistance and energy efficiency programs, and receives individual counseling.

C. AMPs Are Good for Other Ratepayers

Utility rates for all customers are affected by a utility’s collection costs and bad debt. In setting rates, these costs are taken into consideration and the higher the costs, the higher the rates. AMP reduces collection costs, site visits, and other disconnection costs. While a participant is on AMP, there are no disconnection costs, there is no need for a site visit, and other forms of collection are unnecessary. These cost savings offset the AMP program’s administrative costs and the cost of writing off arrearages.

In addition, it appears that utilities collect more from customers when they are in an AMP program than if they are not in the program. For example, Virginia Anthony of Columbia Gas said, “This program [AMP] has helped us recover money that we otherwise would never have recovered.”²⁶ Data provided by Columbia Gas in December 2012 showed that low-income customers on the AMP pay a much higher percentage of the amounts billed during a 12-month period, when compared to a random sample of low-income customers not on the AMP: 67% versus 44%. New York’s On-Track program documented that once customers joined, they paid on average \$190 more towards their utility bill than before they enrolled.

By definition, AMP participants are low income and have fallen behind in their utility charges. It is likely that without intervention, they will continue to fall behind even more and certainly will find it difficult to keep current and also to make payments toward past bills.

As Eddie Swift, a supervisor at Northeast Utilities, noted:

“This money would definitely have been written off and we would have to report that to the DPU and then recoup that money from all of our ratepayers. This [AMP] program helps us avoid

having to pass along that in a form of a rate increase to all customers. The program is a win-win for everyone and we truly believe that.”²⁷

Utility companies generally are prohibited from terminating service to low-income customers during a winter moratorium, and customers not in an AMP who are living on the margin may even suspend all monthly payments. When customers do not pay during a moratorium period, they accumulate even larger arrearages that are impossible to repay, starting a new cycle of non-payment. By contrast, the AMP participant is required to make full, on-time payments on future charges. This requirement applies even during periods where there is a moratorium on disconnections.

“This money would definitely have been written off and we would have to report that to the DPU and then recoup that money from all of our ratepayers. This [AMP] program helps us avoid having to pass along that in a form of a rate increase to all customers.”

— Eddie Swift, supervisor
at Northeast Utilities

Thus, on an ongoing basis, AMP participants who stay on the plan even during a moratorium are likely to contribute more to utility revenues than if they were not in the program. This is certainly the case when compared to customers who only make minimal payments, but stay connected. Of course, some AMP participants do go off the program during a moratorium, limiting a program’s success to some extent.

Another advantage of an AMP is the likelihood that participants will continue to pay more after completing the program than they did before starting the program. Successful AMP participants learn the discipline of making on-time payments. AMPs also help place the individual with other appropriate assistance programs, all of which encourages the

customer to make utility payments. The New York On-Track program found that payments during the AMP year were about 10% higher than prior to that, and after the AMP year was completed, payments were still 5% higher than the experience prior to AMP.²⁸

Customers in arrears on their utility bills also have other debts and there will not be enough income for the consumer to make required payments on all bills. Utilities are competing for payment with other creditors. These other creditors hire debt collectors who try to convince the consumer to make a less important bill payment ahead of the utility payment. Consumers not on an AMP may pay off these other creditors ahead of the utility bill. Giving the AMP participant a financial incentive to make utility payments may be enough to restore the utility bill as a higher priority debt in the consumer’s mind.

When a customer is terminated for non-payment of an arrearage, the arrears are often never collected. Service may be put in another individual’s name and the original debtor may be judgment-proof. Or the consumer may file bankruptcy, wipe out the arrearage, and start

fresh—but not with all the advantages and tools that a year on the AMP program will provide the customer in making future payments. Thus, even in the long run, utility revenues may be higher by forgiving arrearages rather than pressing to have both current and back due amounts paid.

D. The Utilities Are Also Enthusiastic about AMPs

Perhaps the best evidence that the AMP program is good for the utilities themselves is the enthusiasm by which the utilities embrace the AMP program. AMP is not a program forced upon utilities. Instead, National GRID helped spearhead the concept and other utilities strongly support the AMP program. Interviews with utility representatives show not only enthusiasm for the program but a desire to introduce similar programs in other states where that utility also provides service.²⁹

Northeast Utilities Chief Customer Officer Penni McLean-Conner has experience across the range of utility low-income and energy efficiency programs. She has become a big fan of the Massachusetts AMPs:

“State government has to provide the policy framework for these programs and the reassurance to utilities that they will be successful. Ultimately, states create the mandate to run these programs. I give Massachusetts credit for the vision to make it happen here. When Massachusetts first proposed that utilities automatically enroll all income-eligible customers on AMPs, it was a bit frightening for the utilities. We were very passionate that we had to do productive outreach and that the program needed to communicate well with our customers. I admire the state for listening to us and creating a holistic program; we have a better program as a result. It was important that the state administration had the vision to say ‘this is important’ and to get all of the parties — utilities, CAPs, state agencies — together figuring out how to do it well.”

Other utility representatives are also pleased with the program. Virginia Anthony of Columbia Gas stated that “we really embraced the [AMP] program.”³⁰ And Northeast Utilities Supervisor Eddie Swift said that they would like to use the Massachusetts program in other states that they service.³¹

As a general rule, utilities do not like bad debt and prefer to minimize it as much as possible. AMP helps them do just that. AMPs also allow utilities to keep customers instead of losing them.

Another reason for utilities favoring AMP programs is that a utility would prefer to have good relations with its customers rather than adversarial ones. AMP is effective in accomplishing that goal. Instead of avoiding the utility, customers in arrears work with the company to solve the problem and think much better of the utility. Customer satisfaction with a utility increases with implementation of an AMP. For example, NSTAR’s Kathy Orrick stated, “our JD Power survey is way up. Our customers like us better and I believe this program [AMP] is part of it.”³²

In interviews, utility customer service staff consistently indicated how very enthusiastic they were about this change. “It’s wonderful.”³³ “It’s great!”³⁴ “They [customer service representatives] *love* the program.”³⁵ Customer service representatives “love, love, love it!”³⁶

Similarly, AMPS have fostered better relationships among utilities and low-income agencies that deliver fuel assistance and weatherization services. The AMP Best Practices Group brings advocates and utility representatives together to make things function best for the delinquent customer and other ratepayers. This cooperation has the potential for replication on other utility issues where cooperation works best rather than an adversarial process. As Elizabeth Berube, director of fuel assistance at Citizens for Citizens, Inc., in Fall River, noted, “We have a better bond with the utility companies because we meet quarterly. Before we never met with them and we only worked with them during a crisis.”³⁷

E. The State Wins

It is very much against a state’s interest to have any of its citizens lose their utility service. A utility disconnection often has disastrous consequences for the family being disconnected. Moreover, utility terminations have a number of serious adverse impacts on a state’s *other* citizens and on the state budget.

Utility terminations can lead to homelessness. Low-income tenants who live in public or subsidized housing face eviction if they do not maintain their utility service as this is a lease requirement. Homelessness increases public costs in terms of providing shelter and emergency services and also interferes with the ability of children to attend school. Utility terminations can also lead to serious medical problems, as a disproportionate share of low-income households have limited incomes precisely because they suffer from illness or disability.

Another impact of increased utility disconnections is an increase in residential fires as residents turn to other, unsafe forms of heat. Of course, fires have broad costs, not just to the unit’s residents, but also to adjoining property, insurance rates, firefighters, fire department budgets, and the surrounding community.

The Massachusetts state agency in charge of distributing LIHEAP fuel assistance benefits is a strong AMP supporter because AMPs lighten the burden for the state’s fuel assistance agency in dealing with emergency situations.

V. Designing an Optimum AMP Program

As a relatively new concept, AMPS are currently only in a few states. Only Massachusetts requires that all utilities participate in the program, yet the state allows individual utilities limited discretion in how they implement their AMP program.

As a result, the specifics of the optimal AMP program are still in development as utilities experiment with different approaches and as experience shows ways the program can be improved. The Massachusetts experience highlights a number of issues that any AMP program should consider.

A. Automatic Enrollment vs. Affirmative Opt-In

In Massachusetts most utilities require the customer to affirmatively opt-in to an AMP. Berkshire Gas automatically enrolls all eligible customers, but provides customers the right to opt out. NSTAR adopts a middle approach, whereby the consumer is automatically enrolled, but must contact NSTAR to confirm the enrollment. The utility sends a letter stating that the customer is eligible for the AMP and sets out the monthly payment amount that will be required to stay on the AMP. If the customer neither confirms the enrollment nor makes the first payment, the customer is not enrolled but can enroll at a later date.

As of May 31, 2013 (the most recent data available) WMECo has the highest percentage of its low-income rate customers enrolled in an AMP and Unitil has the second highest. National Grid, which does not offer automatic enrollment, is far behind with less than half the percentage achieved by WMECo and Unitil.

While there is much to be said for automatic enrollment, other utilities point out that successful participation in an AMP may depend on the individual's commitment to the program. Requiring an affirmative request to enroll identifies customers who are more likely to have that commitment. Moreover, by requiring customer participation before enrollment, the utility can discuss with the customer whether even current charges on a level payment plan are affordable. If they are not, it makes no sense automatically to put someone on an AMP who is bound to fail — particularly since this may prevent the individual from going on a second AMP in the future.

Thus, in the past, National Grid AMP participants (who must affirmatively opt-in) have had significantly better success rates than Berkshire Gas or NSTAR customers. Automatic enrollments provide more customers with an opportunity to enroll in an AMP, but fewer of those participants complete the plan. Should one spread out a wide net or cherry-pick participants?

The main reason to spread a wide net is that even those not completing their AMPs receive benefits from the program. Moreover, certain families who will complete the program after automatic enrollment might never have gotten the chance from an opt-in system. On the other hand, those failing an AMP may never get another chance to enroll.

Carol D. of Billerica, Massachusetts, is a good example as to why counting on the customer to opt-in has its drawbacks. She is a disabled, 71-year old retired widow. She received a letter from National Grid about the AMP program, and in her words:

“Actually National Grid sent me a letter regarding the program about a year before I spoke with [National Consumer Law Center attorney] Charlie Harak but I overlooked it because I didn’t understand it. I just glanced at the first letter and didn’t take the time to comprehend. I was upset with them [National Grid] because I had called them several times about getting put on a budget program and they’d say things like, “well you have to put \$2,400 down and pay \$600 every month plus your bill, and I said, “I just can’t do that.” The last time I called, was after National Grid brought me to court, and I’d been in and out of court for a year or so. They told me I had to pay \$4,500 and budget the \$4,500 I would still owe. I couldn’t afford to pay them \$4,500. I was just so upset. I wanted my day in court. Charlie Harak’s name was given to me by our senior citizen’s center and so I called him. Charlie mentioned it [the AMP program] and it came as an electric shock. I then researched it and I went back in my papers and found the sheet I received from NSTAR and I called them. They gave me an opportunity and I took it. I didn’t think I would qualify because my balance was enormous. It came as a shock when I was approved.”³⁸

All indications are that she will be able to stay on the program. But it took the intervention of a consumer advocate to explain the program. Many other deserving customers will not be so lucky. Merely sending a letter notifying customers of the AMP program is not adequate. Carol stated that “When a person has such a problem and such a high balance, they should be sent more than that letter. National Grid should have followed up with a phone call to see if I received the letter and to make sure I understood it. I absolutely would have been very open to speaking with them, even though I was upset with them.”³⁹

Certainly, if a utility does not use automatic enrollment, it should make every effort to reach out to its customers to encourage them to enroll. For example, notices about the availability of an AMP should be in more than one language, particularly in areas where Spanish or some other language is prevalent. For example, Spanish is the largest second language in central Massachusetts and Unitil sends Spanish translations of information about the AMP program.

B. Income Eligibility

Massachusetts AMP eligibility is set at 60% of the state median income, the same cut-off for fuel assistance eligibility and utility discount rates. This makes it easier to enroll households and provide them with a fuller range of services.

C. Should All Utilities Follow the Same Standards?

The Massachusetts model is interesting in that it provides some limited flexibility so that each utility can design certain aspects of its own AMP program. Of course, there is much to be said for standardization, including the fact that all customers in the state will be treated equally and have the same level of benefits. State agency review of the program is also simplified.

On the other hand, each service territory and service type (gas or electric) has distinct demographics and economic issues. Each utility may also have different computer software systems. Moreover, much can be said for allowing experimentation with different approaches in the early years of the AMP program.

One area that would seem ripe for standardization is the name the utility gives to its AMP program. Currently, each utility chooses the name for its AMP program. While National Grid calls its program an AMP, NSTAR refers to it as an AFP (arrearage forgiveness plan). Berkshire Gas names its program a RAMP (residential arrearage management program). WMECo calls its AMP program NuStart.⁴⁰

The ability to communicate state-wide to customers about the availability of an AMP program would certainly be improved if there was just one name for the program. On the other hand, such re-branding would cause some initial confusion for utilities that must rename their programs.

D. Computing the Level Monthly Payment

At least two issues are important in computing the level monthly payment. One is estimating the annual fuel assistance benefit that should be deducted from the estimated annual charges and the other is the frequency of re-computing the payment.

Estimating the Annual Fuel Assistance Benefit

This is not a problem if the AMP year begins after that benefit has been determined for the year. Often though the utility must estimate what the benefit will be for the coming year before that amount is determined.

Utilities typically use one of three methods to compute the forthcoming fuel assistance benefit.

- 1) Make the best possible estimate based on what is known about Congressional appropriations and other factors.
- 2) Use the prior year's fuel assistance benefit level.
- 3) Do not deduct for fuel assistance benefits at all because they are unknown.

Clearly the third option is not reasonable because it is estimating zero dollars where there is a high degree of certainty that the benefit will be significantly higher. Later, when the level payment amount is adjusted to reflect the actual fuel assistance payment, the monthly payment will drop dramatically. This means that the initial payments were too high, which is exactly the wrong thing to do when one is encouraging those with troubled payment histories to start making on-time payments.

The first option (using the best estimate of future payments) is likely to be the most accurate as long as it based on up-to-date information. Where it is not possible to make a future estimate, an alternative is to use the prior year's fuel assistance amount. That level payment amount can be adjusted once a more accurate fuel assistance number is available.

Frequency of Re-computing Payment

The other issue concerning the level monthly payment is how frequently it should be re-computed, based on changes in utility rates, utility usage, and the level of fuel assistance benefits. Considerations arguing against frequent re-computation are possible confusion to the customer as to the level payment (although this will be specified in the monthly bill) and the additional administrative burden to the utility.

These costs are outweighed by the benefits of re-calculating monthly payment levels every three to six months. Waiting too long can significantly reduce the chances of a successful AMP plan.

Where the annual charge increases from that first estimated payment, and the utility waits too long to re-calculate the remaining payments, then those remaining payments can be dramatically higher than what the customer was accustomed to paying, and may be unaffordable. Where the annual charge instead decreases from the first estimate, waiting too long saddles the customer with too high a monthly payment for the early part of the plan. The customer may default because of the size of those payments, where an early re-calculation could have kept the consumer on the AMP.

E. How Fast Should the Arrearage Be Paid Off?

Massachusetts utilities use different formulas to determine how fast an arrearage can be retired. Some utilities only allow \$1500 to be forgiven in the first year, while others allow as much as \$3600, or forgive the full arrearage no matter its size. While NSTAR forgives only a maximum of \$2400 in the first year, its AMP allows complete forgiveness in less than a year. For example, a \$1200 arrearage can be forgiven in six months and \$400 can be forgiven in 4 months.

Experience indicates that the faster the forgiveness, the more likely it is that the consumer will complete the AMP. Not only does the consumer have to be on the AMP for a shorter period of time, but the "light at the end of the tunnel" is that much brighter even in the early months. The ability to obtain a fresh start is much more immediate, motivating the consumer to make payments.

Thus WMECo allows its Massachusetts customers to retire the arrearage in one year while its sister Connecticut Light & Power requires three years. The Massachusetts success rate is more than double that of the Connecticut plan. This is consistent with what utilities found in their original pilot AMPs where the arrearage was paid off over a longer period. The program works better when the forgiveness works faster, and some utilities with pilots with slower forgiveness have now switched to faster forgiveness for their programs.

F. Training and Composition of Utility Customer Service Staff

Utilities in Massachusetts take the sensible position that even if there are specialists who only work on the AMP program all customer service personnel must be trained on the AMP. Utilities that experimented with training only the AMP specialists recognized the weakness of that approach and now train all customer service personnel about the AMP program.

It is important that whomever a customer contacts at a utility, and whatever the nature of the discussion about payment, that the customer service representative know and understand about the AMP program and bring this option into the discussion if the client is eligible. This is particularly important where a utility does not automatically enroll all AMP-eligible customers. While the utility's first point of contact should be familiar with AMP, the customer should then be referred to a specialist who can closely work with the customer to develop the AMP and assist with other important social service needs.

G. Level Billing Payments Must Be Affordable

AMP is a successful program where the level monthly payments are affordable for the customer. It does little good to offer arrearage forgiveness on the condition that a customer make monthly payments that are financially impossible for that customer to make. The whole point of AMP is to offer the low-income customer a realistic payment option that rewards regular, on-time customer payments with arrearage forgiveness.

Key to level monthly payments being affordable is the level of federal fuel assistance. (Anticipated fuel assistance receipts are subtracted from the estimated annual energy bill before computing the monthly payment amount.) A state or utility has no control over the level of federal fuel assistance funding, but there must be a recognition that AMP will work best when this level is adequate. Other ways of reducing monthly payments are also critical, including placing the customer on an adequate low-income rate plan and providing energy efficiency or weatherization services.

H. Relationship to a Winter Moratorium

AMP payments should be made by the customer during a winter moratorium period. Otherwise, payments after the moratorium may be at an unaffordable level. Too often customers stop making AMP payments during the moratorium which results in their removal

from the program. If a consumer makes no payments during the moratorium, it may be unaffordable for the consumer to catch up on missed payments before the plan expires, so that the consumer never completes the plan. In many cases, utilities do not offer consumers a second chance at a new plan, so stopping payments during a moratorium can have serious consequences. Companies and low-income advocates should work together to provide customers support in keeping up with their payments.

I. Critical Importance of the Ability to Reinstate an AMP

Experience indicates that even with low level payments, AMP participants will sometimes still have difficulty making a particular month's payment. While it may be appropriate to remove a customer from the program if the customer is not participating, there should be effective, flexible rules to reinstate that individual if the customer gets caught up on AMP payments. Presently Massachusetts utilities offer this ability to reinstate and it should be effectively communicated to the delinquent participant. The utility should reinstate participants who catch up on their payments.

J. Should an AMP Be Offered to Customers Even After Their Utility Service Is Disconnected?

Presently, customers whose utility has already been disconnected are ineligible for the typical Massachusetts utility's AMP. This creates the anomalous situation in that a person can enroll in an AMP one day before a disconnection is planned but not one day after. In Massachusetts this anomaly is resolved by establishing rules for consumers to reinstate their service while at the same time enrolling in an AMP program. This makes sense as long as the rules for reinstating service are not too onerous on the customer.

The serious implications of utility disconnection for not only the customer but for the state in general were previously noted. Offering an AMP and reconnection to these customers is one way to dramatically decrease the impact of such disconnections.

Those just disconnected may be as viable candidates for an AMP as those with large arrearages. Often disconnection is caused by an individual's inability to pay the same arrearage that an AMP plan will forgive. Those disconnected have the right to file bankruptcy, wipe out the arrearage, and get service re-connected. Using an AMP to accomplish the same result has the advantage of forcing the consumer to earn the arrearage forgiveness through on-time payments.

K. Should an Individual Be Allowed to Enroll in an AMP a Second Time?

In general, Massachusetts utilities only allow an individual to enroll in an AMP once. If the person misses AMP payments, there are options for reinstatement. But at the end of the AMP plan period—whether the individual completes the plan or not—the individual becomes ineligible to enroll in a future AMP if the individual again gets behind in payments.

The argument for allowing multiple AMP enrollments is straight-forward. If AMP is a good thing for everyone once, it can also be a good thing for everyone a second time. Those in poverty are particularly vulnerable to unexpected events, such as an illness, a large automobile repair bill where the vehicle is essential to get to work, loss of a job or benefits, a marital separation, etc. A customer with the best intentions can still get behind in utility payments a second time. Thus even with all the learning experience of the first AMP, sometimes individuals simply need a second fresh start.

The counter-argument is that the continued availability of AMP will encourage customers to build up arrears knowing that they will be forgiven in a second AMP. This problem can be avoided if the utility uses its discretion as to whether to offer a second AMP—instead of automatically ruling it out or automatically allowing it. This decision can be aided by information from a CAP or other agency working with the client as to the individual’s special circumstances arguing for the customer being enrolled in an AMP a second time.

It is likely that the main reason for existing Massachusetts utility policies limiting a second AMP is that the program is new enough not to present any actual cases where a deserving person needs a second AMP. Some Massachusetts utilities state that they will offer a second AMP in individual cases.

VI. Conclusion

The Massachusetts AMP program is a major success and worthy of implementation in other states. The program provides numerous benefits for low-income customers with serious arrearages, with no measurable negative impact on the utilities or other ratepayers. The utilities themselves are very enthusiastic about the program, and other indirect benefits also accrue to the state. Careful consideration to program design can lead to even greater success, but as presently implemented, the Massachusetts program is working well.

ENDNOTES

- ¹ See “The Burden of FY 08 Residential Energy Bills on Low-Income Consumers,” Economic Opportunity Studies (Mar. 2008).
- ² Source: Massachusetts Department of Housing and Community Development, oral reports to the LIHEAP Advisory Group.
- ³ Data compiled by Theo MacGregor from monthly utility reports.
- ⁴ See “The Burden of FY 08 Residential Energy Bills on Low-Income Consumers,” Economic Opportunity Studies (Mar. 2008), the most recent data available.
- ⁵ Source: Credit Reports to the Massachusetts Department of Public Utilities.
- ⁶ The full text of the can be found here:
<http://www.malegislature.gov/Laws/SessionLaws/Acts/2005/Chapter140>
- ⁷ See Order Establishing Standards for Arrearage Management Programs for Low-Income Customers, D.T.E. 05-86 (Feb. 28, 2006).
- ⁸ Order Expanding Low-Income Consumer Protections and Assistance, DPU 08-4 (Sept. 15, 2008).
- ⁹ D.P.U. 12-AMP-05, “National Grid’s Arrearage Management Program” (Feb. 23, 2012), p. 2.
- ¹⁰ D.P.U. 12-AMP-02, “The Berkshire Gas Company Residential Arrearage Management Program” (Feb. 29, 2012), p. 2.
- ¹¹ D.P.U. 12-AMP-04, “Unitil Arrearage Management Program” (Feb. 28, 2012), p. 1.
- ¹² D.P.U. 12-AMP-07, “NSTAR Arrearage Forgiveness Program” (Mar. 1, 2012)
- ¹³ D.P.U. 12-AMP-08, “Western Massachusetts Company – NUStart Arrearage Management Program” (Mar. 1, 2012).
- ¹⁴ Note, however, that “exceptions may be made to the general rules.” D.P.U. 12-AMP-08, “Western Massachusetts Company – NUStart Arrearage Management Program” (Mar. 1, 2012), p. 4. Many of the companies in practice display more flexibility than their written plans allow for reinstatement, especially if the customer has a good explanation for why payments were missed (e.g., household member lost a job; illness interfered with work).
- ¹⁵ Testimony of Senior Vice President for Regulatory Affairs and Chief Financial Officer Joseph F. Bodanza, p. 15, in *Boston Gas Company d/b/a Keyspan Energy Delivery New England*, DPU 03-40 (Apr. 16, 2003)
- ¹⁶ *Boston Gas Company*, DPU 03-40, Trans. 12, pp. 1500 – 1501.
- ¹⁷ Bodanza testimony, DPU 03-40, Trans. 12, pp. 1516 – 1517.
- ¹⁸ Interview with Theo MacGregor, MacGregor Energy Consultants (Nov. 14, 2011).
- ¹⁹ A revised version of the paper was written by Grosse and Nancy Brockway, then the director of Multi-Utility Research and Analysis for the National Regulatory Research Institute.
- ²⁰ Ron Grosse, “Win-Win Alternatives for Credit & Collections” (2008 rev.), p. 10.
- ²¹ Evaluations of other low-income customer assistance programs – including Arrearage Management programs, Percentage of Income Payment Programs (PIPPs), discount rate programs, etc. – show mixed results in terms of avoiding terminations, reducing arrearages and changing customer payment patterns. For example, a 2012 Apprise study, “PECO Energy Universal Services Program, Final Evaluation Report” found no meaningful change in service terminations following enrollment of customers on the program, although a 2007 PA Consulting Group report on Maryland programs (“Electric Universal Service Program Evaluation Report”) found fewer disconnects after participation. As for arrearages, the 2012 Apprise study, program found that program participants reduced their arrearages by \$200, but a 2009 report by Roger Colton of an Indiana program (“An Outcome Evaluation of Indiana’s Low-Income Rate Affordability Programs: 2008”) found no significant change in arrearages.

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- ²² There is a reverse correlation between the adequacy of funds available to a low-income household to pay energy and utility bills, and under-nutrition in the household. See Deborah A. Frank, Nicole B. Neualt et al. *Pediatrics*, Vol. 118, No. 5, pp. 1293 – 1302 (Nov. 1, 2006) (“Living in a household receiving the Low-income Home energy Assistance Program is associated with less anthropometric evidence of undernutrition”).
- ²³ Interview with Susan Corson, Customer Assistance Programs Administrator, Unitil (Oct. 25, 2011).
- ²⁴ Interview with D. D. of Randolph, Mass. (Oct. 26, 2011).
- ²⁵ Interview with Darlene Gallant, Community Services Director, Lynn Economic Opportunity, (Oct. 17, 2011).
- ²⁶ Interview with Virginia Anthony, Manager of Consumer Relations, Columbia Gas of Massachusetts (Oct. 20, 2011).
- ²⁷ Interview with Eddie Swift, Supervisor for Special Assistance Team, Northeast Utilities (Oct. 27, 2011).
- ²⁸ Keyspan, On Track Program Evaluation, 1999-2000, submitted by Boston Gas Company in DTE 03-40 (June 13, 2003).
- ²⁹ Interview with Susan Corson, Customer Assistance Programs Administrator, Unitil (Oct 25, 2011).
- ³⁰ Interview with Virginia Anthony, Manager of Consumer Relations, Columbia Gas of Massachusetts (Oct. 20, 2011).
- ³¹ Interview with Eddie Swift, Supervisor for Special Assistance Team, Northeast Utilities (Oct. 27, 2011).
- ³² Interview with Kathleen Orrick, Manager of Low-income Programs at NSTAR (Oct. 18, 2011).
- ³³ Interview with Kathleen Orrick, Manager of Low-income Programs at NSTAR (Oct. 18, 2011).
- ³⁴ Interview with Susan Corson, Customer Assistance Programs, Administrator for Unitil (Oct. 25, 2011).
- ³⁵ Interview with Teresa Jackman, Senior Customer Servicer Consultant, Northeast Utilities (Oct. 27, 2011).
- ³⁶ Interview with Susan Corson, Customer Assistance Programs Administrator, Unitil (Oct. 25, 2011).
- ³⁷ Interview with Elizabeth Berube, Director of Fuel Assistance, Citizens for Citizens, Inc., Fall River, Mass. (Oct. 18, 2011).
- ³⁸ Interview with Carol D. of Billerica (October 17, 2011).
- ³⁹ *Id.*
- ⁴⁰ WMECo’s program was first launched by its parent company, Northeast Utilities, or “NU,” hence “NuStart.”

Boston Headquarters:
7 Winthrop Square
Boston, MA 02110-1245
Phone: 617/542-8010
Fax: 617/542-8028
www.nclc.org

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Washington Office:
1001 Connecticut Ave, NW
Suite 510
Washington, DC, 20036
Phone: 202/452-6252
Fax: 202/463-9462



Eversource Massachusetts Comprehensive Bill
Payment Assistance:
Discounted Current Bills and Arrearage
Management

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The Programs

Eversource in Massachusetts provides tariffed, *discounted rates* for income-eligible customers in its Eastern Massachusetts and Western Massachusetts service areas. The rates, referred to as the “R-2 Residential Assistance Rate” and the “R-4 Residential Assistance Space Heating Rate,” provide a 36% reduction on the total monthly bills (both delivery charges and energy supply) of participating customers with household income at or below 60% of the State Median Income (SMI).

In 2018, 10.3%, or an average of 126,000 of Eversource’s 1,230,000 Massachusetts residential electric service customers, received service under the R-2 or R-4 rate.¹ While this participation rate is considerably lower than the percentage of households with income below 60% of the state median, it is important to bear in mind that many income-eligible households are not customers of the utility (e.g., students in dorms, master-metered subsidized housing residents, nursing home residents, etc.) and are therefore ineligible to participate.

Eversource’s *Arrearage Management Program* (AMP) provides an opportunity for customers participating in one of the discount rates to retire arrearage balances through making 12 timely payments on discounted bills. AMP participation rates are very low. In the legacy WMECo service area, the January 2019 AMP participation rate was 3.5% of discount rate customers. For the NSTAR area it was 1.2%. The participation rate in the WMECo area has increased somewhat since January 2019 but remains very low.

Program Funding

The Eversource MA discounts and AMP are funded through a volumetric assessment on the distribution portion of the bills of all customers in all customer classes. The assessment is referred to as the “Residential Assistance Adjustment Factor” (RAAF). Eversource projects that in 2020 combined service area electric discount rate and AMP costs – including program administration and short-term capital – will be about \$69.4M.² The Company projects that in

¹ Eversource 2018 FERC Form 1, p. 304.

² Direct Testimony and Exhibits of Mary Quan, D.P.U. 19-122, Exhibit ES-MQ-1, p. 1.

2020, 88.4% of RAAF proceeds will be devoted to offsetting costs associated with discounted rates and 11.6% to costs associated with the AMP.³

The RAAF revenue requirement is allocated among customer classes according to a DPU-approved “distribution revenue allocator.”⁴ The volumetric RAAF assessment varies among rate and customer classes. The table below reflects a sampling of estimated RAAF bill impacts among a sampling of Eversource electric service customer and rate classes.

Rate Schedule	MWH Sales	Avg # Customers	kWh Sales per Customer	RAAF Assessment	Annual Bill Impact	Monthly Bill Impact
Residential (Account 440)						
R-1 Residential	6,408,282	1,009,426	6,348	\$ 0.00481	\$ 30.54	\$ 2.54
R-2 Residential Assistance	734,459	119,048	6,169	\$ 0.00481	\$ 29.67	\$ 2.47
R-3 Res. Space Heating	885,614	90,398	9,797	\$ 0.00383	\$ 37.52	\$ 3.13
R-4 Res. Space Heating Assist.	89,160	7,195	12,392	\$ 0.00383	\$ 47.46	\$ 3.96
Commercial (Account 442)						
<i>Greater Boston</i>						
G-1 General Service	524266	74325	7054	\$ 0.00554	\$ 39.08	\$ 3.26
G-2 General Service	2594552	28703	90393	\$ 0.00346	\$ 312.76	\$ 26.06
G-3 General Service TOU	2305084	348	6623805	\$ 0.00209	\$ 13,843.75	\$ 1,153.65
T-1 Optional Time of Use	1426	201	7095	\$ 0.00554	\$ 39.30	\$ 3.28
T-2 Time of Use	3878999	3023	1283162	\$ 0.00346	\$ 4,439.74	\$ 369.98
<i>Cambridge</i>						
G-0 General (Non-Demand)	37937	5278	7188	\$ 0.00291	\$ 20.92	\$ 1.74
G-1 General	204838	2000	102419	\$ 0.00291	\$ 298.04	\$ 24.84
G-2 Lg. Gen. TOU/Second Serv	569236	461	1234785	\$ 0.00198	\$ 2,444.87	\$ 203.74
G-3 Lg. Gen. TOU/13.8KV Serv	479945	72	6665903	\$ 0.00110	\$ 7,332.49	\$ 611.04
G-4 Optional General TOU	5008	36	139111	\$ 0.00191	\$ 265.70	\$ 22.14
G-5 Commercial Space Heating	6655	57	116754	\$ 0.00221	\$ 258.03	\$ 21.50
SB-1 Standby Service	27788	1	27788000	\$ 0.00110	\$ 30,566.80	\$ 2,547.23
SB-G3 Gen. Service Standby	33514	1	33514000	\$ 0.00110	\$ 36,865.40	\$ 3,072.12
<i>West</i>						
T-2 Large Primary Service TOU	431944	158	2733823	\$ 0.00244	\$ 6,670.53	\$ 555.88
T-4 Primary General Service TOU	7094	12	591167	\$ 0.00244	\$ 1,442.45	\$ 120.20
T-5 Extra Lg. Primary Service TOU	179137	9	19904111	\$ 0.00098	\$ 19,506.03	\$ 1,625.50
G-0 Small General Service	537082	17249	31137	\$ 0.00369	\$ 114.90	\$ 9.57
G-2 Primary General Service	274500	747	367470	\$ 0.00244	\$ 896.63	\$ 74.72
Industrial (Account 442)						
<i>All Service Areas</i>						
S-1 Street Lighting	1424	185	7697	\$ 0.00311	\$ 23.94	\$ 1.99
<i>Greater Boston</i>						
G-1 General Service	1434	154	9312	\$ 0.00554	\$ 51.59	\$ 4.30

³ Calculated using Direct Testimony and Exhibits of Mary Quan, D.P.U. 19-122, Exhibit ES-MQ-1, p. 3.

⁴ Direct Testimony of Mary Quan, D.P.U. 19-122, p. 13.

G-2 General Service	46361	485	95590	\$ 0.00346	\$ 330.74	\$ 27.56
G-3 General Service TOU	655189	114	5747272	\$ 0.00209	\$ 12,011.80	\$ 1,000.98
T-2 Time of Use	114112	120	950933	\$ 0.00209	\$ 1,987.45	\$ 165.62
<i>West</i>						
T-0 Small General Service TOU	117	2	58500	\$ 0.00369	\$ 215.87	\$ 17.99
T-2 Large Primary Service TOU	265753	71	3743000	\$ 0.00173	\$ 6,475.39	\$ 539.62
T-4 Primary General Service TOU	1528	5	305600	\$ 0.00244	\$ 745.66	\$ 62.14
T-5 Extra Lg. Primary Service TOU	260943	6	43490500	\$ 0.00098	\$ 42,620.69	\$ 3,551.72
G-0 Small General Service	25060	393	63766	\$ 0.00369	\$ 235.30	\$ 19.61
G-2 Primary General Service	55805	157	355446	\$ 0.00364	\$ 1,293.82	\$ 107.82

NCLC estimated RAAF bill impacts using class-specific assessments as proposed by Eversource in D.P.U. 19-122 and usage as reported by the Company in the 2018 FERC Form 1. In general, high-average-usage rate classes receive lower RAAF assessments than lower-average-usage classes. For example, a T-5 Extra-Large Primary Service Time-of-Use Customer using over 43,000 MWH/year pays a RAAF assessment of less than 1 mil/kWh while an R-1 Residential customer using 6,300 kWh/year pays nearly 5 mil/kWh.

Allocation of bill payment assistance programming costs among customer and rate classes is invariably a point of contention whenever new programs are proposed or existing programs are revised. Softening political opposition from large C&I customers may be accomplished by (1) total exemption,⁵ (2) declining volumetric assessments as in Massachusetts, or (3) assessment of a volumetric charge on residential and small commercial customers, and a meters charge on larger C&I customers.

In some states, voluntary “fuel fund” contributions are proposed as an alternative to tariffed funding mechanisms. While fuel funds can be useful supplements to programs with more secure, reliable funding sources, they typically – particularly opt-in as opposed to opt-out approaches – do not raise sufficient funds to provide meaningful benefits to a significant proportion of low-income customers in a particular utility service area.

⁵ Pennsylvania has long implemented low-income bill payment assistance funded solely through assessments on residential electricity and natural gas customers. It should be noted that in many service areas, program benefits per participant have deteriorated significantly due to lack of available funding. Low-income advocates in the state continue to push for expansion of the funding pool.