

## FSC'S LAW & ECONOMICS INSIGHTS

Issue 98-3

Fisher, Sheehan & Colton, Public Finance and General Economics

May/June 1998

### IN THIS ISSUE

#### **Current Projects:**

Virginia electric restructuring  
Illinois mobile home fees  
Affordable housing and education

#### **Current Publications:**

Obligation to serve in competitive electric industry  
Energy efficiency and first time homebuyers

#### **Current News:**

LIHEAP performance measurement

### CURRENT PROJECTS

#### **Virginia electric restructuring low-income**

**programs:** The Virginia legislature should adopt a low-income rate affordability program funded at roughly \$65 million as part of its electric restructuring efforts. In testimony filed on behalf of VMH, Inc., an affordable housing developer in Christiansburg, Virginia, FSC told state regulators that such an affordability program would consist of two elements:

- ◆ an income-based percentage of bill plan (POBP) that mirrors the Customer Assistance Programs (CAPs) that have been so successful in Pennsylvania. This component of the program would cost roughly \$54.6 million, FSC said.
- ◆ an electric heating and baseload usage reduction program based on the Duquesne Light Company's Smart Comfort Program. This component of the program would cost roughly \$10.5 million, FSC said.

The level of universal service expenditures proposed in Virginia are consistent with the expenditures being authorized in jurisdictions that have addressed the issue in other states. According to FSC, virtually every states that has moved forward with electric restructuring has incorporated a "wires charge" to support rate affordability and low-income energy efficiency initiatives.

A copy of FSC's Virginia testimony can be obtained by sending an e-mail request to [publications@fsconline.com](mailto:publications@fsconline.com).

**Illinois mobile home fees:** State statutes restricting mobile home park "entrance fees" (sometimes also known as "service fees" or "transfer fees") prohibit the imposition of a fee upon a person seeking to rent a home park lot unless a specific "service" is rendered in conjunction with the fee. Concerns over mobile home park fees unrelated to the level of service rendered are common.

According to FSC testimony filed in an Illinois challenge to such a service fee, brought under the state's unfair and deceptive acts and practices (UDAP) statute, a variety of factors have been identified to determine whether a mobile home park fee is an unlawful service fee or transfer fee.

These include:

1. Whether the defendant performs little or no services in connection with the transfer;
2. Whether the fee represents an unconscionably disproportionate price for the services rendered;
3. Whether tenants are in a position in which they have no reasonable alternative but to pay and to agree to pay;

4. Whether the park collects the fee irrespective of whether services are rendered;
5. Whether the services that are provided are, at most, ordinary, routine services which are rendered to all tenants;
6. Whether the services that are provided represent work which, of necessity, is performed for all tenants or prospective tenants;
7. Whether, in contrast, the services that are provided represent services which are not ordinarily or usually rendered; and
8. Whether there is evidence of any special services performed by management.

Despite their common use, FSC said, these factors tend to articulate conclusions rather than represent objective empirical tests. The "process model" of business represents a sound analytic model to use in analyzing the appropriateness of a mobile home park transfer fee. The Process Model involves an analysis of activities and outputs. The premise of the Process Model is that every business endeavor can be described as a conversion of "inputs" into "outputs" by an "activity."

Several conclusions march forward based on the application of this "process model" analysis to a specific Illinois mobile home park fee. First, some tasks used to justify the fee comprise activities that are part of the process of selling mobile homes, not the process of leasing mobile home park lots. Second, other tasks comprise activities that are part of the ongoing normal business process of operating the mobile home park, not the activity of leasing lots. Third, some activities do not deliver outputs to the new lessee, but rather to the seller of the home. Finally, most of the identified activities are rendered for the benefit of other than the new lessee.

Ultimately, FSC concluded, the market power which an owner or operator has over mobile home parks often allows that operator to impose unfair and oppressive fees upon existing or

incoming tenants. This ability had led many states to enact specific statutes that ban, amongst other things, fees on the sale of mobile homes in place when those fees are not supported by services that are rendered.

In response to these consumer protection laws, and the litigation to enforce them, mobile home park operators have begun to present long laundry lists of tasks which they say satisfy the "service" requirements of the statute. The process model of business can help advocates to assess whether (and what) tasks represent services subject to compensation, and whether the fees are appropriately imposed on the "customer" to whom a service is delivered. In so doing, the process model of business provides a principled mechanism for evaluating, and challenging, unfair mobile home park transfer fees.

A copy of the Illinois "process model" analysis of entrance fees can be obtained by e-mailing a request to [publications@fsconline.com](mailto:publications@fsconline.com).

**Affordable housing and educational excellence:**

School officials in Belmont (MA) should support efforts to increase the supply of affordable housing in town not simply because of the critical need for such housing, but also because increasing diversity through increased affordable housing will improve the education of Belmont's children.

According to a presentation by FSC to the Belmont school committee on behalf of the Town's Fair Housing Committee, "there is little dispute today but that school diversity and educational excellence go hand-in-hand."

According to FSC, the educational benefits of a diverse student population can be categorized in several ways: (1) increased academic learning; (2) improved skills in reasoning and inquiry; and (3) improved education in values and behavioral standards.

FSC quoted Harvard University's President, Neil Rudenstine, who recently issued a report tracing the history of diversity at Harvard and discussing

the contribution of diversity to learning. Dr. Redenstine found that the ability "to learn from each other [is] the real beginning of learning, both intellectually and emotionally." Dr. Rudenstine concluded that a diverse student body "is an educational resource of coordinate importance with our faculty and our library, laboratory and housing arrangements."

Dr. Rudenstine also explained that: "[s]uch diversity is not an end in itself, or a pleasant but dispensable accessory. It is the substance from which much human learning, understanding, and wisdom derive. It offers one of the most powerful ways of creating the intellectual energy and robustness that lead to greater knowledge. . . ."

Excellence in education, FSC said, involves more than simply teaching the "three R's." Excellence in education is largely directed toward inculcating students with the ability to reason, and the ability to inquire about the world in which one lives and operates. Increasing diversity improves that educational process. FSC cited research finding that: "In the classroom, professors can use the backgrounds and experiences of other students as a learning tool. Students come to "understand" primarily on the basis of their own reflecting experience, into which they seek to incorporate the new ideas they encounter in their courses. Because their experiences determine their frame of reference, minority students bring the influence of these experiences to assignments and discussions. Student `encounter[s] with contemporaries [who have] different backgrounds . . . and values can . . . lead to challenge, self-questioning and informal learning which promotes moral and intellectual development."

Finally, FSC said that while there is general agreement that the teaching of values begins at home, considerable work has examined how public school systems impart values to our children as well. Increasing diversity advances this educational function.

In our school system, values are imparted both inside and outside the classroom setting. One

researcher, for example, concluded that "individual students are influenced by the total body of their campus peers, which provides both standards for self-judgment and norms of "proper" attitudes and behavior." Another found that "interpersonal encounters" were a key element in learning values. "New values grew through significant new associations with people who were different from ourselves in some way and who were willing to grant us access to their inner worlds." Yet another found that student organizations may often have more influence on student values than the curriculum or professors.

The diverse experiences of students of different backgrounds contribute to this learning process because "all students stand to benefit from the chance to live and work with classmates. . . .who can offer differing attitudes and experiences that will challenge and inform others. This type of interaction is one important means through which students learn and reorient their beliefs."

FSC's publication *Affordable Housing and Educational Excellence in Belmont* can be obtained by sending an e-mail request to [publications@fsconline.com](mailto:publications@fsconline.com).

## RECENT PUBLICATIONS

**Obligation to serve and a competitive utility industry:** As electric utilities become more competitive, a number of industry analysts are beginning to ask why utilities should have an obligation to serve when other competitive businesses --such as grocery stores and fuel oil vendors-- do not. This FSC report, prepared for the U.S. Department of Energy through Oak Ridge National Laboratory, considers both a "social" obligation to serve and a "legal" obligation to serve for electric utilities, telecommunications companies, natural gas providers, health care providers, and companies providing personal lines of insurance. The report outlines the scope and basis for imposing an obligation to serve, even on competitive electric companies, given the lessons to be learned from this range of industries.

### **Energy efficiency and first time homebuyers:**

Targeting energy efficiency to first time home buyer programs can significantly increase the affordability of shelter to program participants while at the same time significantly expanding the scope of low-income energy efficiency programs through the country. According to an FSC study of the impact of energy efficiency on total shelter costs, energy efficiency improvements in low- and moderate-income housing will significantly reduce the cost of housing, improve the overall affordability of the units being developed, enhance the creditworthiness of the households who are responsible for repayment of loans, and thus reduce the risk associated with the overall mortgage. FSC's study found that these results arise even when the capital cost of the housing is increased due to the need to finance some increment of the energy efficiency improvement not covered by the utility contribution.

In its report *Energy Efficiency as a Credit Enhancement: Public Utilities and the Affordability of First-Time Homeownership*, FSC found that benefits which arise from the installation of energy efficiency measures can be equated to other means of reducing housing costs to participants in low- and moderate-income housing programs. Depending on the geographic region of the country, energy efficiency measures: (1) will have the same effect as reducing the initial purchase price of the home by 1.5 to nearly eight percent; or (2) will have the same effect as reducing the interest rate on the mortgage by 11 to 60 basis points.

The FSC study looked at the impact of energy efficiency measures on mortgages equal to the average value of homes owned by households at or below 100 percent of the federal Poverty Level. The study considered the impacts of energy efficiency for all nine Census Divisions in the country. It tested the sensitivity of savings based on factors, such as energy price escalations and mortgage interest rates.

## **CURRENT NEWS**

### **National task force on LIHEAP performance**

### **measurement includes FSC representative:**

The U.S. Department of Health and Human Services, Administration for Children and Families (ACF), has named FSC's Roger Colton to the national Task Force on LIHEAP Performance Measurement.

The ACF task force is charged with developing mechanisms to measure the outcomes associated with LIHEAP. This process involves identifying the intended outcomes (e.g., shutoff protection, reduced energy burden, reduced adverse impacts of unaffordable energy), as well as identifying mechanisms through which data can be collected on those outcomes.

Fisher, Sheehan & Colton  
Public Finance and General Economics  
34 Warwick Road, Belmont, MA 02478-2841  
617-484-0597 \*\*\* 617-484-0594 (fax)  
editor@fsconline.com (e-mail)  
<http://www.fsconline.com>

*FSC* specializes in providing economic, financial and regulatory consulting. The areas in which *FSC* has worked include infrastructure financing, public enterprise planning and development, natural resource economics, community economic development, telecommunications, public sector labor economics, planning and zoning, regulatory economics, energy law and economics, fair housing, and public welfare policy.