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CURRENT PROJECTS

Colorado Electric Restructuring Legislative Advisory Panel: The Colorado legislature should take action to facilitate the aggregation of low-income consumers should retail choice be implemented in that state, according to a recent report by Fisher, Sheehan and Colton, Public Finance and General Economics (FSC). FSC's April 1999 report, *Electric Restructuring and the Low-Income Consumer: Legislative Implications for Colorado*, was prepared for the Electricity Advisory Panel of the Colorado General Assembly.

According to FSC, "aggregation" is nearly universally set forth as one of the primary "answers" available to address the concerns of low-income consumers in a competitive electric industry. Consumer aggregation is the process by which individual consumers band together to collectively purchase electricity. Through aggregation, the reasoning goes, small users (including low-income customers) will be able to pool their purchasing power in order to exert the influence that might otherwise only exist for large customers.

The Problems

Many industry observers, however, are not confident that aggregation will benefit low-income consumers. Substantial economic and non-economic constraints exist, FSC said, which impede a consumer's decision to use an aggregator. For example, FSC said, for a consumer to switch electricity providers, the difference between the price offered by the current provider and that offered by a competing supplier must have a big enough spread to meet the customer's desired level of increased benefit. Small users in particular, however, engage in a process called "satisficing." Under this process, even if consumers do not have the *best* priced service, they do not shop for alternatives if the price of their service is "sufficient" to meet their needs. The potential savings offered by aggregators, therefore, must be sufficiently high to overcome this "satisficing" barrier.

Aside from the barriers facing individual consumers, barriers face the aggregator as well. To be effective, an aggregated group must reach some minimal size. While no formal research yet exists defining what that size is, FSC said, it is becoming increasingly clear that electric competitors are not queuing up to "snap up" aggregated groups of hundreds of low-use or low-income customers.

This failure creates market problems for aggregators. The larger the aggregated group of customers must be, the greater the need for a formal administrative structure to service those customers. In these circumstances, the aggregated group would likely need to retain a marketer to seek out other groups, hire an administrator to service the coalition, and develop some type of overall multi-organizational structure for planning, negotiating, and

establishing accountability. Each step makes it less likely that aggregation will happen.

Finally, barriers to low-income aggregation face the power supplier as well. One of the primary barriers involves the load shape of residential customers. Residential customers tend to have "peaky" loads, FSC said. Their electricity use is uneven, both throughout the day and throughout the year. As a result, they are more expensive to service than customers whose usage is spread out evenly on both a daily and seasonal basis.

Aggregation does not address this barrier. FSC quoted a recent report by the National Conference of State Legislatures which concluded that "even if customers with similarly unattractive load profiles combine their accounts, they will simply become one large account with an unattractive load profile."

Legislative Responses

The first appropriate response to the need for low-income aggregation, FSC told Colorado's legislative panel, is to enact a strong community choice bill. Such a model allows a local government to aggregate all of the consumers within its geographic boundaries. It further allows groups of communities to combine to form a buying pool. In this fashion, community choice is akin to the type of shopping that many communities use to purchase solid waste collection services today. If any individual consumer wishes to opt out for whatever reason, the community choice model allows that to happen.

The operation of a state purchasing pool is a second appropriate policy response to issues involving low-income aggregation. The Connecticut electric restructuring legislation, FSC noted, provides that when the State buys electricity for state facilities, it will allow any household with at least one member receiving a means-tested public assistance benefit to buy electricity at that same price.

The state purchasing pool concept offers the same advantages as does a municipal aggregation

pool. It allows for the dilution of credit risks; a mix of load factors; greater bargaining power due to size; the spreading of fixed administrative costs over larger numbers of customers; and a specific focus on low-income needs.

Finally, the creation of an assistance in aggregation program is appropriate, FSC said. Just as many state housing, and many more state community development (or economic development) agencies, provide legal, technical and administrative support to negotiate housing tax credits, work through bonding requirements, and the like, an Office of Aggregation Assistance can help draft RFPs, analyze responses, and negotiate contract terms.

Providing technical assistance in aggregation is akin to some of the highest affordable housing priorities of the Division of Housing, in the Colorado Department of Local Affairs, FSC said. Amongst the "one year goals and actions" identified by the Division of Housing were: (1) providing training to local and regional housing service providers on techniques for packaging of housing projects. Provide technical assistance to rapidly growing rural communities as they develop comprehensive growth plans; (2) assisting local communities in the development of affordable housing by coordinating six (6) local housing seminars that bring together local government agencies, housing providers, developers, realtors, and private lenders, the goal being to identify specific actions communities can take to produce affordable housing; (3) assisting in the development of one Community Housing Development Organizations (CHDOs) from within five "distressed" regions; (4) holding program specific training with local housing and service providers to discuss issues such as new monitoring requirements and new or changed federal requirements; and (5) providing information and strategies to assist private and public housing developers to successfully navigate the local and federal regulatory environment to complete housing development in a more timely manner.

FSC told the legislative Panel that "an Office of Aggregation Assistance would provide similar

services, albeit in the field of procuring affordable energy rather than in the field of developing affordable housing. It would provide training on techniques of packaging energy projects; provide seminars and help to identify specific aggregation opportunities; assist in the development of small user aggregation entities; provide program specific training; and help aggregators navigate the regulatory and contractual environment."

FSC's Colorado report provided specific proposed legislative language to use in adopting the strong community choice, state purchasing pool, and assistance in aggregation proposals. The FSC report can be obtained by sending an e-mail to: publications@fsconline.com.

Funding a local land trust: Specialty license plates, tied to a town decal, could provide a stable and repeatable source of revenue for the Belmont (MA) Land Trust over many years. According to a recent report by Fisher, Sheehan and Colton, Public Finance and General Economics (FSC), the Commonwealth of Massachusetts should permit "municipal designs" on license plates to fund initiatives determined appropriate by local town governments. FSC endorsed the idea of a single plate design with a decal to be applied, thus customizing each plate with a particular city or town.

FSC quoted projections that the original design of a customized local license plate would be \$57,000. If that cost were spread over 100 participating communities, the per community cost would be less than \$600, FSC said; if spread over 50 participating communities, the per community cost would be roughly \$1,200.

A number of states beyond Massachusetts have used specialty license plates not simply to raise funds, but to raise funds for programs similar to the Belmont Land Trust. California's "environmental license plates" have generated over \$500 million for environmental programs over a 25 year period. These revenues support programs involving the protection of threatened or endangered plants and animals; the

enhancement of and restoration of fish and wildlife habitat; and the purchase and restoration of sensitive natural areas for the state park system, as well as for local and regional parks.

Florida's most popular specialty tag in 1998, for the fourth year in a row, was one to generate funds to help protect the manatee. In 1998, over 140,000 manatee plates were sold, raising more than \$2.1 million. Eight percent of all Florida vehicles eligible to purchase specialty tags do so.

In Texas, a local county Tax Assessor-Collector introduced a specialty license plate program to raise funds for three San Antonio local arts organizations. Any Bexar County resident who contributed \$500 or more to one of the three designated arts groups receives a coupon allowing the donor to receive a free "State of the Arts" license plate. The plate could be purchased directly from the state for \$25, with funds going to support state arts programs.

In fact, in her recent "performance review" of Texas state government, State Comptroller Carole Keeton Rylander identified marketing of specialty plates as one of the areas where Texas could raise significant new dollars. Rylander noted a goal of selling specialty plates to five percent of all eligible vehicles in the state. She noted that Virginia's \$10 specialty plates generate about \$11 million a year. The Illinois environmental plate generated \$3 million for the state's parks in less than three years. In 1997, Illinois issued a "sporting" series, one each for six native game animals, designed to generate funds to help preserve wildlife habitat.

The introduction of community-specific license plates deserves support in Massachusetts, FSC concluded. Each community should be allowed the discretion to decide how to use the revenues generated. Since plates are voluntary "contributions," those revenues should not be used to supplant government funding of functions most appropriately paid through tax revenues.

FSC's report *Of Land Trusts, License Plates and Local Government Revenues: Funding for the*

Belmont Land Trust can be obtained by sending an e-mail request to FSC's Boston office at: publications@fsconline.com.

RECENT PUBLICATIONS

Group homes for the disabled: Advocates for individuals living in non-traditional housing may wish to consider the way in which public utilities classify group homes as customers. Utility consumers are generally classified as residential, commercial or industrial. While traditional living situations involving families or households will easily be viewed as fitting into those definitions, many non-traditional housing situations may not. Failing (or refusing) to recognize non-traditional living situations as "residential" in character may deny important bill payment assistance to those denied. Given the demographics of many consumers living in group homes, it is possible, if not likely, that payment troubles will extend to these non-traditional living situations which can and should be addressed through such assistance.

In an article published in *Clearinghouse Review*, the bi-monthly publication of the National Center for Poverty Law, FSC said that despite the average incomes in neighborhoods where group homes are located, group homes for the disabled tend to serve a disproportionately low-income population. Consumers with disabilities are substantially over-represented in the low-income population. Disabled persons generally are more than 1.5x likely to be poor than a non-disabled person. Persons with "severe" disabilities are twice as likely to be poor.

FSC noted that utility customer service protections, particularly for payment-troubled customers, often extend only to residential customers. Customer service protections can be either procedural or substantive. Procedural protections might include minimum written notice prior to the termination of service for nonpayment; freedom from service terminations on weekends, holidays, or other days on which service cannot be restored; receipt of information about fuel assistance or other public or private

emergency aid before a service disconnection; and the like. Substantive protections might include the right to enter into deferred payment plans of minimum periods for arrears; protections against an unreasonable reliance on estimated billings; the right to be free from service terminations during cold weather months; and the like.

The utility industry may glean substantial lessons on application of criteria to designate residential uses through an examination of land use cases involving group homes. The issue of whether a group home is a residential use frequently arises in the context of restrictive covenants and local zoning restrictions. To the extent that these restrictions limit the housing choices of group home residents, they have generally been disapproved. The better-reasoned decisions recognize that, rather than being institutional or commercial in nature, residents of group homes operate as a housekeeping unit and that, accordingly, groups of people with mental disabilities live together as a family in a residential setting.

For a discussion of the land use decisions on whether group homes are "residential" or not, and how they might apply in a utility context, FSC's article *Utility Rate Classifications and Group Homes as "Residential" Customers* can be found in the March/April (1999) issue of *Clearinghouse Review*.

Year 2000 (Y2K) Bug and small energy efficiency contractors: With ten months to go, time is running out to work through the Year 2000 problem, FSC told a national gathering of small energy efficiency contractors in Chicago recently. Small business in particular has largely not responded to the Y2K problem. According to FSC, 61 percent of small companies do not have a Y2K plan yet.

Failing to respond to the Y2K problem could be dangerous to the health of a small business. Witnesses at a recent U.S. Senate hearing reported that 330,000 small businesses might be forced to shut their doors for reasons attributable

to the Y2K Problem. An even larger number could be "severely crippled." Overall, the Federal Reserve Board estimates that from one to seven percent of all U.S. businesses will close their doors because of Y2K.

The Y2K problem can affect a business in countless ways. According to the U.S. Small Business Administration, "your personal computers may reset themselves to the year 1980 or 1900 because the microchip that maintains the clock/calendar does not recognize 2000 as a valid year. A photocopier that records the count of the number of copies made in a day may stop working in the year 2000 because the microchip may fail to recognize "00" as a valid year. A security system may fail to operate properly and might allow unauthorized access to your buildings. A preprogrammed fax machine used to send announcements to customers may stop working after 12/31/1999. A voice mail phone system may fail to record messages from customers or suppliers. A preprogrammed money transfer from a savings into a checking account to cover checks to your creditors may not take place."

Despite the enormity of the problem, FSC said, a lack of resources hinders individual small business responses. These resources include but are not limited to the funds needed to pay for changes in electronic equipment. Small and disadvantaged businesses participating in the SBA's 7A and 504 programs can borrow money through those programs, on special financing terms, to fix their Y2K problems, according to SBA deputy administrator Fred Hochberg. Unfortunately, it is not funding, but human resources that perhaps pose the biggest barrier to small business Y2K compliance. According to Hochberg, "most small businesses are too busy worrying about meeting next month's payrolls to be concerned with the year 2000 computer glitch."

The U.S. General Accounting Office has recommended that federal agencies start "business continuity and contingency planning now to safeguard their ability to deliver a minimum acceptable level of service in the event

of Year 2000-induced failures." GAO emphasizes that "such plans should not be limited to the risks posed by the Year 2000-induced failures of internal information systems, but must include the potential Year 2000 failures of others, including business partners and infrastructure service providers." FSC said that small energy efficiency contractors would be well-served by this same advice.

FSC's paper *Beware the Bug: Y2K and the Small Energy Efficiency Contractor* can be obtained either by sending an e-mail request to FSC at: publications@fsconline.com; or by requesting the *1999 Selected Readings* by sending an e-mail to: AffordableComfort@compuserve.org.

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