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IN THIS ISSUE

Electric Aggregation of LIHEAP Recipients Delivers Uncertain Benefits to Low-Income Customers

NOTE TO READERS

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AGGREGATION OF MARYLAND ENERGY ASSISTANCE PROGRAM (MEAP) CUSTOMERS FOR PURPOSES OF ELECTRIC PURCHASING GENERATES MORE HARM THAN GOOD

An initiative through which Maryland would seek to cushion the adverse impacts of expiring electric price caps through the aggregation of energy assistance recipients as a separate customer pool would be unsuccessful in improving the affordability of low-income electric service.

So concluded FSC testimony filed on behalf of the Maryland Office of Peoples Counsel (OPC) in a proceeding to consider the efficacy of a Direct Energy aggregation proposal.

THE AFFORDABILITY OF ELECTRICITY IN MARYLAND

The affordability of home energy in Maryland is best measured in terms of a household's home energy burden. The energy "burden" is simply a household's home energy bill as a percentage of income. Home energy burdens vary widely based on income. A July 2007 multi-state study of low-income programs around the country included Maryland as one of thirteen states in its analysis. That study reported that, as of 2005, only 12% of low-income Maryland households had a combined electric/natural gas burden of 5% or less. An additional 36% of Maryland's low-income households had a combined burden of between 5% and 15%. An additional 37% had an energy burden of more than 15%. Indeed, 23% of Maryland's low-income households had a combined electric/natural gas burden of 25% or more.[1]

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[1] The remaining 15% of low-income households reported having "no bill" for natural gas and/or electricity.

The dollar difference between these actual home energy burdens and an affordable burden is known as the "home energy affordability gap." A home energy burden of 6% is considered "affordable." Home energy burdens of greater than 6% are considered to be *un*affordable.

The Affordability Gap is not only large, but it is rapidly getting larger in Maryland. To the extent that energy prices rise faster than the level of income, the Home Energy Affordability Gap will get bigger. For example, statewide average electric prices in Maryland rose from $0.0917 per kWh in June 2005 to $0.136 per kWh in June 2007, an increase of more than 48%. Such an increase will significantly increase the Affordability Gap.

AGGREGATION OF ENERGY ASSISTANCE RECIPIENTS NOT A SOLUTION

The aggregation of Maryland's energy assistance recipients cannot reasonably be expected to improve the affordability of electricity in Maryland. Efforts to address increasing energy prices in other states through the aggregation of low-income customers have not proven to be successful.

The Ohio Experience.

The State of Ohio unsuccessfully sought to reduce the unaffordability of natural gas prices for participants in Ohio's Percentage of Income Payment Program (PIPP) through an aggregation program. In Ohio's PIPP, the home energy bills of income-qualified households are capped at a designated percentage of income. Bills in excess of the designated percentage of income are paid through dollars generated by a System Benefits Charge. The State of Ohio first sought to reduce the cost of the Ohio PIPP program through the aggregation of natural gas PIPP customers. For natural gas PIPP customers, the aggregation initiative resulted in minimal dollar savings.

The failure to generate savings occurred because PIPP customers were a tough pool to serve. One primary problem was that the PIPP pool changed monthly, with participation swelling in one month and retreating the next.

The effort to aggregate Ohio's electric PIPP customers never succeeded either. Ohio's state LIHEAP office (the Ohio Department of Development or "ODOD") issued an RFP in 2002 seeking a supplier to aggregate electric PIPP customers, either statewide or in selected regions or utility territories. ODOD received three bids, but did not find savings significant enough to accept any of them. The RFP was re-issued in 2004 but was subsequently withdrawn. Aggregation would have required expensive and time-consuming technology and accounting changes for all parties. ODOD concluded that any savings were likely to be minimal, and the change possibly could result in higher rather than lower PIPP costs.

Other experience in Ohio further demonstrates that one cannot assume that aggregation will result in lower prices to the aggregated customer. In September of 2003, a natural gas opt-in program pursued through the Miami Valley Communications Council (MVCC) was made available to residential gas customers of Vectren Energy Delivery living in seven communities in Ohio. The program provided residents a fixed rate for natural gas through the winter heating season (November through March), along with a variable rate for the rest of the year. More than 4,000 residents opted into the program.

The program resulted in higher rates to the aggregated customers. The average aggregated household paid approximately $20 more during the winter months than they would have paid Vectren for the same five month period. Published media reports indicated that this experience, at least in part, led the Dayton Area Chamber of Commerce to publicly oppose future energy aggregation programs.[2]

[2] Jim Bohman, "Cities Defer Action on New Gas Plan: Participants in aggregation paid more than others." Dayton Daily News, February 10, 2004.

Customers in Northeast Ohio, aggregated through what is touted as the nation's pre-eminent municipal aggregation pool, also faced disaster in 2005. The aggregator is called the Northeast Ohio Public Energy Council (NOPEC). NOPEC's competitive retail electric supplier (CRES) was Green Mountain Energy Company (GMEC). In its annual report, NOPEC reported some modest savings on customer electric bills for 2005.

According to the NOPEC 2005 annual report, "individual consumers saved an estimated average of $33 per year on their electricity bill* * *." These electric savings are the same ($33/customer) as were reported in the 2004 annual report for individual NOPEC customers. The savings are based on a discount of roughly six percent (6%) off the local distribution utility's (FirstEnergy) shopping credit (also known as the "price to beat").

After noting in 2004 "a dearth of potential [competitive retail electric suppliers--CRES] willing to bid on governmentally aggregated retail electric load in the state," NOPEC faced an organizationally-threatening crisis in 2005. In October 2005, just months after Green Mountain Energy Company (GMEC) renewed its contract with NOPEC --the contract renewal had been announced in March 2005-- to supply electricity to municipally-aggregated customers through the three-year period of 2006 through 2008, GMEC announced that it would instead terminate its relationship with NOPEC as of December 31, 2005. Ultimately, a new agreement was reached with FirstEnergy Solutions, Ohio Edison and Cleveland Electric Illuminating Company ("CEI") that would continue customer discounts through 2008. FirstEnergy Solutions, however, is simply the unregulated affiliate of FirstEnergy, the local distribution utility.

The Pennsylvania Experience.

Columbia Gas sought to aggregate the participants in its Customer Assistance Program (CAP) in Pennsylvania. Pennsylvania's CAP is that state's equivalent to Ohio's PIPP. Through CAP, low-income home energy bills are limited to an affordable percentage of income. Columbia Gas began its aggregation program in 1997. The CAP customers were grouped together for the purpose of obtaining lower cost gas from a marketer/supplier. Columbia served as the appointed purchasing agent for CAP customers.

In the five year period 1998 through 2002, the Columbia Gas CAP aggregation initiative generated a savings of $1,695,108, an average savings of roughly $340,000 per year. To place this figure in context, the Columbia Gas CAP in 2002, alone, had a total budget of $8,894,938, with a participation rate of 10,100 low-income customers. The average annual CAP credit –the CAP credit is the amount of the rate discount, not the savings generated by the aggregation-- was $594.

The aggregation program, however, no longer generates even these modest savings from the Columbia Gas aggregation. Columbia Gas reported in 2004 that no marketer was participating in its CAP aggregation, a situation that continues through today. Marketers reported that they could not procure gas at prices below that which Columbia Gas could for its residential ratepayers generally.

Summary of State Experiences.

Experience to date counsels that an aggregation program for energy assistance customers should not be expected to generate substantial savings for these customers. Indeed, for a variety of reasons explained below, an aggregation program will not necessarily generate *any* savings for individual fuel assistance participant households.

AGGREGATION AND ENERGY ASSISTANCE DO NOT MELD WELL TOGETHER.

The FSC work done for Maryland looked not only at the experience of LIHEAP aggregation in various states, but considered how well an aggregation program might be integrated with the Maryland Electric Universal Service Program ("EUSP"). EUSP is the utility-funded electric affordability program. The analysis found that the integration of the aggregation program with EUSP had not been adequately thought out. The program will not reasonably deliver affordability benefits to participants in the EUSP program.

Program Migration.

The first problem found by the FSC analysis involved the impacts which frequent low-income mobility would have on the integration of fuel assistance and LIHEAP aggregation.

FSC found that there is significant mobility within the Maryland population participating in the Electric Universal Service Program (EUSP). The 2008 EUSP plan reported that roughly 40% of the EUSP population does not reapply in any given year. As some low-income households move *off* the program, in other words, other low-income households move *on* to the program. This migration on and off the low-income program creates considerable uncertainty as to the size and nature of the EUSP load. Not only does EUSP not know precisely how many households will participate in any given year, neither does EUSP know what the nature of those program participants will be, including the level or shape of their consumption.

In years with higher home energy prices, EUSP generally experiences a noticeable increase in program participation. In the years of highest prices, therefore, the level of uncertainty about how many customers will be served, who those customers will be, and what their load will look like, will be at its highest as well.

Participant Flow

The second problem involved the inability to match the delivery of aggregation benefits with the flow of households through the state's electric assistance program over the course of a year. The EUSP program, FSC noted, operates on fixed program year basis, with each program year beginning on July 1. Simply because the program *begins* on July 1, however, does not mean that the program is fully populated on that date each year. Instead, the EUSP begins anew each year. Households must newly apply for each year of EUSP assistance, whether or not they had received assistance the previous year. Even if Customer A received EUSP assistance in Program Year 2007 (July 2006 through June 2007), Customer A must apply *again* for assistance, and be income qualified, in Program Year 2008.

As a result of this application and income verification process, there is an ebb and flow in the number of customers participating in EUSP throughout the year. Merely because EUSP has a total participation rate of 84,000 households, in other words, does not mean that there are 84,000 program participants beginning on the first day of each program year. The number builds from July 1 to a maximum participation rate, and then declines as customers change residences or otherwise leave the program. This flow of program participants through EUSP adds a further element of considerable uncertainty about the size and nature of the load to be served by an aggregation program.

The Uncertainty of MEAP Assistance.

While EUSP and the Maryland Energy Assistance Program ("MEAP") are clearly separate programs, with EUSP delivering state-funded electric assistance and MEAP delivering federally-funded heating/cooling assistance, the programs are equally clearly inextricably linked together. While it is possible for a low-income household to receive assistance through MEAP without *also* receiving assistance through EUSP (for example, EUSP recipients must also be utility customers, while MEAP recipients need not be), it is unusual for that situation to arise. The applications for MEAP and EUSP are one and the same, and EUSP receives a steady stream of applicants from MEAP as households apply for their federal fuel assistance and, at that time, are informed about the additional EUSP assistance that is available.

While the symbiotic relationship between MEAP and EUSP provides benefits to both programs, it would create problems for an aggregation program. One problem posed by this interrelationship for a potential aggregation program is that while MEAP was created in the mid-1980s, there is year-to-year uncertainty in the funding of the program. As recently as 2001, the federal LIHEAP appropriation was only $1.4 billion. While the LIHEAP appropriation increased to $2.48 billion for Program Year (PY) 2006 (October 2005 through September 2006), the federal appropriation fell to only $1.98 billion in PY2007. During the period 1996 through 2000, the LIHEAP appropriation was, *at its maximum*, only $1.1 billion. It is simple not possible to know from year-to-year what the size and funding of the fuel assistance program, and thus of the aggregation pool, will be.

An additional element of uncertainty involves the timing of MEAP funding. While the federal fuel assistance program presumably operates beginning on October 1 of each year, in reality, the program operates based on a calendar dictated by the date on which Congress appropriates the next year's fuel assistance dollars. As of the middle of September 2007, for example, funding for the Program Year 2008 fuel assistance program (beginning on October 1, 2007) had not yet been appropriated. Maryland's state fuel assistance office, or elsewhere for that matter, obviously, cannot take applications and commit funds to households that have not yet been appropriated by Congress.

Given that MEAP is one of the primary mechanisms through which low-income customers also enter EUSP, the participation levels in MEAP could substantially affect not only the level of EUSP participation, but the rate at which low-income customers enter the EUSP program.

The difference in the number of eligible participants, and thus in the number of actual participants, could be substantial. For example, for federal Fiscal Year 2001, Maryland would have had 570,173 income eligible households if eligibility would have been set at the maximum allowed by federal statute (60% of median income). Under the income eligibility then used in Maryland (150% of Federal Poverty Level), Maryland had an estimated 285,247 eligible households. Moreover, Maryland's state LIHEAP administrator estimated in June 2007 that roughly 336,000 households qualified for assistance at 175% of the Federal Poverty Level (that year's eligibility limit). The difference in the pool of customers eligible to be aggregated can, in other words, be anywhere from roughly 50,000 households to nearly 300,000 households based on eligibility criteria that often cannot be fully implemented until mid-program year. The uncertainty facing an aggregation program had not been fully recognized in the Direct Energy EUSP aggregation program proposal.

The Public Perception Impacts.

Finally, FSC expressed concerns over how the proposed EUSP aggregation program would affect the efficacy of the EUSP from the perspective of the EUSP participants. These concerns involve whether the need to introduce education efforts about the structure and operation of the aggregation program, about the customer choices involved with the aggregation program, and about the benefits (or lack thereof) from the aggregation program might detract from other necessary consumer education needs within EUSP. FSC expressed further concerns over the aggregator's proposal for the Maryland PSC to waive certain customer protections embedded in the Code of Maryland Regulations (COMAR).

The aggregation program proposal offered by Direct Energy, FSC said, would clearly involve a need to provide consumer education to EUSP participants. This consumer education would involve not only teaching customers their rights in the opt-out program, but also would involve teaching customers the meaning of the new information that is presented on the customer bills. This consumer education initiative, to the extent that it could be accomplished at all, would detract from other more pressing consumer education issues that currently exist with the EUSP program.

There can be no question, FSC found, but that there are considerable consumer education needs that exist in the EUSP as it currently operates. Providing consumer education about budget billing and budgeting strategies was identified as one of the critical needs for the EUSP program. According to the EUSP program evaluation, "many of those interviewed agree with the importance of offering some sort of customer education. One stakeholder believed that EUSP was most in need of improvement in the area of customer education, especially in regard to skills needed to maintain budget-billing payments. Utilities agreed with this perspective." The evaluation reports that "providing customer education more consistently could address specific issues relating to EUSP and its goals."

The existing service providers are not equipped to provide this education, the state's EUSP Evaluation had reported. The evaluation reported that "several [local administering agencies] commented that they were bothered by their lack of capability to better educate their customers and provide them with the tools they need to progress toward energy self-sufficiency." Given this identified need for further consumer education on the core aspects of EUSP, it would be unreasonable to add further education needs or requirements to EUSP participants or to the EUSP service providers. The EUSP evaluation findings call out for resolving *existing* consumer education needs before adding an entirely new, and difficult-to-comprehend, aggregation program component that would require new and different education with new and different messages.

The confusion over billing has direct impacts on the operation of the EUSP and on the ability of the EUSP to fulfill its bill-payment objectives. The EUSP evaluation reported that the Local Administering Agencies (LAAs) "reported that customers are confused by utility bills that include budget billing amounts. Utilities are working to educate customers on this matter. Many customers do not understand how to find the EUSP credit on their bill or the amount they need to pay. *As a result, they may not pay their bill*. LAAs reported that they often do not know about these problems until it is too late to intervene." (emphasis added).

Introducing this need for new and complicated consumer education ignores the needs that have been identified with the core functions of EUSP. The problem is not incidental. The evaluation reported:

> There are some aspects of coordination between EUSP and MEAP that are difficult for administrators, LAA personnel, and clients. EUSP operates on the state's fiscal year (July 1 – June 30) and MEAP operates on the Federal fiscal year (October 1 – September 30). EUSP clients who apply for MEAP before the Federal fiscal year begins and the funds are in hand can receive EUSP benefits but must wait until the Federal funds are in hand to receive MEAP benefits. LAA personnel say that it is sometimes difficult to explain this to clients.
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> Another source of customer confusion is that utilities change the budget bill amount for customers with electric heat when they receive their MEAP grant. LAAs report that this causes customer confusion because customers think they are supposed to be paying the same amount each month for a year and they see the amount change. . .[Utilities] mentioned that the adjustment to the budget bill amount is difficult both from a customer service and administrative perspective.

Several messages arise from the EUSP evaluation results for purposes of assessing the desirability of an EUSP aggregation program, none of which had been taken into account by the Direct Energy aggregation proposal. First, aspects of EUSP that add complexity yield considerable customer confusion. Rather than helping the program, this confusion makes the program more difficult to sell" to eligible customers and more difficult to deliver to program participants. Second, aspects of EUSP that add complexity yield additional administrative burdens both for the LAAs that are the front-line service providers and for the distribution utilities. These additional burdens would be added to an administrative burden that is close to the tipping point as it is. Third, aspects of EUSP that add complexity make it less likely that program participants will pay their bills and less likely that LAAs and utilities will be able to adequately and appropriately respond to help those nonpayers. In this respect, the aggregation program would exacerbate rather than alleviate bill payment problems.

Summary and Conclusions

As residential customers in states that have adopted retail choice face substantial price increases arising due to the expiration of price caps that have protected customers for the past several years, increasing pressure will be brought to try to mitigate those price increases through the aggregation of low-income customers who receive benefits through a variety of fuel assistance programs. Adopting such "aggregation" programs will be offered, in large part, to validate the initial decision to move to a retail choice electric industry.

The experience to date has found that fuel assistance programs and aggregation initiatives do not fit well together. Careful attention should be paid to whether aggregation initiatives will, in fact, reduce individual customer bills.

For more information on the impact that an aggregation initiative will have for low-income customers, readers may contact FSC directly at:

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