# ECONOMIC DEVELOPMENT RATES: TARGETING, JUSTIFYING, ENFORCING

**By:**

**Roger D. Colton**
**Fisher, Sheehan & Colton**
**Public Finance and General Economics (FSC)**
**34 Warwick Road, Belmont, MA 02478**
**617-484-0597 *** 617-484-0594 (fax)**
**rcolton101@aol.com**

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This paper proposes a new way to offer "Economic Development Rates" by public utilities. The fact that the analysis below sets forth a new structure for Economic Development Rates, however, should *not* be construed as an endorsement of such rates. In general, Economic Development Rates are perceived to be an *in*appropriate activity for a public utility to pursue.
This paper first reviews arguments against Economic Development Rates. It then discusses, should such a program be adopted, the recommended structure for such rates.

## THE CASE AGAINST ECONOMIC DEVELOPMENT RATES

Economic Development Rates should generally be opposed on both conceptual and administrative grounds.

***Conceptual problems:*** The conceptual basis of Economic Development Rates is faulty. It erroneously assumes that because some generation capacity is currently "surplus," the dedication of such capacity to an Economic Development Rate is costless to existing and future ratepayers.
This would only be the case, of course, were the Economic Development Rate load to disappear when the surplus is required for non-Economic Development Rate consumers. This is, however, not likely to occur. The assertion, therefore, that the program will only utilize "surplus" power is misleading. Clearly, the expectation is that the attracted load will be permanent.

Accordingly, Economic Development Rates will, if "successful," impose significant costs on other ratepayers. Such rates will result in changes in the utilities' load forecasts and will cause the demand for new generation to arise sooner. To the extent that the need for new and more expensive plant construction is brought nearer in time, non-Economic Development Rate consumers thus face considerable increases in rates. The causal connection to the Economic Development Rate is apparent: the increase in firm demand would *not* have arisen on the system "but for" the offer of rates substantially lower than tariffed rates.

***Administrative Problems:*** Administrative problems with Economic Development Rates involve targeting rates only to those entities who will bring benefits to the system, and then monitoring those entities to ensure that the performance promised in consideration of the rates in fact is delivered.

There is no reliable way to limit participation in the program to firms which are not free riders. To the extent that free riders dominate the program, rates to other customers will be higher than they would have been otherwise. Since rates will only *not* be higher than otherwise if the free rider problem can be controlled, proponents of Economic Development Rates have a heavy burden in producing a positive mechanism, with a high degree of verifiable reliability, for sorting out the free riders. Such a mechanism has yet to be developed.

Whether the program works or not depends on its ability to sort out the free riders. Analytically, in order for other ratepayers to be better off in terms of their monthly payments, it is necessary for the sum of the contributions to fixed costs of all the non-free rider participants to exceed the dollar sum total of the discounts to free rider firms participating in the program. To determine if this is so, there needs to be a sure way of determining how many free riders there are in the program.

It is not clear how this is to be accomplished in a verifiably reliable way. The process of evaluating locational choices is a largely subjective process not readily susceptible to objective determination. Moreover, the factors and data influencing the decision are likely to be highly "proprietary," which will complicate review. Finally, if the economic development discounts are substantial, applicants have an incentive to create or arrange "facts," and game the decision process so as to produce "evidentiary products" to support their applications.

Cases of eligibility based on plant expansion may be even more difficult to verify.

***Performance verification:*** The second primary administrative problem involves the difficulty in determining the number of jobs created as a result of the Economic Development Rates. It is unrealistic to assume that both the will *and* the resources exist to monitor and enforce the benefitting corporation's job and wage promises on an ongoing basis.

However, any Economic Development Rate should emphasize or require that:

1. All cost effective DSM be completed before applicant firms are eligible for Economic Development Rate incentives in order to take advantage of DSM's superior job creation attributes compared to power generation;

2. The jobs created should be in those distressed areas of the state most in need of new employment opportunities;

3. Full time employment should be defined as 2000-hours per year jobs. Half time (1000-hour per year) jobs, especially those without benefits, should not be counted as qualifying full time employment;

4. To be eligible under the program jobs should be family-wage, benefitted, positions.

Notwithstanding this principled opposition to Economic Development Rates, it might be useful to set forth how such a program, were one to be adopted, could be designed with the best safeguards available under the circumstances to defend against the objections listed above.

## STRUCTURE OF AN ECONOMIC DEVELOPMENT "RATE" PROGRAM

### *The Economic Development Rate Budget*

Should a utility wish to provide economic development incentives, the utility should create an economic development "budget." An Economic Development Rate is then merely the mechanism for distributing the dollars that are included in that economic development budget. If an applicant is granted an economic development incentive of $1.0 million, in other words, that $1.0 million is distributed via a discount applied to the applicant's energy bills.[1]

By creating an economic development "budget," which is merely *delivered* via an Economic Development Rate, the utility is placed in the situation of having a specific line item in its revenue requirement that must be presented and justified in a traditional ratesetting review. In a rate case, in other words, the utility must present its budget of, say, $5.0 million and demonstrate that that budget has generated benefits of at least that amount of money.

Economic development incentives, from the perspective of ratemaking, should always be a revenue requirement issue, not a rate design issue.[2] The question is not one of cost allocation. Instead, it is a question of "how much does the utility wish to invest in economic development, and what return does it wish to receive?" The return should be more than passing a benefit-cost ratio test (*i.e.*, generating a benefit-cost ratio of more than 1.0). Instead, the return should provide a return commensurate with investments of similar risk and term. Only in this fashion will ratepayers be ensured that they will not be harmed by incentives provided to economic development ventures that do not succeed. Hence, the benefit-cost calculation must demand a return sufficient to account for the risk of the economic development venture, either on an individual applicant basis or on an aggregate basis.[3]

By budgeting an amount available for the utility to invest in economic development, the Economic Development Rate is placed on the same playing field as any other budget item. A utility that wishes to

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\1\ In some sense, doing this creates a self-enforcing mechanism to assure that the development actually occurs. If a company receiving a benefit, in other words, either ceases operations, or reduces operations, or some such action, the extent of the "incentive" will be lowered as the corresponding energy use declines.

\2\ Rate discounts are only the means of delivering the investment; they do not reflect cost allocation decisions.

\3\ The Commission must decide, as with DSM investments, whether it wants each assisted project to provide the required return, or merely whether the investment in the economic development rate program as a whole must provide the requisite return.

spend $5.0 million on a DSM program, must cost-justify that expenditure. A utility that spends $5.0 million on insurance policies must cost-justify that expenditure. A utility that spends $5.0 million on management bonuses must cost-justify that expenditure. A utility expenditure on economic development should be no different than any other utility expenditure. The mere fact of the expenditure, unto itself, is insufficient to justify the expenditure. The utility must affirmatively demonstrate that it received adequate value for its dollars of investment.

***Justifying the Budget***

In seeking to justify its expenditure of a designated amount of money on economic development incentives, a utility should be required to address particular factors. Those factors should include, but not necessarily be limited to, the following:

***Cost-Efficient Jobs****:* It is possible to assess the reasonableness of investment per job through an economic development incentive. For example, the regulations setting the selection criteria for the federal Rural Business Enterprise Grants provide that the creation of one job per $10,000 or less in grant funds expended will be given twice the consideration of the creation of one job per each $25,000 to $10,000 in grant funds. The creation of one job per more than $25,000 in grant funds would not be considered.[4]

***Adequate employment:*** A utility should invest in those economic development activities that return the greatest number of full time, family wage/benefitted jobs to the service territory. To require such in return for economic development assistance is not unreasonable. For example, in 1992, Congress enacted as Section 806(d) of Public Law 102-550 a requirement regarding federal economic development efforts that:

> not later than one year after the date of the enactment of this Act [October 28, 1992], the Comptroller General shall submit to the Congress a report on the types and quality of jobs created or retained through assistance provided pursuant to title I of the Housing and Community Development Act of 1974 and the extent to which projects and activities assisted under that title enhance the upward mobility and future earning capacity of low- and moderate-income persons who are benefitted by such projects and activities.

Clearly, it is not unreasonable for a public utility providing substantial sums of dollars to economic development activities to similarly consider "the types and quality of jobs created" and whether such jobs "enhance the upward mobility and future earning capacity" of the persons purported to be benefitted.

***Distressed areas:*** Economic development should be targeted to "distressed areas" of the state. As with DSM expenditures, a utility should be concerned with "non-participants." It makes little sense,

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[4] 7 ***C.F.R.*** § 1942.305(b)(3)(iv)(D) (1993).

from an equity perspective, to have the utility act as a financial intermediary --aggregating public funds and then investing those funds in *non*-distressed areas. The impact of such investments in non-distressed areas would effectively represent an income transfer in the wrong direction. It would require low- and moderate-income households to contribute to economic development activities that return no benefit to them. Consider the insightful comments of the Colorado Public Utility Commission regarding utility-financed DSM in that state:

> When some households pay all or part of the costs of a DSM (Demand Side Management) measure but, due to the nature of the capturing and distributing the benefits, receive none of those benefits, a distribution problem arises. (footnote omitted). This result has particular implications for low-income households. Assume for the moment that low-income households tend to be non-participants in utility-financed conservation programs.* * *If that is true, when a utility uses ratepayer money to finance DSM measures, there is a direct income transfer from low-income households to households with moderate and upper incomes. The income transfer from an equity viewpoint is clearly in the wrong direction.\5\

The same statement could be made if low-income households paid for all or part of the costs of an economic development package but then received none of the benefits from that package.

This targeting of "distressed areas" is the focus both of federal and state economic development funding. "Distressed areas" can be defined by reference to income levels, unemployment rates, type and quality of jobs, housing quality, and other socio-economic factors.

***<u>Local impact assessment</u>:*** A utility's cost-benefit calculation should consider the extent to which the enterprise will "take back" in impact costs (*e.g.*, police, fire, water/sewer, and the like) what is given in economic development incentives. The fiscal impact on the affected community must be positive for the economic development to be considered cost-beneficial to the utility.

Moreover, a utility's cost-benefit assessment should consider the distribution of adverse environmental impacts. Adverse air, water, and toxic impacts, as well as land use and neighborhood disruptions associated with new commercial or industrial developments, should not fall primarily on low-income and minority populations.

### *Distributing the Development Incentives*

One of the measures that may hold some potential for controlling, at least indirectly, the free rider problem as well as the "favoritism," large versus small bias, and related abuses, is to define a "budget" for each utility reflecting the total dollar amount of economic development investment that the utility

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\5\ *Generic Inquiry Concerning Demand Side Management Issues*, Docket No. 90I-227EG, Policy Statement (issued December 1990), *quoting*, National Consumer Law Center, *A Regulatory Response to Low-Income Energy Needs in Colorado* (Sept. 1990).

wishes to make in any given period.
Applicant industries wishing to take advantage of the economic development incentive would then *compete* for a share of the discount. The competition would be on the basis of the volume and quality of the benefits offered to the public, and the decision would take into consideration the quality of the proof offered.

Since the resources available for the Economic Development Rate are limited, it is important to ensure that the public is deriving not merely adequate, but rather *the maximum*, measurable benefit from its Economic Development Rate investment. A competitive award process, in the context of a Commission docket, would facilitate the creation of ranking criteria, and would require decisions to be made on the record on the basis of evidence-quality proof. Competing firms would tend to control each other through the process of competition.

The total investment in economic development should be closed-ended. Accordingly, given the amount of money to be committed to economic development in a particular year, no firm would be *ipso facto* "eligible" for assistance, but rather all firms would compete for the limited incentive funds available.

Through the competitive process, the available budget of discounts should be distributed to applicant firms meeting the basic criteria of the program so as to maximize the overall benefits to the state. This would mean that the best proposal would be funded completely before the next best proposal, and so on. The amount going to individual firms might vary substantially.

To illustrate, if the proposal with the highest ratio of benefits-to-discount value was from a small firm requesting only a relatively small dollar value of discounts, that proposal would be funded completely before taking on the second best, which might involve a large firm with a large request, and so forth.

In sum, there should be a competitive process to rank and choose the entities to receive the Economic Development Rate, with the limited benefits going to the firms providing the greatest ratio of benefits per dollar of incentive. A utility should be required to distribute incentives through a competitive bidding process through which a sum certain will be invested in the economic development activities providing the greatest return per dollar of investment. The sum certain is distributed as a per unit discount on each "winning" applicant's utility bill.

**ELIGIBILITY FOR AN ECONOMIC DEVELOPMENT RATE**

In order for a business to qualify for Economic Development Rates provided by a utility, the business should be required to meet designated eligibility criteria. These criteria should reflect the recognition that the utility is stepping outside of its traditional role of providing energy services. Instead, by providing Economic Development Rates, the utility is serving as a community financial intermediary, aggregating the funds of its ratepayers and using those funds as a means to enhance the wellbeing of the utility and its ratepayers through the encouragement of economic development. The utility can thus draw upon the experience of others who have engaged in like enterprise for guidance on the type of

eligibility criteria that are appropriate. Eligibility criteria should include:

***Implementation of All Cost-Effective DSM Measures***

Before a commitment is made to provide benefits through an Economic Development Rate, the utility should require that the applicant for the rate demonstrate that the business has implemented all cost-effective Demand Side Management (DSM) measures which would lower the cost of production for the business. The utility might commit to helping finance and provide the audit to identify the DSM measures, but if found to be cost-effective,[6] the applicant should be willing to implement such measures on its own as a precondition to receipt of the Economic Development Rate.

It is reasonable to make the implementation of all cost-effective DSM measures a prerequisite for receipt of an economic development incentive for several reasons.
First, any utility providing economic development incentives has an obligation to do so in a least cost fashion.[7] Therefore, if high energy costs pose a barrier to an economic development endeavor, the utility should *first* assist the applicant in identifying all cost-effective means for the applicant to reduce energy consumption (and thus energy bills) on its own, without commitment of utility financial resources. Each dollar of savings obtained through the DSM measures will be a dollar less that would be needed through an Economic Development Rate.

Second, a utility should not be required to subsidize inefficiencies in an applicant's operating costs at the expense of ratepayers. To the extent that the applicant has cost-effective DSM that is available but unimplemented, there is inefficiency (or waste) in the applicant's operations. Akin to the requirement that the applicant apply for all available public and private assistance before applying for the utility Economic Development Rate, the requirement that the applicant undertake all cost-effective DSM calls forth the "deal" that is being made. That deal is that the utility will provide financial assistance for the economic development endeavor, but only *after* the applicant has done everything it can do for itself. There is no reason for ratepayers to take on a financial responsibility until the applicant has undertaken all available means of providing self-assistance in the first instance.

Finally, the utility should not interfere with the market enforcement of efficiency in business operations. Assume two competitors (let's cleverly call them A and B). Competitor A has squeezed all possible cost-effective energy savings out of its operation and Competitor B has not. In this situation, Competitor A, who has undertaken all cost-effective energy efficiency improvements, will have a competitive advantage in prices offered to consumers. That is as it should be. If, however, the utility then steps in to provide Competitor B with an Economic Development Rate, that subsidy will deny Competitor A the competitive advantage that the free market would have provided due to Competitor A's efficient operations. Economic Development Rates should not "undo" existing market incentives to

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\6\ "Cost-effective" would be defined as meaning saving more dollars than they cost.

\7\ This is inherent in its legal obligation to operate in an efficient and economical fashion under *Hope* and *Bluefield*.

pursue all cost-effective improvements in efficiencies, especially the installation of cost-effective DSM.

### *Economic Development Rates as Leveraging Resources*

In serving the function of a community financial intermediary, the utility should not act alone. Economic Development Rates should be provided if and only if, and then only to the extent that, the rates will leverage additional public and private resources in the pursuit of the economic development activity. Federal grant programs promoting economic development have such leveraging requirements.

An Economic Development Rate should adopt a grant selection criteria which, like the federal Urban Development Action Grant (UDAG) program, states that a grant may be made only where the utility determines that there is a strong possibility that: (1) the non-utility investment in the project would not be made without the grant; and (2) the grant would not substitute for non-utility funds which are otherwise available to the project (42 *U.S.C.* §5318(j) (1993)). Indeed, again akin to UDAG, it would be reasonable to adopt a provision stating that in making grants, the utility shall take such steps as it deems appropriate "to assure that the amount of the grant provided is the least necessary to make the project feasible" (42 *U.S.C.* § 5318(k) (1993)).

### *Application for All Available Public Assistance*

In the same vein as leveraging requirements, utility Economic Development Rates should only be provided in those instances where the applicant industry has applied for all available public and private assistance. Several reasons support this eligibility criterion.

First, presumably, a utility adopting an Economic Development Rate seeks to provide meaningful assistance through Economic Development Rates. "Meaningful assistance" means that the rate discount will not involve wasting money either by providing Economic Development Rates where unnecessary or by providing Economic Development Rates where unworkable.

Utilities, however, are not inherently designed to assess either the need for, or the viability of, economic development projects. Hence, they would either need to give up the goal of providing "meaningful assistance" as defined above, or undertake to develop an entirely new in-house expertise. In lieu of these responses, the utility should piggy-back its Economic Development Rate on top of existing public economic development efforts. Where assistance is provided elsewhere, and a need exists notwithstanding this other assistance, as determined by those skilled in making such assessments, a utility might step in.

Second, there is no inherent reason why utility ratepayers should have to bear the entire risk of economic development ventures by themselves. By requiring applicants for Economic Development Rates to apply and be found eligible for all available public and private economic development assistance funds, the utility ensures that there is adequate public commitment to the economic development project. If a business cannot convince other public and private entities of the need for (or

viability of) its economic development venture, to the point of garnering financial support for such venture, no reason exists for *ratepayers* to undertake the burden so rejected by the public.[8]

Finally, there is a basic equity inherent in the "deal" that is offered by a utility through its Economic Development Rate. This deal is simple: "we (the utility as agent for the public) will help promote economic development that will benefit you as a company and us as a community, but you (the beneficiary), in return, must seek out available public and private assistance to minimize the need for our financial commitment." Again, if a business is unwilling or unable to convince existing public programs to provide supplemental financial support to the economic development venture, there is no reason for the utility and its ratepayers to go where others fear to tread.

In sum, an Economic Development Rate should require from applicants information akin to that required of UDAG applicants, including: "a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private investment" (42 *U.S.C.* § 5318(c)(2)(b) (1993)).

Moreover, the "mandatory selection criteria" for UDAG grants includes "(1) the extent to which the grant will stimulate economic recovery by leveraging private investment" (42 *U.S.C.* § 5318(d)(1)(C)(i) (1993)). Finally, UDAG's mandatory selection criteria include: "(7) the extent to which State or local Government funding or special economic incentives have been committed" (42 *U.S.C.* § 5318(d)(1)(C)(iii) (1993)).

Similarly, the federal funds provided through the "rural business enterprise grants" are made contingent upon "evidence of substantial commitment of funds from nonfederal sources for (the) proposed project" (42 *U.S.C.* § 5318(d)(1)(C)(iii) (1993)). The program provides that "an authorized representative of the source organization of the nonfederal funds must provide evidence that the funds are available and will be used for the proposed project" (*Id.*).

***Targeting Distressed Areas***

A utility seeking to deliver economic development incentives should demonstrate that those incentives are being delivered to areas most in need of economic development. Again, an Economic Development Rate should take its lessons from the corresponding economic development incentive programs provided by the government. The federal Urban Development Action Grant (UDAG) program is the primary federal economic development program.[9] The statutorily-created "criteria and standards" for UDAG "eligibility" state in relevant part that there must be "minimum standards for

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\8\ Again, this is particularly true when others are skilled at making these detailed determinations, but the utility is not.

\9\ The inclusion of the word "urban" in this program should not be misconstrued. There is a specific sub-part of the program directed toward communities of less than 50,000. Moreover, there is a different specific program directed toward rural development. This rural program has similar requirements.

determining the level of economic distress of cities and urban counties for eligibility for such grants."[10]

### *Limitations on Industrial or Commercial Relocations*

The *redistribution* of economic activity should not be considered a "benefit" of an Economic Development Rate. Thus, for example, within the UDAG development scheme, the statute provides that "no assistance may be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary[11] finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated" (42 *U.S.C.* § 5318(h) (1993)). A similar requirement should be implemented for the Economic Development Rate selection criteria.

## ACCOUNTABILITY OF ASSISTED ENTERPRISE

Previous economic development programs have faced serious problems with enforcing the "promises" made by the industry receiving the grants-in-aid.[12] The issue raised here involves what recourse a utility might have against a recipient of utility-financed economic development incentives if the promises made to induce the grant of such incentives are subsequently breached. In short, the issue involves how to enforce the agreement underlying the provision of utility-financed aid.

In this sense, the means of conceptualizing the grant of Economic Development Rates in this proposal provides advantages in seeking to construct enforcement mechanisms. If the economic development incentives are conceptualized as line item incentive *grants*, and that rate discounts are merely the means of *delivering* the incentives,[13] it is not a large step forward to create an enforcement mechanism.

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[10] The UDAG statute states that "these standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag, growth of per capita income; and the extent of unemployment, job lag, or surplus labor" (42 *U.S.C.* § 5318(b)(1) (1993)). Moreover, the "mandatory selection criteria" for UDAG grants include: the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed, and the extent to which the project will relieve the most pressing employment or residential needs of the applicant (42 *U.S.C.* § 5318(d)(1)(C) (1993)). Finally, the "mandatory selection criteria" must include "the comparative degree of economic distress among applicants, as measured* * *by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county." 42 *U.S.C.* § 5318(d)(1)(A) (1993)).

[11] This would be the utility or the Commission in a utility-based economic development rate scheme.

[12] *See generally*, Fisher, Sheehan and Colton. (1986). ***Public/Private Enterprise as an Economic Development Strategy for States and Cities***. Prepared under contract to the United States Department of Commerce, Economic Development Administration. January.

[13] *See*, notes **Error! Bookmark not defined.** - **Error! Bookmark not defined.**, *supra*, and accompanying text.

This proposal encourages policymakers to conceptualize an Economic Development Rate in a different way than perhaps has been done in the past. Rather than viewing the Economic Development Rate as a "rate discount," perhaps it should be viewed as a utility "investment" in economic development. If viewed in that way, the utility can seek to enforce the promised economic development performance which induced the grant of the investment in a number of ways as follows.

The primary enforcement mechanism should be the reservation of a right, by the utility, to recoup the economic development incentive should promised performance standards not be met. After the period of time during which the incentive is provided, the amount of the investment could be "forgiven" in increments over time so long as the designated performance standards are met.

Thus, for example, for each quarter the benefitted enterprise maintained certain employment levels, a *pro rata* portion of the incentive would be forgiven. For each quarter the benefitted enterprise maintained certain favorable load characteristics, a *pro rata* portion of the incentive would be forgiven. If, however, the performance standards were *not* met, a similar *pro rata* amount of the incentive would be due and repayable to the utility for that quarter. If the benefitted enterprise meets its performance standards for some period of time (say five years), it will have earned the forgiveness of the entire amount of the incentive payment.

In sum, conceptualizing a utility-financed economic development program as an "investment" delivered through rates, rather than as a rate discount, allows the utility to enforce the promises made by the enterprise, which promises induce the grant of the economic development aid. The investment could be made subject either to (1) repayment after a time certain, or to (2) "forgiveness" over a time certain. Under the latter circumstances, after a number of years --say five-- if the company meets certain performance standards --these might be jobs created, load factor, etc.-- the incentive would be forgiven in *pro rata* fashion based upon the extent to which the performance standards are met. If the performance standards are *not* met, the incentives would be subject to repayment.

## SUMMARY AND CONCLUSIONS

Economic Development Rates should be reconceptualized and reconfigured if they are to be offered by public utilities. Such rates should not be viewed as a rate discount program. Instead, through the offer of Economic Development Rates, a utility is acting as a financial intermediary, pooling the funds of ratepayers and investing them in projects that will presumably bring benefits to the utility, to the grantee business, and to the public at large. As such, however, a utility should recognize the rate for what it is: an *investment* in economic development and should treat it as such. In this light, a rate discount would serve only as the mechanism for delivering the economic development incentive.

Should a utility wish to provide economic development incentives, the utility should create an economic development "budget." By creating an economic development "budget," which is merely *delivered* via an Economic Development Rate, the utility is placed in the situation of having a specific line item in its revenue requirement that must be presented and justified in a traditional ratesetting review.

Under this proposal, a utility would define a "budget" for that utility reflecting the total dollar amount of economic development investment that the utility wishes to make in any given period. Applicant industries wishing to take advantage of the economic development incentive would then *compete* for a share of the discount. The competition would be on the basis of the volume and quality of the benefits offered to the public, and the decision would take into consideration the quality of the proof offered.

Since the resources available for the Economic Development Rate would be limited, it is important to ensure that the public is deriving not merely adequate, but rather *the maximum*, measurable benefit from its Economic Development Rate investment. The total investment in economic development should be closed-ended. Accordingly, given the amount of money to be committed to economic development in a particular year, no firm would be *ipso facto* "eligible" for assistance, but rather all firms would compete for the limited incentive funds available.

Finally, this proposal explicitly deals with what recourse a utility might have against a recipient of utility-financed economic development incentives if the promises made to induce the grant of such incentives are subsequently breached. The primary enforcement mechanism should be the reservation of a right, by the utility, to recoup the economic development incentive should promised performance standards not be met. After the period of time during which the incentive is provided, the amount of the investment could be "forgiven" in increments over time so long as the designated performance standards are met.