

# ELECTRIC UTILITY RESTRUCTURING AND THE LOW-INCOME CONSUMER

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## What's a "System Benefits Charge"?

One condition that many states are placing on "restructuring" the electric industry today involves the imposition of a "system benefits charge" or a "distribution fee." Different fees have been proposed under different names. While they may seem quite similar, in fact, they serve quite different purposes and are based upon different policy justifications.

### Distinguishing Types of Fees

On the one hand, there are charges called "system benefits charges." A system benefits charge is not designed necessarily to provide low-income assistance. Instead, such a charge is designed to fund certain "public benefits" that are placed at risk in a more competitive industry. These benefits include, but are not limited to, assistance for low-income consumers. Other programs which a system benefits charge helps to fund include renewable energy, research and development, energy efficiency, and the like.

On the other hand, there are broader "distribution fees." These fees recognize a need for low-income assistance beyond that currently offered by the electric industry. They are predicated upon the observation that a move from a regulated monopoly industry to a competitive, market-driven industry fundamentally changes the risks to which low-income consumers are subjected; whether or not the industry has previously provided "benefits" that may be "stranded" is not the issue.

### Competitively Neutral and Non-Bypassable

Low-income programs supporting universal service should be funded in part through a "distribution fee." A distribution fee should be "competitively neutral" and "non-bypassable."

The term "competitively neutral" means that the imposition of the distribution fee does not change the competitive position of fuels that would otherwise exist in the absence of such a charge. This competitive neutrality is enforced by imposing the distribution fee on a per Btu basis. As a result, there is no greater or lesser incentive to purchase one fuel rather than another because of the distribution fee. Nor is there any incentive to purchase from one supplier rather than another (within the same type) as a result of the distribution fee.

The term "non-bypassable" mean that full responsibility for a distribution fee should not be subject to bypass, in whole or in part, by a customer switching fuels. For this reason, the distribution fee should not be imposed on a flat percentage of revenue (or a flat per unit of energy charge) basis. Imposing the distribution fee on a per Btu basis creates the situation where a customer switching from one fuel to another does not change the proportionate responsibility he or she bears as a user of that fuel.

### Structure of a Distribution Fee

A proposed structure for a distribution fee to fund low-income programs should address at least the following five issues:

**What benefits should the distribution fee pay for:** A low-income distribution fee should generate funds for three purposes: (1) the provision of cash fuel assistance; (2) the provision of crisis intervention assistance; and (3) the provision of energy efficiency improvements.

**Who should bear the cost of the distribution**

**fee:** The distribution fee imposed to support universal service for low-income customers should be imposed on all customer classes. A distribution fee in support of universal service is not a utility "program" that is designed simply to advance the social goal of universal service for poor persons. Rather, a distribution fee is public compensation for the use by public utilities of public facilities and institutions in support of their business. These facilities and institutions include the use of the power of eminent domain as well as the use of city streets and other "public ways."

**What should the value of the distribution fee be:** Ideally, the amount of money needed to provide basic cash fuel assistance grants, crisis intervention, and energy efficiency assistance, should depend upon factors such as the definition of the "energy bill" to be covered (total home energy, not simply home heating); the definition of "low-income" (200% of income, since 150% "misses" many working poor and elderly); an assumption about the participation level (participation akin to LEAP); and a definition of the home energy burden which would be deemed "affordable" (a total home energy burden not in excess of 10%).

**How can the distribution fee be made immune to bypass:** A distribution fee should be imposed on a per Btu basis on all fuels. This recommendation means that a distribution fee would be imposed "at the meter." Full responsibility for a distribution fee, therefore, could not be subject to bypass, in whole or in part, by a customer switching fuels. For this reason, the distribution fee should not be imposed on a flat percentage of revenue (or a flat per unit of energy charge) basis. Imposing the distribution fee on a per Btu basis on all fuels is not only "equitable" in that it assigns cost responsibility based on the proportion of fuel consumed, it creates the situation where a customer switching from one fuel to another does not change the proportionate responsibility he or she bears as a user of that fuel.

**Who should collect and distribute the**

**distribution fee:** A distribution fee should be collected through, and distributed by, a statewide private non-profit agency. Such an institution should have an independent Board of Directors, with that Board subject to the additional oversight of a publicly accountable commission. This structure is the structure used in Colorado for energy assistance provided through the Colorado Energy Assistance Foundation (CEAF).

### **Implementation of a Distribution Fee**

Legislative action is likely to be needed to implement a distribution fee. A distribution fee is most appropriately included in legislation that facilitates, authorizes or mandates "restructuring" in either the electric or the natural gas industry. Ideally, the distribution fee would be imposed on the providers of all fuel types, including not only natural gas and electricity, but bulk fuels (such as propane, fuel oil, and the like) as well. Practical and political considerations, however, may necessitate that the distribution fee be imposed only on natural gas and electric utility services.

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