ELECTRIC UNIVERSAL SERVICE PROGRAM

YEAR ONE REPORT

December 15, 2000

I. OVERVIEW

The Electric Universal Service Program (or "EUSP") is part of the Electric Customer Choice Act of 1999 ("the Act"), authorized by the Maryland General Assembly to assist low-income electric customers with arrearage retirement, bill assistance and weatherization during the restructuring of Maryland's electric and electricity supply market.[1] Section 7-512.1 of the Act authorized the Public Service Commission ("PSC" or "Commission") to establish the program and to make it available to low-income electric customers Statewide.

In addition to the legislative mandate directing the establishment of this program, the Electric Universal Service Program is the outgrowth of the Commission's initiatives developed as part of electric restructuring. In Order 73834, the Commission observed that "[a]s part of electric restructuring, adoption of universal service programs and a related funding mechanism (a universal service charge) are paramount."[2] The Commission further noted that "[s]uch programs are intended to provide reasonable assurance that electric service is affordable to all Maryland residents, and that necessary costs associated with these programs are recovered by utilities or non-regulated suppliers through service rates or market pricing."[3] In essence, the Commission envisioned that the emergence of the electric universal service program within electric restructuring would reformulate pre-existing customer protection programs, including some Demand Side

[1] The name "Electric Universal Service Program" was adopted by the Commission, at the suggestion of DHR, in order to differentiate the program from the existing USPP (Utility Service Protection Program) and to minimize confusion. *See* Order No. 76049.
[2] *Re Provision and Regulation of Electric Service*, Case No. 8738, 88 Md. PSC 249, 262 (1997).
[3] *Id.*

Management programs, and allow for similar cost recovery by utilities and non-regulated suppliers.

A. Legislative Requirements

Under the Act, the Commission is required to oversee the program as it is administered by the Department of Human Resources (or "DHR"). The Act requires the Commission to report annually to the General Assembly on the universal service program, including:

(1) a recommendation on the total amount of funds for the program for the following fiscal year;

(2) for bill assistance:

> (i) the total amount of need, as determined by the Commission, for electric customers with annual incomes at or below 150% of the federal poverty level and the basis for this determination; and
>
> (ii) the percentage of need, as determined by the Commission, but at a minimum of 50% that should be funded through the universal service program and the basis for this determination.

(3) for low-income weatherization, the amount of funds needed, as determined by the Commission, for measures that reduce consumption of energy by electric customers with annual incomes at or below 150% of the federal poverty level for this determination;

(4) the amount of funds needed, as determined by the Commission, to retire arrearages that were incurred prior to the initial implementation date by electric customers with annual incomes at or below 150% of the federal poverty level and the basis for this determination;

(5) the impact on customers' rates, including the allocation among customer classes, from collecting the total amount recommended by the Commission under item (1) . . .; and

(6) the impact of using other federal poverty level benchmarks on costs and the effectiveness of the universal service program.

B. Year Two Funding Recommendations

Based on the limited experience and data available to date, the Commission supports continuation of the year one total funding amount of $34 million, as authorized by the Act for year two of the Electric Universal Service Program. The program is currently operated on a "needs assessment" premise derived from 1990 Census information. According to DHR, 225,000 Maryland families are at or below 150% of the federal poverty level. Thus, in accordance with the Act, DHR determined that potentially 112,500 Maryland families need EUSP assistance. According to its report, DHR projected serving 90,000 families in year one.

The Federal Census provides the most readily available source of information based upon family or individual income levels. Since the EUSP targets only a specific subset of the State's electricity customers (*i.e.*, low-income customers) the use of Census data by DHR to quantify "need" at this time is reasonable.[4]

In Order No. 75935, the Commission authorized the allocation of $22.525 million for bill assistance, $3.5 million for EUSP low-income weatherization, and $5.1 million for arrearage retirement. Implementation of the overall program, and each individual component, has lagged behind expectations. The Commission believes that this has occurred, in part, due to normal lags created by the implementation of any new program and because EUSP fee collections, unlike collections for other programs, have accrued monthly. Nonetheless, based on DHR's representations of increased advocacy initiatives

[4] During year one, there was insufficient time and data for DHR and other parties to fairly evaluate need using any means other than the Federal poverty level benchmarks provided for under the Act.

and other outreach measures, the Commission believes that the year one funding level for the program overall and for each component should remain constant for year two.

During the three-year period for which the EUSP is authorized at the $34 million level, the Commission concludes that there will be no impact on customer rates. The electric rates for customers of each investor-owned utility are capped for at least four years. As part of electric restructuring, electric companies in Maryland reduced their distribution rates and created a corresponding EUSP line item that is included on customer bills. Therefore, EUSP charges are collected by these companies under their rate caps.

The Commission has not been apprised by DHR or other parties with regard to the impact of using other federal poverty level benchmarks on costs and the effectiveness of the universal service program. However, the Commission may address these issues further in a supplemental report to the General Assembly on or about June 15, 2001. The Commission expects that DHR will have had greater experience with the program and will be able to offer more concrete recommendations.

II. PROGRAM OVERSIGHT

By Commission Order No. 75935, issued January 28, 2000, the Commission established the Electric Universal Service Program. The program was designed based on the input from the participants in the Universal Service Working Group ("USWG") roundtable and other interested parties.[5]

[5] The participants in Commission proceedings in this matter include: the Maryland Department of Human Resources; Maryland Office of People's Counsel; the Forum for Rural Maryland; Maryland Association of Community Action Agencies; Public Service Commission Staff; Choptank Electric Cooperative; Washington Gas Light Company; Baltimore Gas and Electric Company; Maryland Department of Natural Resources/Maryland Energy Administration; Potomac Electric Power Company; Southern Maryland Electric Cooperative; Eastalco Aluminum Company; Montgomery County Government; the United Methodist Church Association; Maryland Industrial Group; Maryland Energy Assistance Program;

A. Allocation of EUSP Fees by Customer Class

The Act designated $34 million to be collected yearly to fund the EUSP. The Act provides that commercial and industrial ("C&I") customers shall contribute $24.4 million each year for three years. Residential customers are required to contribute $9.6 million annually for three years.

1. Commercial/Industrial Customer Fees

In order to collect the C&I customers' contribution to the Electric Universal Service Program fund, the Commission adopted a 23-step fee structure, modifying a proposal sponsored by the Maryland Industrial Group, for commercial and industrial customers. This fee structure established EUSP charges for C&I customers ranging from $3 per month for small commercial customers to $4,500 per month for the largest industrial customers.[6] The Commission determined that this type fee structure utilizes uniform Statewide fees by customer set, irrespective of a C&I customer's service territory, differentiating charges by customer size while utilizing a reasonable cap on the amount collected from any one customer. C&I EUSP fees are flat fees charged each month and are not based on kWh usage, which is proscribed by § 7-512.1(b).

By design, the 23-step C&I fee structure is intended to: (1) bring the largest number of small commercial customers into the lowest fee category; (2) cap the amount

---

Potomac Edison Company, d/b/a Allegheny Power; Bethlehem Steel Corporation; the American Association of Retired Persons; Maryland Department of Housing and Community Development; the Fuel Fund of Central Maryland; Delmarva Power & Light Company, d/b/a Conetiv Power Delivery; the City of Baltimore; Enron; International Brotherhood of Electrical Workers; Air Conditioning Contractors of America; Apartment and Office Building Association of Metropolitan Washington; Building Owners and Managers Association; Catholic Charities; Constellation Energy Source, Inc.; Office of Attorney General/Consumer Protection Division; Maryland Municipal League; Maryland Retailers Association; Westvaco; and the Towns of Thurmont and Berlin.

[6] *See* Order No. 76049, April 4, 2000, Attachment A.

charged the largest customer(s); (3) minimize the percentage difference between steps; and (4) ensure monthly fee stability for customers. Further, the Commission found that this structure ensures that similarly situated customers in different service territories throughout the State pay the same flat fee, thus avoiding customer confusion and competitive advantages.[7] Moreover, the Commission believes the 23-step fee structure meets the Acts' requirement for Statewide collection.

Year one C&I fees were based on 1997 historic data. The Commission observed, however, that as experience is gathered it would be necessary to revisit the C&I fee allocation process in the future.[8] The Commission noted that "[a]t a minimum, it is expected that this funding issue will be back before the Commission in order to true up the C&I collection as required by law."[9] The Commission further noted that changes in the allocation method may be appropriate in the future. Finally, the Commission observed that "[s]hould the General Assembly choose to give additional direction to the Commission relative to the collection process, it would be welcomed."[10]

2. Residential Customer Fees

The Commission agreed with the USWG recommendation of a uniform Statewide monthly fee for collection of residential customer EUSP fees. The residential EUSP monthly charge was determined to be $0.40 per month per residential customer.

B. Allocation of EUSP Funds by Program Component

[7] Order No. 75935 at 28.
[8] Order No. 76049 at 10.
[9] *Id.*
[10] *Id.* at 10-11.

As prescribed by the Act, the Commission established three EUSP components: arrearage retirement; bill assistance; and low-income weatherization. DHR recommended the funding amounts for the program components as follows: bill assistance, $23.525 million; low-income weatherization, $3.5 million; arrearage retirement, $4.1 million. DHR also requested an allocation up to ten percent for administrative costs.[11] Additionally DHR recommended that it be permitted flexibility to shift funds among program components.[12] The Commission agreed. However, the Commission initially limited DHR's ability to shift funds without prior Commission approval to $100,000. Subsequently, DHR was given authority to shift up to $750,000 between program components without prior Commission approval.[13] With these provisions, in year one the Commission allocated EUSP funds to the program components as follows:

(1) Bill Assistance	$22.525 million
(2) Low-Income Weatherization	3.5 million
(3) Arrearage Retirement	5.1 million
(4) Program Administration	2.875 million

III. PROGRAM AMDINISTRATION

Pursuant to § 7-512.1(a)(2), the Department of Human Resources is responsible for the administration of the Electric Universal Service Program. The program is being

[11] Initially, $2.875 million was allocated for program administration.
[12] The utilities immediately recommended that $1 million of DHR's proposal be shifted from bill assistance to increase the arrearage retirement fund to $5.1 million during the first year. In Order No. 76595, issued November 30, 2000, the Commission further authorized DHR to transfer an additional $1 million from low-income weatherization to the arrearage retirement component.
[13] Order No. 76049.

administered through DHR's Office of Home Energy Programs (“DHR/OHEP”). On September 15, 2000, DHR submitted its initial report to the Commission providing information regarding program design and a two-month operational summary. A copy of DHR’s report is attached as Appendix A. The utilities, OPC and Staff filed comments on October 13, 2000 and October 25, 2000.

The report by DHR and the comments of the parties show that the EUSP is operational and providing benefits to low-income customers. However, at this time there is insufficient data to recommend changes in the current funding level for the program for year two. According to DHR/OHEP, its target population for year one is 90,000 low-income customers, less than the 112,500 families meeting determined need, yet a 48% increase over the 61,000 families served under the 1999 Maryland Energy Assistance Program (“MEAP”).[14]

Further, according to DHR, local agencies participating in the EUSP approved approximately 15% of their targeted annual goal as of October 20, 2000. As of September 15, 2000, 14,000 customers had applied for EUSP assistance. Approximately 10,000 customers were certified as of that date. During the early implementation months, DHR/OHEP focused its initial efforts on customers who had either lost service or who were in danger of losing service.

In addition to targeting 1999 MEAP participants, however, DHR/OHEP anticipates using fairs, mailings, post cards, public service announcements, cable talk

[14] DHR Reply Comments, October 25, 2000 at 4.

shows, radio announcements, energy supplier initiatives, advocacy initiatives and other measures to reach its targeted goals.[15]

1. Bill Assistance

According to DHR, the average customer benefit under the bill assistance component is $250 annually. DHR/OHEP administers the bill assistance component as a function of the participant's previous year electric usage.[16] During a July 27, 2000 status conference, the Commission clarified that bill assistance funds should be administered in accordance with the utilities long-standing budget billing methodology. In Order No. 76595, issued November 30, 2000, the Commission further directed that all agencies providing bill assistance modify their educational material to describe the budget billing requirement.

2. Low-Income Weatherization

Of the three EUSP components, low-income weatherization has lagged the farthest behind. The Commission believes that this was largely due to differing views relating to the definition of "weatherization." Certain parties, particularly DHR and OPC urged the Commission to adopt a broad weatherization definition, one that would include appliance replacement. However, the Commission declined to do so based on the Statewide definition of weatherization as codified in *Maryland Annotated Code*, Article 6, § 6-402. Under § 6-402, weatherization is defined as "the systematic application of insulation materials to a <u>structure</u> to retard the loss of the heated or cooled air within the structure." (Emphasis added). If a broader scope is intended, the General Assembly may

---

[15] *Id.*
[16] Appendix A at 18.

wish to modify the statute to clarify that intent. Additionally, the Commission would urge the Legislature to clarify whether EUSP weatherization funds are intended to be restricted to electrically heated homes only or whether, within an appropriate definition of weatherization, such funds may be used irrespective of the customers' home heating source.

In the interim, DHR, the utilities, Commission Staff and other parties have agreed to participate in a technical implementation workgroup which is designed to address business rules to be followed by DHR's Office of Home Energy Programs and by the utilities. It is hoped that the cooperative efforts made by the workgroup will lead to more comprehensive implementation during year two of the program.

3. Arrearage Retirement

In addition to low-income weatherization, arrearage retirement issues have played a predominant role among the concerns raised by the parties with regard to EUSP administration. As noted above, during year one, DHR has twice requested -- and the Commission has twice approved -- increases in amount of funds available to the arrearage retirement component. As early as in Order No. 75935 establishing the EUSP, the Commission observed that there was no solid data as to the total liability of this fund component.[17] The Commission concluded that "the intent of the Act does not permit the [EUSP] to differentiate between 'on-' and 'off-' service customers with respect to arrearage retirement."[18]

In early comments filed by the utilities, the utilities noted the potential for the emergence of post implementation arrears and urged the Commission to consider some

[17] Order No. 75935 at 17.
[18] *Id.* at 20.

mechanism for the use of EUSP funds to retire post July 1, 2000 arrears. At that time, the Commission rejected the utilities' proposal noting that § 7-512.1(a)(5)(iii) limits the use of universal service funds to arrearages incurred prior to the implementation date. The Commission noted that it was the intention of the Act that bill assistance should help preclude the accumulation of arrears after July 1, 2000.[19] The Commission has noted, however, that on average EUSP bill assistance averages approximately $250 per year per customer (ranging from $17 to $30 per month). To the extent that such assistance is insufficient to enable low-income customers to remain current, the Commission believes that arrears will accumulate during the post implementation period.

Since that time, the Commission has been apprised that issues relating to how bill assistance payments to combined (gas and electric) utilities may be posted as between the two commodities, and other issues could further contribute to the accumulation of post implementation date arrears not covered by the EUSP arrearage retirement component. Additionally, the Commission believes that increased natural gas prices, the increased use of electric space heating and other economic factors, as well as the low level of bill assistance, may contribute to unexpected post implementation arrearages that the EUSP, as it is presently designed, is not equipped to address. As a safeguard, the Commission notes § 7-512.1(g) provides that

> [F]or 3 years immediately following the initial implementation date, electricity suppliers and electric companies may not terminate, for an arrearage balance due on the initial implementation date, the supply of electricity to a customer who receives assistance under the universal service program . . . .

---

[19] *Id.* at 22.

Given the variables that may contribute to accumulation of post implementation arrears during the transition period, the Commission would recommend that the General Assembly consider modifying § 7-512.1 to permit bill assistance for post implementation arrears in order to ameliorate the unexpected negative economic effects on low-income electric customers.

IV. CONCLUSION

The Commission concludes that the Electric Universal Service Program, which at present is in its infancy, is appropriately structured and funded. However, in order to more effectively meet the needs of low-income electric customers during the electric restructuring transition period, the Commission would urge the General Assembly to (1) clarify its intent with regard to the scope of low-income weatherization, and (2) modify § 7-512.1 of the Act to permit the use of Electric Universal Service Program bill assistance funds to be used to address post implementation arrearages that may result from the increased costs of natural gas and other unfavorable economic conditions during the transition period.

Further, the Commission recommends continuation of year one EUSP funding levels for year two. The Commission will utilize DHR's report and the comments of other parties to continue to fulfill its oversight responsibilities and to render decisions to advance the provision of services to low-income electric customers.