

ELECTRIC UNIVERSAL SERVICE PROGRAM

YEAR TWO REPORT

December 2001

I. OVERVIEW

The Electric Universal Service Program (or “EUSP”) is part of the Electric Customer Choice Act of 1999 (“the Act”), and was created 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. Section 7-512.1 of the Act authorized the Public Service Commission (“the Commission”) to establish the program, make it available to low-income electric customers Statewide and provide administrative oversight to Office of Home Energy Programs (“OHEP”), the agency within the Department of Human Resources (or “DHR”), responsible for actual program delivery.

Prior to the Act, the Commission observed in Order 73834 that “[a]s part of electric restructuring, adoption of universal service programs and a related funding mechanism (a universal service charge) are paramount.”¹ The Commission 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.”² 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 Management programs, and allow for similar cost recovery by utilities and non-regulated suppliers.

¹ *Re Provision and Regulation of Electric Service*, Case No. 8738, 88 Md. PSC 249, 262 (1997).

² *Id.*

A. Legislative Requirements

Under the Act, the Commission is required to oversee the program as it is administered by the Department of Human Resources. 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 Three Funding Recommendations

Based on the limited data, the Commission still supports continuation of the Year Two total funding amount of \$34 million, as authorized by the Act for Year Three of the Electric Universal Service Program. The program is currently operated on a “needs assessment” premise derived from 1990 Census information. According to information provided by OHEP, 225,000 Maryland families are at or below 150% of the federal poverty level. OHEP therefore determined that potentially 112,500 Maryland families need EUSP assistance annually. Thus, OHEP projected serving 90,000 families in Year One. OHEP states that updated data from the 1999 Current Population Survey confirms that the assumption that 225,000 Maryland families are at or below 150% of the federal poverty level is a valid one. These findings clearly demonstrate the continuing need for the EUSP and the resources of the Commission, DHR and OHEP in meeting low income consumers' needs.

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.³

The Commission Staff ("Staff") has requested EUSP data in order to assess the program’s performance, participation, and effectiveness. Year One EUSP data was received from both the utilities and from OHEP. OHEP reported that in Year One it processed 88,695 applications for energy assistance. Of that number, 73,214 customers

³ During Year One, there was insufficient 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, given the time available.

applied for EUSP.⁴ According to utility data compiled by Staff, 59,566 out of a total of 94,191 MEAP customers participated in the EUSP during Year One as of June 30, 2001. Baltimore Gas and Electric reported the greatest number of EUSP participants, 37,347. Potomac Edison (PE) Delmarva Power & Light Company (DPL), and Potomac Electric Power Company (Pepco) reported the next largest number of participants at 6,483, 4,943 and 4,067 respectively. Staff found the data available for Year One insufficient to provide a reliable basis upon which to alter the original assessment.

Overall, data collection by OHEP has been insufficient to provide a reliable assessment of Year One program participation or program effectiveness. OHEP cites software limitations as the major obstacle to the collection of data necessary for program evaluation and for the generation of more informative reports. OHEP has stated that it will be unable to generate reports using the current software but that this capability will be available by July 2003 using new software currently under development.

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. According to OHEP, \$30,250,000 was paid out in benefits to those approved for EUSP in Year One.⁵ Approximately \$20,500,000 was paid for Bill Assistance, \$8,250,000 was paid for Arrearage Retirement, and \$1,500,000 was spent on Low-Income Weatherization performed under a Memorandum of Understanding with the Department of Housing and Community Development (DHCD).⁶

⁴ OHEP “Electric Universal Service Program Proposed Operations Plan for FY 2002” at 6.

⁵ *Id.* at 5.

⁶ *Id.*

Implementation of the overall program, and each individual component, continues to lag 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, accrue monthly. Computer system hardware and software problems have also posed numerous obstacles. DHR has stated that it is currently committing resources necessary to address computer system malfunctions. OHEP has advised the Commission that software inadequacies will be addressed with new system software by July 1, 2003. The new software is expected to have data collection and reporting capabilities that exceed those of the current system. OHEP also continues to emphasize that it intends to pursue its advocacy and outreach initiatives, and that efforts will continue to improve computer services. Based on OHEP's representations of increased advocacy initiatives, and increased outreach measures, the Commission believes that the Year Two funding level for the program overall and for each component should at least remain constant for Year Three.

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. The Commission has not received a proposal from DHR or from other parties in support of using alternative poverty guidelines at this time. The Commission hopes and expects that as DHR has greater experience with the program and improves its data collection software, it 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 as envisioned by the Act. The program was designed based upon the input from the participants in the Universal Service Working Group (“USWG”) roundtable and other interested parties.⁷ Since issuing that Order, the Commission has held numerous administrative oversight meetings and hearings in order to monitor the progress of the program, gauge its effectiveness and to address programmatic flaws and operational difficulties.

A. Allocation of EUSP Fees by Customer Class

The Act designated \$34 million to be collected annually to fund the EUSP. The Act provides that collections cannot be made on a per kilowatt-hour basis, and 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.

⁷ The USWG participants have continued to faithfully participate in the Commission's proceedings in Case No. 8738 and now in Case No. 8903 pertaining to the Electric Universal Service Program.

In order to collect the C&I customers' contribution to the Electric Universal Service Program fund, the Commission initially adopted a 23-step fee structure. 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.⁸ The Commission determined that this type of 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 and would therefore comply with the provisions of the Act. C&I EUSP fees are also flat fees charged each month, capped, are the same for similarly situated customers Statewide, and are not based on kWh usage, which is proscribed by § 7-512.1(b). Year One C&I EUSP fees were based on 1997 historic consumption data. The Year Two allocation formula has been updated to reflect 1999 historic data.

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 initially to be \$0.40 per month per residential customer. The Commission ordered this charge to be reduced effective January 1, 2002 to \$0.37 per month for residential customers in order to prevent overcollection in Year Two.⁹

In Order No. 76933, issued May 11, 2001, the Commission approved implementation of a 24th tier for small C&I customers with annual electric bills of \$250 or less. This tier was added to address an inequity experienced by some residential customers who also have separately metered garages, sheds or swimming pools that are

⁸ See Order No. 76049, April 4, 2000.

⁹ Small C&I customers within the 24th C&I tier will also have their monthly EUSP surcharge reduced to \$0.37 per month beginning January 1, 2002.

billed under a non-residential C&I tariff.¹⁰ However, overall the parties recommended, and the Commission agreed, that the basic collection methodology for Year Two should not be altered despite the original expectation that a substantial reconciliation might be necessary.

Year One Electric Universal Service Fund (EUSF) reports from the Office of the Comptroller reflect the fact that revenue received from the Electric Universal Service fees was exceeding projected levels. At year-end-July 2001, the Comptroller's report indicated that a total of \$35,944,143 had been received into the EUSF. Unspent Year One EUSP funds are being disbursed by OHEP in the form of supplemental EUSP bill assistance grants to eligible Year One recipients who continue to be active electric utility company customers, as authorized by legislative amendment to the Act, effective June 1, 2001.¹¹

B. Allocation of EUSP Funds by Program Component

As prescribed by the Act, the Commission established three EUSP components: arrearage retirement; bill assistance; and low-income weatherization. For Year One, 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.¹² Additionally DHR recommended that it be permitted flexibility to

¹⁰ See *In the Matter of the Electric Universal Service Program*, Case No. 8903, Order No. 76933, ___ Md. PSC ___ (Slip op. May 11, 2001); (Attachment A).

¹¹ Section 2, ch. 433, Acts 2001, (h)(6).

¹² Initially, \$2.875 million was allocated for program administration.

shift funds among program components. The Commission agreed and initially limited DHR's ability to shift funds without prior Commission approval to \$100,000.¹³

For Year Two, DHR/OHEP recommended the funding amounts for the program components as follows: bill assistance, \$24 million; low-income weatherization, \$3.5 million; arrearage retirement, \$3.1 million. DHR also requested \$3.4 million for administrative costs.¹⁴ The proposed allocation of funds includes a decrease in the arrearage retirement component to reflect evidence that a significant number of customers who had arrearages prior to July 1, 2000 participated in the program during Year One and therefore had their pre-July 1, 2000 arrearages retired as a Year One benefit. OHEP proposed, and the Commission supported, increasing the bill assistance component in order to accommodate OHEP's predicted increase in program participation during Year Two. An increase in participation is supported by more aggressive outreach measures OHEP says it is planning for Year Two. OHEP was given authority to shift up to \$750,000 between program components without prior Commission approval.¹⁵

III. PROGRAM ADMINISTRATION

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 administered through DHR's Office of Home Energy Programs ("DHR/OHEP"). On

¹³ 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.

¹⁴ OHEP "Electric Universal Service Program Proposed Operations Plan for FY 2002" at 6.

¹⁵ Order No. 76049.

September 19, 2001, DHR/OHEP submitted its proposed plan for FY 2002 to the Commission providing information regarding lessons learned from Year One and proposed changes to its implementation of the EUSP. A copy of DHR/OHEP's report is attached as Appendix A. The utilities, OPC, the Maryland Industrial Group and Staff filed comments on October 15, 2001.

The report by DHR/OHEP 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 Three. According to DHR/OHEP, its target population for Year Two is 100,000 low-income customer applications with the number certified for benefits projected at 90,000. This represents an increase of approximately one-third over Year One.

According to DHR, local agencies participating in the EUSP approved approximately 21% of their targeted Year Two goal as of November 25, 2001. As of November 25, 2001, 30,434 customers had applied for EUSP assistance. Approximately 19,000 customers were certified as of that date. OHEP believes that the number of applicants will increase dramatically with the onset of winter weather.

In addition to targeting MEAP and Year One EUSP participants, DHR/OHEP anticipates a concerted outreach effort in cooperation with Public Housing Authorities and tenant associations to public housing residents. Because public housing residents are not eligible for MEAP, it is believed that this population may not have been made fully aware of the availability of EUSP assistance in Year One.¹⁶

¹⁶ *Id.* at 9.

1. Bill Assistance

According to DHR, the average Year One customer benefit under the bill assistance component was \$317 annually.¹⁷ For Year Two under its proposed budget allocations and expected participant population, OHEP expects the bill payment assistance benefit to average \$273 annually.¹⁸ DHR/OHEP administers the bill assistance component as a function of the participant's previous-year electric usage. 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.

The budget billing methodology was to be used to ensure that customers would receive EUSP benefits throughout the year. Lump sum grants from LIHEAP are often exhausted in short order by customer payment practices. However, there has been some indication of customer resistance to the budget-billing requirement in Year One.¹⁹ Utilities have reported that a number of customers declined bill payment assistance benefits because of the budget billing requirement. Some utilities have been able to apply even monthly EUSP credits to customer bills, thus ensuring that EUSP benefits are received throughout the year. Other utilities have billing systems that cannot accommodate equal monthly credits. The latter are required to hold customers to the

¹⁷ *Id.* at 5.

¹⁸ *Id.* (Attachment 3).

¹⁹ OHEP Report at 10.

budget billing requirement. OHEP is examining ways in which applicants could be educated as to the advantages of budget billing.²⁰

2. Low-Income Weatherization

Of the three EUSP components, low-income weatherization has continued to lag the farthest behind in implementation. In Year One, the Commission believes that this was largely due to differing views relating to the definition of “weatherization.”

During Year One, DHR/OHEP entered into a Memorandum of Understanding with the Department of Housing and Community Development ("DHCD") for Year One Low-Income Weatherization services. DHCD performed services using Department of Energy guidelines for 697 households at an average cost of \$2,152.²¹ For Year 2, OHEP has published an Invitation For Bid (IFB) in order to competitively contract out the weatherization services. OHEP expects to have the weatherization program up and running by February 2002 under the selected contractor.²²

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 twice requested -- and the Commission twice approved -- increases in amount of funds available to the arrearage retirement component.

²⁰ *Id.* at 7.

²¹ Office of Home Energy Programs ("OHEP") - its Response to the Staff Data Request regarding OHEP's Report on Year 01 of the Electric Universal Service Program, Case No. 8903.

²² This information was gathered by Staff. However, OHEP failed to address weatherization in its FY 2001 Report to the Commission.

IV. CONCLUSION

The Commission concludes that the Electric Universal Service Program, which at present is still in its infancy, is appropriately structured and funded. Further, the Commission recommends continuation of Year Two EUSP funding levels for Year Three. Although outreach efforts by OHEP may increase participation and support the need for additional funding, the Commission is unable to quantify such an increase without valid data. In order to assess how effectively the EUSP meets the needs of low-income electric customers during the electric restructuring transition period, additional information must be collected regarding program participation, customer arrears and terminations, participant payment practices, benefits paid, reasons for application denials, etc. The Commission urges DHR to continue its pledge to commit the resources necessary for an adequate computer system -- one that is free of debilitating viruses and capable of obtaining information for program evaluation and recommendations regarding future funding levels.

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. However, the Commission notes that the required commitment to provide ongoing, appropriate oversight and assistance to OHEP far exceeds the originally anticipated level of Commission/Staff support and investment of time. Indeed, operational and computer problems have required extensive hands-on involvement by the Commission. In fact, during the winter of 2001, the Commission was forced to implement a residential utility service termination moratorium, due in part to significant problems related to the EUSP. Such efforts on the

Commission's part, and such significant commitments of Staff and Commission time, to assist in ensuring EUSP's success will be difficult to sustain in Year Two given the Commission's fiscal and personnel constraints. Finally, the Commission may request legislative action to extend its authority to retain any unexpended funds that may accrue as during Year Two for disbursement in Year Three, if the Commission determines that such a request is appropriate.