

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to conduct an investigation and to prepare a report)
for the Governor and the Legislature regarding a)
decline in funding for low-income and energy)
assistance programs as required by Section 10s of)
Public Act 141 of 2000.)
_____)

Case No. U-14071

At the September 21, 2004 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER

Section 10s of Public Act 141 of 2000, MCL 460.10s, requires that:

The commission shall monitor the extent to which federal funds are available for low-income and energy assistance programs. If there is a reduction in the amount of the federal funds available to residents in this state, the commission shall conduct a hearing to determine the amount of funds available and the need, if any, for supplemental funding. Upon completion of the hearing, the commission shall prepare a report and submit it to the governor and the legislature.

MCL 460.10s.

On May 5, 2004, upon receiving information that the amount of funds received through the Low-Income Heating Energy Assistance Program (LIHEAP) had declined, the Commission held a public hearing where six persons addressed the Commission on the record. In addition, six persons filed written comments. Subsequently, a report was prepared, which must be submitted to

Governor Jennifer M. Granholm and the Legislature. The report refers to five specific recommendations made by the participants in the proceeding and further recommends that the Governor and the Legislature urge Congress to increase LIHEAP funding.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

b. The LIHEAP funding report should be submitted to Governor Jennifer M. Granholm and the Legislature.

THEREFORE, IT IS ORDERED that the Low-Income Heating Energy Assistance Program funding report shall be submitted to Governor Jennifer M. Granholm and the Legislature.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ J. Peter Lark

Chair

By its action of September 21, 2004.

/s/ Robert B. Nelson

Commissioner

/s/ Mary Jo Kunkle
Its Executive Secretary

/s/ Laura Chappelle
Commissioner

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MICHIGAN PUBLIC SERVICE COMMISSION

Chair

By its action of September 21, 2004.

Commissioner

Its Executive Secretary

Commissioner

Case No. U-14071

Michigan Public Service Commission

Report to

Governor Jennifer M. Granholm

and

Members of the Michigan Legislature

September 21, 2004

Introduction

Section 10s of the Customer Choice and Electricity Reliability Act, 2000 PA 141, MCL 460.10s, requires the Michigan Public Service Commission (MPSC) to “monitor the extent to which federal funds are available for low-income and energy assistance programs.” In the event that there is a reduction in the amount of the federal funds available to residents in this state, the MPSC is required to “conduct a hearing to determine the amount of funds available and the need, if any, for supplemental funding.” Upon completion of the hearing, the MPSC must prepare a report to submit to the Governor and the Legislature.

On March 9, 2004, the MPSC Staff received a report from the Family Independence Agency (FIA) summarizing the past three years of Michigan’s grant awards through the federal Low-Income Home Energy Assistance Program (LIHEAP). The report indicated that Michigan’s net allocation of LIHEAP funds for fiscal year (FY) 2004 of \$96,425,811 had declined by \$94,124 from the 2003 level of \$96,519,935. This report prompted the MPSC to commence an investigation in Case No. U-14071 as required by MCL 460.10s.

On May 5, 2004, the MPSC held a public hearing at its offices in Lansing. Margaret VanHaften, representing the MPSC Staff, Joan Lamoreaux, representing the FIA, Susann Odom, a recipient of LIHEAP assistance and representing the Michigan Head Start Association, Joyce Hayes-Giles, representing DTE Energy, Kathleen Walgren, representing The Heat and Warmth Fund (THAW), and Thomas R. Kroll, representing himself, made oral comments. THAW, FIA, the MPSC Staff, The Detroit Edison Company (Detroit Edison), Consumers Energy Company (Consumers), and Aquila Networks-MGU filed written comments. This report discusses the responses to this inquiry and provides recommendations for further action.

Low-Income Home Energy Assistance Program Structure

The primary source of Michigan’s energy assistance funds is LIHEAP, which is a federal block grant program authorized by the Omnibus Budget Reconciliation Act of 1981. The purpose of LIHEAP is “to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs.”¹

LIHEAP, which is administered by the U. S. Department of Health and Human Services (HHS), provides states and Native American tribes with grants to help low-income households in four program areas:

1. Grants to assist low-income households in paying energy bills.
2. Emergency funds released by the President when there are natural disasters, high energy prices, or other situations resulting in the need for special assistance.
3. Residential Energy Assistance Challenge (REACH) grants funding new initiatives or strategies to assist low-income households to reduce their energy burden.
4. Leveraging grants to encourage states to raise non-federal funds for energy assistance.

HHS allocates funds to states for LIHEAP. These allocations are based on a yearly appropriation approved by Congress and are determined by a formula incorporating, among other factors, the number of low-income households, heating degree days, and home heating costs. The President has authority to release emergency funds when crisis situations arise; however, these funds are not necessarily released every year.

Each year, FIA develops a proposal for Michigan’s allocation of the fund that must be approved by HHS. While the federal allocation formula has not changed in 20 years, the amount

¹Low-Income Home Energy Assistance Act of 1981, Title XXVI of the Omnibus Budget Reconciliation Act of 1981, 42 USC 8621(a).

allocated to Michigan varies year-to-year based on the total amount of LIHEAP funds appropriated by Congress. Currently, Michigan ranks in the top five states in the amount of LIHEAP funding received, joining Illinois, New York, Ohio, and Pennsylvania. Of the gross funding HHS allocates, a portion is set-aside for tribes² and the net amount is distributed to other low-income households.

Michigan uses its LIHEAP allocation for three initiatives: the Home Heating Credit (HHC) administered by the Department of Treasury (Treasury), the State Emergency Relief (SER) administered by FIA, and the Weatherization Assistance Program administered by local Community Action Agencies. While HHS allows states to use LIHEAP funds for cooling assistance, Michigan has not included cooling assistance in its application.

The HHC targets households with incomes at or below 110% of the federal poverty level. Applicants may apply for the credit by submitting Treasury form MI-1040CR-7 to the Treasury before September 30 of each year. Those eligible for the HHC who have utility service in their own names, or purchase deliverable fuels from a participating provider, receive “energy drafts” that are submitted to their utility services provider or deliverable fuels provider. The draft is applied to the recipient’s energy bill. If the draft is greater than the amount owed, the recipient may request a refund of the unexpended amount. A recipient who has service from a non-participating provider, or who has paid for deliverable fuels in advance, may receive a credit in the form of a check.

²The tribal set-aside allocations to Michigan for FY 2003 and FY 2004 were \$446,674 and \$599,359, respectively.

During calendar year 2003, Treasury was certified to issue \$69,402,849 in credits to 334,817 Michigan low-income households. Such credits averaged \$207 each.³ In 2004, Treasury is certified to issue \$59,520,000 in credits.⁴ As of the date of the MPSC's public hearing in this matter, Treasury had issued 79,395 credits averaging \$161 each.⁵ Because HHC forms may be filed through September 30, the final numbers of participants and awards are not available. This year, due to staffing cutbacks, HHC applications have been taking, on average, six to ten weeks to process.⁶

SER targets households at 50% of the federal poverty level. A qualifying low-income customer who faces an emergency, such as a utility service shut-off, a declared need for a deliverable fuel, or energy related home repair, may receive a SER grant. Between October 2002 and March 2003, FIA provided 41,403 low-income households SER assistance averaging \$417.⁷ From October 2003 to March 2004, FIA provided 44,932 clients with assistance payments averaging \$397,⁸ which represents an increase of 8.5% in total number of clients and a reduction in average payment to clients of 4.8%.⁹

³Comments of Joan Lamoreaux during Public Hearing, Transcript of Hearing in Case No. U-14071, p 10-11.

⁴Id.

⁵Id.

⁶Response by Joan Lamoreaux to question from Commissioner Robert B. Nelson during Public Hearing, Transcript of Hearing in Case No. U-14071, p 15.

⁷Comments of FIA filed in Case No. U-14071, filed May 6, 2004, p 2.

⁸Id.

⁹Id.

In anticipation of a greater demand for emergency assistance during FY 2003-2004, FIA set aside more of the LIHEAP allocation for SER and allocated less for the HHC. While HHC payments are lower, the structure of the program allows assistance to reach more households. SER eligibility is based on “demonstration of immediate need (shut-off notice, declared need for a deliverable fuel such as fuel oil, verified need for energy related home repair), income, and assets.”¹⁰ SER heating assistance is provided at a maximum of \$350-\$700 per year, depending upon the fuel type.¹¹ Energy-related home repairs are limited to a lifetime payment of \$1,500 per household.¹² SER assistance requires a face-to-face application between the client and caseworker, thereby generally requiring an appointment and more staff and client time.

Those participating in the case explained that while federal funding has remained relatively level, energy prices have increased and the number of low-income families needing assistance has also increased, requiring FIA to “cut the pie” into smaller and smaller pieces. Those requiring assistance receive less to pay higher bills and are more likely to fall into arrears with their utility even after receiving assistance, risking shut-off. The MPSC’s Winter Protection Program¹³ provides shut-off protection from December through March, but at times many low-income customers are unable to pay even the minimum amount required to avoid having service terminated. Between the conclusion of Winter Protection period on March 31 and the beginning of the next season’s Winter Protection program, customers are expected to pay the outstanding balance of winter bills plus their current bills or risk losing service. When electric and gas bills are

¹⁰FIA Web Page, “Home Energy Assistance (LIHEAP).”

¹¹Id.

¹²Id.

¹³See, MCL 460.10t and R 460.2174.

combined, as they are for many customers, electric service is generally shut-off first, leaving the household without cooking or refrigeration. Without electricity most furnaces do not function, leaving the customer without heat.

Other Funding Assistance

While LIHEAP provides the largest portion of funding, there are other resources to assist low-income customers.

The Low-Income and Energy Efficiency Fund (LI-EE) - Section 10d(6) of 2000 PA 141 (Act 141),¹⁴ requires a portion of savings from the issuance of securitization bonds to be used for the LI-EE Fund. Act 141 directs the MPSC to administer the Fund and to establish standards for the use of the Fund, in part, to provide shut-off and other protection for low-income customers and energy efficiency programs to benefit all customer classes.¹⁵ Detroit Edison is the only electric company that has met the criteria established in Act 141 to contribute to the Fund. Grants have been provided in three categories: a) low-income energy assistance, b) low-income energy efficiency, and c) other energy efficiency initiatives. Subsequent to inception of the program, there have been four grant cycles awarding funds for low-income energy assistance. The FIA has been a grantee in each cycle; these funds supplement those received by FIA through LIHEAP. The following chart details the MPSC's orders granting funding in each cycle, the amount awarded to FIA, and the total amount awarded to all grant recipients.

¹⁴The Customer Choice and Electricity Reliability Act of 2000, 2000 PA 141, Section 10d(6).

¹⁵The Customer Choice and Electricity Reliability Act of 2000, 2000 PA 141, Section 10s.

Date of Order	Amount Awarded To FIA	Total Grants Awarded
2/21/02	\$19,000,000 ¹⁶	\$27,400,000
12/20/02	\$13,500,000 ¹⁷	\$20,000,000
2/27/03	\$17,000,000	\$20,000,000
10/29/03	\$7,500,000	\$13,000,000 ¹⁸
TOTAL	\$57,000,000	\$80,400,000

Other grant recipients have included the Michigan Community Action Agency Association, THAW, the Salvation Army, and several smaller local agencies providing heating assistance.

Public Utilities – Several public utilities provide in-kind services and financial contributions to assist their low-income customers in meeting their energy needs. For example, Consumers contributes \$1.5 million in energy bill credits to the PeopleCare program annually.¹⁹ DTE Energy Company (DTE), the parent of both Detroit Edison and Michigan Consolidated Gas Company (Mich Con) provides assistance through fuel fund donations.²⁰

Charitable Organizations – A variety of charitable organizations throughout the state provide energy assistance. THAW, a non-profit agency that pays utility bills for low-income

¹⁶This grant award includes \$12 million for the Home Heating Credit, \$4 million for energy assistance special needs, and \$3 million for the State Emergency Fund through Community Action Agencies.

¹⁷This grant award includes \$12 million for the Home Heating Credit and \$1.5 million for the State Emergency Fund in cooperation with Community Action Agencies.

¹⁸In addition to these grant awards, 2003 PA 167, the Department of Consumer and Industry Services' (now known as the Department of Labor and Economic Growth) appropriation bill, appropriated \$3 million from the fund to Community Action Agencies across the state for low-income shut-off protections.

¹⁹Comments of Consumers, filed in Case No. U-14071, May 19, 2004, p 5.

²⁰Comments of Detroit Edison, filed in Case No. U-14071, May 19, 2004, p 2.

people in emergency situations, and the Salvation Army, have received funds from the LI-EE Fund, utilities, and private donations. Added to these are any number of smaller organizations, including community organizations and churches, throughout the state providing assistance. Community Action Agencies provide weatherization services throughout Michigan in an effort to reduce energy bills. The MPSC is not aware of the combined level of funding available from these groups. The MPSC Staff is revising and updating a directory of these organizations.

Effect on Michigan's Low-Income Households

During the May 5th hearing, the MPSC heard from Ms. Susann Odom, a Michigan resident who has experienced recent financial setbacks sufficient to qualify her for low-income assistance. She explained to the MPSC that she paid as much as she could on her electric and natural gas bills, but could not meet the payment requirements and had spent time with her utilities shut-off. She described the frustration of dealing with assistance programs, moving from agency to agency to see if she qualified for assistance and whether funds were available to assist her, then repeating this process each time she received a shut-off notice. Ms. Odom made several significant points important to this discussion: 1) there are many agencies, including small, local organizations, that at times have funds to assist low-income households, but they are not well-known to those who need the assistance and cannot readily be located; 2) the HHC can provide some relief, but often ten weeks lapse before receipt of the credit once the forms are filed; and 3) staffing cuts within the assistance agencies limit their ability to assist. The MPSC recognizes that Ms. Odom's frustration with her inability to pay household energy bills in full was magnified by her need to work through the maze of assistance programs. While Ms. Odom is one individual, the MPSC also recognizes that many other Michigan households share her situation.

The struggle to meet energy needs has been a long-standing challenge for many Michigan households. Ms. Odom’s comments provide a “front-line” picture of the broader perspective provided by other participants. Several participants providing comments at the public hearing and in writing discussed the “affordability gap,” a concept based on research which suggests that an average household pays about 6% or less of total household income for household energy. Michigan low-income households between 100% and 125% of federal poverty levels spend about 10% of total household income on energy bills, while those with income levels between 50% and 100% of the poverty level spend about 14% of their household income.²¹ The affordability gap is the difference between what is considered affordable energy costs – 6% of the household income – and what some households are actually paying. As household income goes down, the percentage of income needed to pay energy bills goes up. In Michigan, the affordability gap was \$458 million in 2003,²² compared to a gap of \$340 million in 2001.²³ LIHEAP funding of just under \$100 million does not begin to cover the gap. Even with the addition of the LI-EE grants, utility contributions, and private donations, there is still a tremendous gap between what low-income households can afford to pay and what their actual household energy costs are.

Because energy costs have risen since the study was conducted in 2003, the problems for low-income households have increased. Based on 2003 figures, approximately 34% of the

²¹“On the Brink: The Home Energy Affordability Gap in Michigan,” a publication of Fisher, Sheehan, and Colton, Public Finance and General Economics, Belmont, Massachusetts, April 2003, p 1.

²²Comments of Kathleen Walgren during Public Hearing, Transcript of Hearing in Case No. U-14071, p 38.

²³Id., p 39.

987,700 Michigan households eligible for assistance through LIHEAP actually received it.²⁴ Approximately 180,000 Michigan households live at or below 50% of poverty level, 102,000 households have incomes between 50% and 74% of poverty level, and 115,000 households live with incomes between 75% and 99% of the Federal poverty level.²⁵ Even households not eligible for LIHEAP assistance, those with household incomes between 150%-185% of the federal poverty, experience difficulty in paying energy bills.

The study ranked Michigan against the other states and the District of Columbia in four categories. For Michigan households below 185% of poverty level, energy bills exceed affordability by an average of \$555. Households below 50% of poverty level have an average energy burden of 39.8% of household income. Of all individuals in Michigan, 10.5% are below poverty level. Federal home energy assistance covers 31.4% of Michigan's affordability gap.

Discussion

The problems experienced by low-income households in paying household energy bills are well-documented and certainly not new, and the need for assistance far exceeds the federal and state funds available to assist them. There is no expectation that this situation will change in the future. There are many factors that contribute to the situation.

First, many households do not have sufficient income to meet energy costs, whether it is provided by electricity, natural gas, or deliverable fuels. According to DTE's comments, unemployment in Michigan has risen from 3.9% in 1998 to 7% this year; during the same time

²⁴Comments of The Heat and Warmth Fund, filed May 6, 2004 in Case No. U-14071, p 1.

²⁵“On the Brink: The Home Energy Affordability Gap in Michigan,” a publication of Fisher, Sheehan, and Colton, Public Finance and General Economics, Belmont, Massachusetts, April 2003, p 1.

frame, natural gas prices have risen 70%.²⁶ During periods of economic strain, customers once able to afford to pay their utility bills can slide into situations in which they no longer can do so. Individuals report going without food or medicine in order to avoid having their electric and natural gas shut-off.²⁷

Also, the housing available to low-income households and the appliances therein are often not energy efficient, resulting in greater energy consumption and higher bill amounts. Community Action Agencies provide weatherization services throughout Michigan in an effort to reduce this problem. During the hearing, Mr. Knoll testified that weatherization could save \$150-\$300 per year per house, based on old data, with savings increasing as energy prices rise.²⁸ For 2004, a \$15 million grant from the federal Department of Energy and \$7 million through FIA from LIHEAP funds provide weatherization funding.²⁹ An additional \$1.5 million was provided in FY 2003-2004 from the LI-EE Fund.³⁰ LIHEAP weatherization funding is not submitted in the initial state plan, but provided through an adjustment.³¹ Mr. Kroll estimated that to meet the need,

²⁶Comments of Joyce Hayes-Giles during Public Hearing, Transcript of Hearing in Case No. U-14071, p 26.

²⁷Comments of Kathleen Walgren during Public Hearing, Transcript of Hearing in Case No. U-14071, p 40.

²⁸Comments of Thomas R. Knoll during Public Hearing, Transcript of Hearing in Case No. U-14071, p 49.

²⁹Comments of Thomas R. Knoll during Public Hearing, Transcript of Hearing in Case No. U-14071, pp 46-47.

³⁰The MPSC's Report on The Low-Income and Energy Efficiency Fund, June 1, 2004, p 6.

³¹Comments of Thomas R. Knoll during Public Hearing, Transcript of Hearing in Case No. U-14071, p 50.

Community Action Agencies could spend \$30-\$40 million per year on weatherizing low-income homes.³²

Further, energy prices continue increasing. For example, U.S. wholesale natural gas prices are volatile. Between the winter of 2002-2003 and 2003-2004, the MPSC Staff estimates the average Michigan residential natural gas bill rose 15%. Based on current available data, it is anticipated that the average residential natural gas bill will increase another 15% during the coming winter. Natural gas supplies have not kept up with increasing demand, resulting in higher prices, which are passed on to retail customers.

Also, under Michigan law, natural gas utilities are allowed to recover from customers the cost of purchasing natural gas without a profit. The MPSC reviews these costs on an annual basis in gas cost recovery (GCR) proceedings. Higher wholesale natural gas prices translate to higher retail bills. Based on current projections, DTE estimates that a low-income Mich Con customer can expect to pay \$1,100 in heating costs in 2004, up from \$650 in 1998.³³

A related issue is the impact of unpaid bills on the company and its customers. DTE estimates that its low-income customers are \$112 million in arrears,³⁴ which it maintains is an indication that uncollectible bills will also increase and cause higher rates for other customers.

The recurring theme in both the written and oral comments was the lack of sufficient funding to reach all low-income households requiring assistance. Existing LIHEAP funding covers about one-third of those who qualify, and, at that, it may not be sufficient to ensure they do not have their utilities shut-off. As discussed, the great majority of low-income households receiving heating assistance receive just the HHC, averaging \$161 in 2004. These recipients account for

³²Id.

³³Comments of Detroit Edison in Case No. U-14071, filed May 19, 2004, p 1.

³⁴Id.

about one-third of the 987,700 households eligible to receive the HHC. SER reached 44,932 between October 2003 and March 2004, or approximately 4.5% of the households eligible to receive the HHC. Available funding does not prevent low-income households from having service shut off during winter months.

Recommendations

Participants in the public hearing and those filing written comments agree that there is insufficient LIHEAP funding available to help all those qualifying for assistance and to provide assistance at a level to ensure customers will not be shut-off during the winter months. Further, the income eligibility guidelines are such that not all low-income households qualify for assistance. While increasing eligibility standards is an option, without a commensurate increase in funding the amount of assistance each household receives will be reduced. Participants offered several recommendations:

1. Improve the energy efficiency of low-income households. Improving household energy efficiency, when done properly, has long-term benefits. Redirecting additional LIHEAP funds to expand current weatherization programs should be encouraged.
2. Implement a universal service or system benefits charge funded through a surcharge applied to all customers of regulated energy utilities. All proceeds would be used to fund assistance programs, and, in doing so, could be used to leverage additional LIHEAP funds. The MPSC's approval of a low-income and energy efficiency fund, the cost of which is now incorporated in Detroit Edison's cost of service, is a significant first step in the development of a state-wide system benefits charge.
3. Increase the efficiency of delivering existing programs. Subsequent to the hearing, the MPSC has become aware of FIA initiatives to streamline the SER process. It would also be

beneficial to reduce the turn-around for the HHC or for utilities to hold a pending shut-off until the customer receives the HHC. It would improve the efficiency and processing time to allow e-filing of the HHC, to automate the payment process, and to post credits directly to the customer's account.

4. Investigate alternate billing mechanisms, including a Percent of Income Payment Plan (PIPP). Customer's participating in PIPP would pay a specified percent of their income for household energy bills and any amount above that percent would be paid by an assistance fund such as a universal service fund.
5. Investigate the development of new initiatives that could be funded by REACH grants. REACH grants would fund new initiatives or strategies to assist low-income households to reduce their energy burden.

The MPSC believes it is also important that the Governor and the Legislature continue to urge Congress to increase LIHEAP funding.

The challenge to meet the energy assistance needs of Michigan's low-income households has been ongoing for decades, yet the problems continue to become more critical each year. Many hard working people within and outside of state government struggle to find creative solutions as evidenced by these recommendations.