Low Income Consumers Won’t Pay for MA Solar Programs

Across the country, advocates for low-income energy customers are grappling with rate design and fair solar power policies. The Massachusetts Department of Public Utilities (DPU) recently issued a decision that could help guide other successful advocacy work.

In late 2015, National Grid asked the Massachusetts DPU to raise the electricity rates that it can charge to its customers. The Massachusetts Low Income Weatherization and Fuel Assistance Network (or Low Income Network), which is represented by NCLC, intervened in this rate case to advocate for the rights of low-income ratepayers, and to support programs that benefit low-income ratepayers, such as the low-income discount rate and the Arrearage Management Program (AMP) to help manage overdue bills.

The Low Income Network advocated for, and won, utility consumer protections in three key areas:

- **Rates**: a fair rate design that would not unfairly burden low-income customers;
- **Arrearages**: better implementation of the AMP program by National Grid, and retention of the method that already was used successfully to compensate utilities for operating the AMP program; and
- **Solar Charges**: an adjustment to the rates paid by low-income people to effectively exempt them from paying for renewable energy incentives that almost exclusively benefit higher income customers

**Rates**

National Grid asked to raise charges for low-income customers in two phases. Phase I would have raised prices, and Phase II would have then introduced tiered charges, where customers would pay a higher monthly charge ranging from $6 to $20 depending on their electricity usage. Under the Phase II method, one sample month would be used to lock in the household’s monthly charge for the following year. Then the customer would then continue paying that monthly charge for the next year with no opportunity to lower their rate through energy efficiency or other conservation measures until the year was up.

The Low Income Network introduced testimony from NCLC senior energy policy analyst John Howat and argued that the increased fixed monthly charge should be rejected for three reasons. The increased charge would disproportionately burden low income ratepayers, with some customer bills increasing by as much as 60%. This increase would be particularly unfair since low income households tend to use less electricity than higher income households. Finally, higher fixed charges are coupled with lower volumetric rates, and this arrangement weakens the financial incentive to adopt energy efficiency measures.

The DPU concluded that there were a number of problems with the company’s tiered charge proposal, including concerns about energy efficiency incentives, customer confusion, and unnecessary complexity. The DPU rejected the utility company’s tiered charge proposal entirely.

**Arrearages**
After analyzing utility company data, NCLC found that National Grid had a level of AMP participation that was well below the state average. The Low Income Network presented this evidence and an analysis by NCLC researcher Marina Levy, and questioned National Grid witnesses on the workings of its AMP. The Low Income Network requested that National Grid examine its AMP policies and practices, report on these to the DPU in six months, and put forth a plan to improve its AMP enrollment rates. National Grid did not dispute the evidence or proposed remedy.

The DPU agreed with the Low Income Network on the need to remedy the low AMP enrollment rate and ordered the company to submit the report requested by the Low Income Network. The DPU also agreed to continue to allow National Grid to collect AMP recovery costs using the same method that had been used successfully in past years, through the Residential Assistance Adjustment Factor (or RAAF).

**Solar Charges**

Massachusetts law contains a unique consumer protection for low-income utility ratepayers. The DPU must consider the impact of distributed generation on low-income customers, and must make adjustments to keep rates affordable for low-income households. In this rate case, the DPU applied this section of the law for the first time.

The Low Income Network presented evidence to show that all customers pay through their electric bills for certain renewable energy subsidies, including costs associated with net metering for solar power customers and costs of complying with the Massachusetts Renewable Energy Portfolio Standard (a requirement that electricity suppliers must obtain a certain percentage of electricity from solar power and other renewable sources). Low-income customers pay for these subsidies as well, and have absorbed an unaffordable 6% increase in their electric bills. Yet it is unlikely that many low income customers would be able to benefit from the renewable energy subsidies themselves. The Low Income Network argued that, given this impact on the bills of low income ratepayers, the DPU must adjust the low-income discount rate to make sure that low-income customers are not paying for subsidies and programs that they cannot use.

The DPU found that the deployment of renewable energy has grown, causing growth in the renewable energy subsidies. Bills for low-income households have increased as a result. Applying Massachusetts law, the DPU agreed that the correct remedy was to order a reduction in the rates charged to qualifying low-income households, and directed National Grid to make this adjustment and include it with the utility company’s compliance filings. The DPU also noted that other utility companies should do the same when they return to the DPU to seek increased rates.

The decision in this case, DPU 15-155, and the DPU’s acknowledgment of the impact of renewable energy subsidies on low-income ratepayers, represent a victory for low-income Massachusetts households who struggle to pay their electric bills. NCLC can assist advocates in other states who are interested in trying to get similar legislation adopted elsewhere, or otherwise seek similar rate adjustments through their utility commissions.

For more information, please contact Charlie Harak, John Howat or Jenifer Bosco at the National Consumer Law Center.
Payday Loan Stores Shouldn’t be Utility Bill Payment Centers

Last month, the Missouri Public Service Commission joined Arizona and Nevada as states where utilities, as a result of pressure from consumer advocates, have been compelled or voluntarily agreed to cut contractual ties with payday lenders. Some utilities enter into contracts with payday and other short-term predatory lenders to accept bill payment from customers. Payday lending practices entrap lower-income individuals into a long-term cycle of exorbitantly-priced debt that often brings serious financial security consequences.

In June of this year the Consumer Financial Protection Bureau issued a draft proposed rule intended to rein in the most egregious payday lending practices and require that these lenders conduct basic ability to repay analysis before making loans. However, NCLC, Center for Responsible Lending, National Council of La Raza, NAACP, People’s Action Institute, Consumer Federation of America, and numerous other advocacy groups issued a statement urging CFPB to close various loopholes and address other concerns with the proposed rule. There is the additional concern that the proposed rule may be weakened prior to adoption of final regulation over payday lenders. Unfortunately, state level advocates interested in working to keep utilities from using predatory loan storefronts as payment centers may not be able to fully rely on federal regulation to effectively address this problem.

Here are some payday lending stats and facts:

- Payday lenders typically offer their borrowers high-cost loans, typically with a short, 14-day term. The loans are marketed as a quick fix to household financial emergencies with deceptively low fees that appear to be less than credit card or utility late fees or check bounce fees. (National Consumer Law Center, Consumer Credit Regulation, 2012, p. 403.) The loans are marketed to those with little or no savings, but a steady income.
- The cost usually ranges from $15 to $30 for every $100 borrowed. Fifteen dollars per $100 borrowed is common among storefront payday lenders. The payday loan business model entails the borrower writing a post-dated check to the lender – or authorizing an electronic withdrawal equivalent – for the amount of the loan plus the finance charge. On the due date (payday), the borrower can allow the lender to deposit the check or pay the initial fee and roll the loan over for another pay period and pay an additional fee. The typical loan amount is $350. The typical annual percentage rate on a storefront payday loan is 391%. (Saunders, et al., Stopping the Payday Loan Trap: Alternatives that Work, Ones that Don’t, National Consumer Law Center, June, 2010, p. 4.)
- Rollover of payday loans, or the “churning” of existing borrowers’ loans creates a debt trap that is difficult to escape: The Consumer Financial Protection Bureau found that over 75% of payday loan fees were generated by borrowers with more than 10 loans a year. And, according to the Center for Responsible Lending, 76% of all payday loans are taken out within two weeks of a previous payday loan with a typical borrower paying $450 in fees for a $350 loan. (Consumer Financial Protection Bureau, “Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings,” April 24, 2013, p. 22; “Payday Loan Quick Facts: Debt Trap by Design,” Center for Responsible Lending, 2014.)
- A 2008 Detroit Area study compared payday loan borrowers with low-to moderate income households that did not use payday loans. In that study researchers found that payday loan borrowers experienced nearly three times the rate of bankruptcy, double the rate of evictions, and nearly three times the rate of utility service disconnections. (Barr, “Financial Services,
Prepaid Utility: Subpar Service for Cash-Strapped Families?

The More Things Change, the More They Stay the Same
While prepaid metering and service technologies have changed — utilities now use smart meters, cell phones and the internet rather than prepayment meters that had to be fed with cash or a debit card to avoid loss of service — the ugliest truths about prepaid service remain constant. Everywhere in the Western world where it has been implemented, prepaid service is concentrated among lower-income households and disconnection rates far exceed those of customers getting regular service. It remains a second-class service with utility and vendor proponents preying upon financially-strapped households. It obscures the need for utilities and regulators to implement bill payment assistance, deposit assistance, arrearage management, energy efficiency, and other consumer protection programs and policies to help ensure real home energy security for all households.

Free Choice or Hobson’s Choice?
The aspect of prepaid service marketing that may be the most troublesome and challenging to overcome is that participation is described as voluntary, the free choice of the utility customer. Of course, those who have worked with utility customers have seen time and again low-income households faced with loss of necessary utility service doing whatever it takes to keep the lights and refrigerator going. We’ve seen households - to avoid disconnection - accept to last-minute payment “agreements” that are hopelessly unaffordable. In the case of prepaid service, a utility customer struggling to keep their household going may forfeit vital consumer protections and choose prepaid service rather than pay an unaffordable security deposit or deal with a looming disconnection.

The Prepaid Service - Predatory Lending Connection
Getting into the high-interest/high fee payday loan trap is a “free choice” exercised by about 12 million lower-income adults in the US each year. While proponents argue that payday lending helps underserved people solve temporary cash-flow problems, the practice preys on overburdened people in financial crisis. Similarly, prepaid service proponents promise greater control over electricity bills and energy savings, while preying on the vulnerability of low-income households juggling the financial impossibility of paying for basic necessities and keeping the lights on. Millions around the country and more recently the Consumer Financial Protection Bureau have come to recognize payday loans and other sub-prime lending as predatory. Hasn’t the time come for prepaid utility service to be viewed and regulated in a similar manner?

For more information, please see this NCLC report or contact National Consumer Law Center Senior Energy Analyst John Howat at jhowat@nclc.org.
**AMPS are a Win-Win for Low-Income Customers and Utilities**

Across the country, low-income consumers are struggling to pay their utility bills. In fact, one report from the Consumer Financial Protection Bureau found that collections in the “utilities or energy” category is the third most common item on consumers’ credit reports. Their study indicates that approximately one in thirteen consumers has a credit report containing one or more collections items originated from a utility or energy bill.

Helping consumers manage their utility bills can not only help keep the lights and heat on in households, but also provide utility companies with the opportunity to collect more money from otherwise uncollectible accounts. An example of a great way to manage arrearages is through Arrearage Management Programs, or AMPs, which have been successfully used in Massachusetts to provide incentives for low-income consumers to stay current on their bills in exchange for a structured, gradual forgiveness of past bills.

In September 2013, the National Consumer Law Center (NCLC) published the report *Helping Low-Income Utility Customers Manage Overdue Bills through Arrearage Management Programs*, which provides an overview of how AMPs work in Massachusetts. Since then, NCLC has observed growing interest in replicating the success of Massachusetts AMPs in other states—most recently in Maine, Maryland, and D.C.

Penni McLean-Conner, Senior VP and Chief Customer Officer at Eversource Energy, has published several articles on the topic. Her first article characterized AMPs as a “win-win” for consumers and utilities alike. She then explored how AMPs may positively transform the customer/business experience. More recently, she shares insight on best practices for designing an AMP. Her articles have received favorable responses from utilities and regulators, indicating that the time is ripe for consumer advocates to push for the development of AMP programs in their states.

NCLC stands by AMPs as a useful tool for low income consumers to manage their bills. In order for AMPs to succeed, they must be well integrated with other state programs that help low income people pay their energy bills, such as discount rates, fuel assistance payments, and energy efficiency programs. We are happy to work with advocates and policymakers interested in bringing AMPs to their state. For more information, contact NCLC attorney Charlie Harak at charak@nclc.org.

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**Hurray! The FCC Modernized Lifeline! What You Need to Know**

The Federal Communication Commission voted to modernize the Lifeline program on March 31, 2016. This was a monumental achievement for many advocates around the country who have worked
for years to modernize this critical low-income communications subsidy program.

The Lifeline program was established in the mid-1980s to connect low-income households to emergency services, jobs, healthcare, teachers, friends and family through affordable phone service. The focus of Lifeline was on access to affordable local phone service and it didn’t cover those expensive long distance calls. Communications technology has evolved over the decades and today it is broadband that is dominant communications platform.

In modern life, access to broadband is as essential for access to opportunity as electricity was in the last century. As FCC Commissioner Clyburn noted, “Broadband is the greatest equalizer of our time.” For those with the resources to afford broadband service, broadband integration in modern life has been nearly ubiquitous. Internet access has transformed the classroom and FCC Commissioner Rosenworcel eloquently noted that the “homework gap” is the cruelest part of the digital divide. From access to jobs to access to healthcare, as more aspects of modern life move online, the harmful effects of digital exclusion increase. So it is a really big deal that the Lifeline program will now include broadband as a supported service. Hurray! Now it is time to roll up our sleeves and help prepare Lifeline subscribers for the changes that are coming.

Nuts and Bolts Guide to Lifeline Changes

This is a quick summary of some of the changes to the Lifeline program that Lifeline subscribers will need to know.

- What types of service are covered? Voice-only wireline and wireless; Voice and data bundles; Broadband internet service, both fixed and mobile.

- The FCC Order phases out support for voice-only Lifeline over 5 years, but voice service is still available as part of a voice and data bundled Lifeline option.

- The FCC established minimum standards for Lifeline voice, bundles and broadband service, effective December 1, 2016. Heads up for existing wireless Lifeline subscribers: The minimum standard for wireless voice starts at 500 minutes a month and will go up annually in phases until it reaches 1000 minutes a month – I’ll share details in a future blog post.

- Over the next three years, the Lifeline eligibility determination will be changing hands from the carriers to a National Verifier. Recertifications will also move to the National Verifier.

- Starting December 1, 2016, a different set of programs will qualify a household for Lifeline support: SNAP, Medicaid, SSI, Federal Public Housing Assistance, Veterans Pensions & Survivors Pension benefit, and the same suite of Tribal Programs that currently confer eligibility. Households may still qualify for Lifeline by demonstrating income at or below 135% of the Federal Poverty Guidelines.

Register for free webinars: The Universal Services Administrative Company (USAC.org) administers the Lifeline program and will implement these new program changes. USAC is sponsoring a series of free webinars on the new program. The next one is June 8. Register or view archived webinars.

There will be opportunities to weigh in and help with the implementation and outreach. Please stay tuned for more information. Congratulations and thank you, everyone. Rest up because we have a lot of good work ahead of us!
Exelon Merger Yields $25 Million in Low-Income Benefits

On March 23, the D.C. Public Service Commission (DC PSC) gave final approval to the merger of Exelon Corporation and PHI Holdings (operating companies of Pepco, Delmarva, and Atlantic City Electric). The merger had previously been approved in the states of Virginia, New Jersey, Maryland, and Delaware, and at the Federal Energy Regulatory Commission. Given these prior approvals, the entire deal hung on the DC PSC’s decision. The DC PSC had previously denied the merger on August 27, 2015, at a point in the proceedings when most parties strongly opposed it, and none supported. Shortly thereafter, Exelon and several parties, including the National Consumer Law Center (NCLC) and National Housing Trust (NHT) reached a settlement, which was presented to the PSC on October 6, 2015. There have been many twists and turns since, including the DC PSC initially rejecting the settlement, but ultimately approving a revised version.

NCLC and NHT were actively involved in the case for two years, presenting testimony and advocating that the merger should not be approved unless it included substantial investments in energy efficiency (EE) in affordable housing as well as other benefits for low-income households. Based on our advocacy, the settlement filed on October 6 included $6.75 million for low-income energy efficiency investments, as well as substantial funding for other benefits targeted to low-income households. In the PSC’s final order, it actually increased the amount primarily targeted for EE in multifamily housing to $11.25 million.

The final order also commits the company – working in conjunction with NCLC, NHT, and other interested parties, to develop an Arrearage Management Program that will help customers who are behind on their bills to wipe out those arrearages so long as they pay the current, monthly bills regularly. However, we were quite disappointed that the final DC PSC order redirected $9 million originally included in the settlement as a supplement to the federal fuel assistance funds the District receives. Instead setting those funds will be set aside to fund future grid modernization pilots.

In addition, due to a “most favored nation clause” (MFN) in the earlier Maryland decision, the low-income benefits that NCLC and NHT achieved for Maryland low-income customers will also increase. Under the MFN, Exelon now must roughly double the benefits already achieved in Maryland to equalize them, on a per customer basis, with those just included in the DC PSC order. In DC, the benefits work out to about $213 per customer, while the per customer benefits in the Maryland case were closer to $100.

There may be lengthy discussions and negotiations as to exactly how much the benefits in Maryland will now need to increase, but we believe the investments for EE in Maryland affordable multifamily housing will reach $15 million to $20 million.

Thus, the total for low-income energy efficiency between D.C. and Maryland will likely exceed $25 million. In addition, in Maryland – as in D.C. – Exelon must develop an Arrearage Management Program for low-income customers in arrears on their bills. This will add significant additional benefits for low-income households.

Many thanks to our partners at NHT who’ve been involved throughout the negotiations to achieve this impressive win for low-income utility customers.
Utility mergers are on the rise. In the third quarter of 2015, there were 42 "deals", with 18 of those greater than $50 million, more big “deals” than in the prior two quarters combined. Twenty years ago, there were 100 publicly-traded, investor owned utilities. As of mid-2014, that number had shrunk to 48, and has no doubt declined since.

CEOs enter into these mergers to increase shareholder value and corporate profits. There is no guarantee that the oft-asserted merger-related “synergy savings” are realized, or that consumers (especially low-income consumers) derive significant benefit, unless consumer advocates intervene in those proceedings. Most mergers are approved by state utility commissions, but often with conditions attached. By intervening, advocates for low-income consumers can insist that, if the merger is to be approved, conditions be added that ensure their clients will benefit.

Over the past 18 months, the National Consumer Law Center (NCLC) has been involved in two of the largest recent mergers, the $12 billion merger of Exelon and Pepco Holdings, Inc, and the more recent $12 billion merger of Southern Company and AGL Resources.

The Exelon merger needed approval from state regulators in Virginia, New Jersey, Maryland, Delaware, and D.C. All but D.C. have already approved the merger. Along with our partner, the National Housing Trust (NHT), we intervened in the Maryland and D.C. proceedings asserting that the merger could only be approved if it included substantial benefits for low-income households, including energy efficiency investments in affordable housing paid for by stockholders, not ratepayers.

In Maryland, NCLC/NHT were parties to a settlement, since approved by the Commission, that includes a one-time, $50 per customer rate credit as well as a total of $57 million for energy efficiency related investments, all at shareholder (not ratepayer) expense. A floor of approximately $10 million will be spent specifically on EE investments in affordable multifamily housing. The counties which distribute the funds are free to spend more on the affordable housing sector. In addition, Exelon agreed to enter good-faith discussions with NCLC and any other interested party towards developing an Arrearage Management Program proposal that would then be submitted to the Commission for its review.

Moreover, under a “most favored nations” clause in the Maryland settlement – which requires the amounts previously noted to increase if any other state obtains larger, per-customer benefits – those amounts will more than double, if and when the D.C. Commission approves a pending settlement there.

Initially, the Exelon-Pepco merger was opposed by virtually every intervenor in the D.C. proceeding, and the Commission denied approval. That brought Exelon to the negotiating table, resulting in a settlement with overall, per-customer benefits more than double the amounts obtained in Maryland. For low-income households in particular, the settlement includes $7 million for energy efficiency investments in affordable multifamily housing – with those programs to be designed in consultation with NCLC, NHT, and other interested parties – and $9 million for a supplement to the federal fuel assistance funds the District receives. As in Maryland, all of these funds come at shareholder, not ratepayer expense.
ratepayer, expense. This settlement is still pending before the District’s Public Service Commission. If the Commission approves, the merger will go forward. There will still be challenging work to design and implement the energy efficiency and Arrearage Management Programs, but it will be well worth the effort, given the millions that will be made available for low-income households.

In Georgia, the proceedings in the Southern-AGL merger have only just begun. NCLC and its partner National Housing Trust (NHT) will seek similar energy efficiency investments in affordable housing, as we did in the Exelon cases.

Intervening in merger proceedings is not without costs and risks. Cases can be time-consuming: NCLC attorneys put in hundreds of hours of time, and NHT staff also logged significant time providing expert witnesses and other key support to the case. Moreover, there were parties representing consumer and environmental interests who vigorously opposed the merger being approved, regardless of any conditions. This was particularly true in D.C., where local environmental groups not only actively intervened in opposition before the Commission, but also engaged in extensive community organizing and public relations work to mobilize the merger’s opponents.

It can be difficult to decide when a proposed merger is so inherently bad for consumers that it should be opposed, and when to advocate for conditions to be added to ensure that low-income customers benefit.

If you are interested in discussing any pending mergers in your area, feel free to contact NCLC attorney Charlie Harak at charak@nclc.org.

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Calling the FCC to Protect Consumer Access to 911

With the traditional landline phone system, consumers can expect that if their home loses power, they can still pick up the phone and access emergency services by dialing 911. This is because during a power outage, the copper wire that supplied the phones lines conducted electricity and drew power from the phone company’s central office. Now, this long-standing universal access to 911 is threatened. Newer voice technologies that rely on all-Internet-Protocol (IP)-based technologies, like Voice over Internet Protocol (VoIP), require an outside source of electricity and thus stop working during power outages unless there is battery back-up power for the phone.

This shift raises important questions, including:

- What happens to the ability to make emergency calls if you can’t afford battery back-up?
- Is it dangerous to abandon universal access to 911 calls?
- Should we create a situation where we need to teach our children and our elderly grandparents that in an emergency they may have to try different phones in order to reach 911?

The Federal Communication Commission (FCC) is looking at issues arising from the technology shift in the communications networks. Consumer advocates have petitioned the FCC to reconsider its inadequate treatment of back-up power by the industry. The International Association of Fire Chiefs
has filed in support of the consumer advocates’ petition.

This is a fundamental health and safety issue that is too important to let slip away! Consider weighing in with the FCC regarding the importance of preserving universal access to 911 by supporting the consumer advocates’ petition to the FCC.

To submit comments to the FCC, visit: http://apps.fcc.gov/ecfs/upload/displ. See the box at the top (Proceeding Number) and type in 14-174 and submit your comments in the text box. It is uncertain when the FCC will rule on the consumer advocates’ petition to protect access to 911, so please submit comments as soon as possible.

A Lifeline to Opportunity and the 21st Century Information Age

Every now and then I stop and wonder about how access to broadband has changed my life and my family’s lives. My son started ninth grade at our local public high school two weeks ago and his history teacher told us that students will have access to classwork “24/7 on demand” through Google Classroom where all documents and assignment updates will be accessible from any location with Wi-Fi access. My son’s homework is to be completed on the Google Drive and submitted through the digital classroom. Chromebooks are available to all students in class. We have broadband at home, so my son has the tools he needs for his homework and classroom projects. I do not know if that is true for all of his classmates. This is what is referred to as the “homework gap.”

In modern society, access to broadband along with voice is as essential for access to opportunity as electricity was in the last century. For those with the resources to afford broadband service, broadband integration in modern life has been nearly ubiquitous. There is a growing expectation of instant information: from how we learn about breaking news (e.g., newsfeeds to our smart phones), to how we find out about and apply for jobs (online applications) and how we network professionally (LinkedIn). There is a growing presumption that consumers and citizens will be able to find information posted online. Retailers, banks, insurers, government agencies, credit card companies, employers, health providers all increasingly post important information online and may no longer make that information readily available in paper format. The list of impacts on daily life goes on. As more aspects of modern life move online, the harmful effects of digital exclusion increase.

The Federal Communication Commission (FCC) has started a proceeding to help close this digital divide by modernizing the Lifeline program to include broadband Internet service. The Lifeline program was established in 1985 to help low-income households afford basic phone service. Connection to the phone network is essential for access to emergency services and healthcare; job opportunities; and maintaining connections to teachers, friends, and family.

Lifeline has been successful in helping low-income households connect to essential voice service and is well poised to address the affordability barrier to Internet (broadband) service. NCLC, joined by 13 other low-income consumer advocacy organizations, filed opening comments in support of the modernization of the Lifeline program. Our recommendations focus on ensuring quality Lifeline voice and broadband service. The intent of our recommendations is to keep the disruption to the existing Lifeline program to a minimum while achieving improved efficiency, accountability, and
transparency, and improving consumer protections and consumer control of their Lifeline service.

So what can you do? Read this letter of support to modernize the Lifeline program and then sign on to the letter so the FCC knows that your organization supports the move to modernize Lifeline. Deadline to sign: Friday, September 25.