

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7535

Investigation into: (1) petition of AARP, for the)	Hearings at
establishment of reduced rates for low-income)	Montpelier, Vermont
consumers of Green Mountain Power Corporation and)	August 11–13, 2010
Central Vermont Public Service Corporation; and (2) as)	October 21, 2010
expanded to possibly include general applicability to all)	
Vermont retail electric utilities)	

Order entered: 7/22/2011

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I. INTRODUCTION

Electricity is a necessity for a safe and healthy household. In 2009, there were 11,901 instances in Vermont of electric service disconnection. To lose electricity at a residence means to lose the light and heat of home. Increasingly in our modern society, to be without electricity also poses many social hardships, such as the loss of internet access and, with that, the disruption of connections with schools, health-care providers, employers and other community resources. Electricity is a necessity that many Vermonters cannot afford.

In this Docket, the Vermont Public Service Board ("Board") is considering the establishment of reduced rates for low-income electricity consumers in Vermont pursuant to 30 V.S.A. § 218(e). The Board's investigation was opened in response to a petition filed by AARP (the "AARP Petition") in the spring of 2009, following the passage of Section § 218(e) — a law which newly and explicitly authorizes the Board to approve the implementation of low-income rates.

The AARP Petition seeks an order directing Vermont's two largest electric utilities — Central Vermont Public Service Corporation ("CVPS") and Green Mountain Power Corporation ("GMP") — to implement low-income rates in their respective service territories. The low-income rate program (the "AARP Proposal") envisioned in the AARP Petition would reduce the electric service payments of eligible participants by providing a 25% electricity block rate discount on their monthly electricity consumption up to the average use of the residential customer class of the serving utility. Thereafter, a program participant's electricity consumption would be billed at the non-discounted rate. In addition to the 25% discount, AARP proposes the retirement of any electric bill arrearages accumulated by program participants prior to program enrollment, provided the eligible customers enroll during the first three months of the first year of the program. Finally, the AARP Proposal would raise program funding by requiring all customers to pay monthly meter charges that would vary in amount, depending upon the class of ratepayers.

In this Proposal for Decision, I recommend that the Board direct CVPS and GMP, respectively, to either implement the AARP Proposal — subject to modifications consistent with this proposed decision — or develop alternative low-income rate programs for implementation in their service territories. I further recommend that the remaining Vermont electric utilities at this

time not be required to adopt the AARP Proposal or to otherwise implement low-income rate programs.

II. PROCEDURAL HISTORY

On May 19, 2009, AARP filed a petition, pursuant to 30 V.S.A. § 218(e), requesting that the Board establish reduced rates for low-income residential customers in the service territories of CVPS and GMP.

On July 21, 2009, the Board issued an order opening an investigation "to consider the establishment of reduced rates for low-income residential customers of Green Mountain Power Corporation and Central Vermont Public Service Corporation."¹ The Board appointed a hearing officer to develop an evidentiary record and report findings of fact and conclusions of law.

On August 4, 2009, a prehearing conference was convened in this docket. At that hearing, the Vermont Department of Public Service (the "Department" or "DPS") raised the issue of whether this investigation should include consideration of implementing a low-income rate program extending beyond the service territories of only CVPS and GMP.² At the Department's request, it was agreed that the parties present would receive an opportunity to discuss this issue further with those electric distribution utilities who were not present at the prehearing conference, but who potentially would be affected by any decision to expand the scope of the investigation.

On August 11, 2009, the Department filed a letter stating that, after discussions with several other Vermont electric utilities, the DPS had concluded "it would be better in terms of

1. Docket 7535, Order dated 7/21/09 at 1. Copies of that Order were sent to the following interested parties: Janet Doyle, International Business Machines Corporation ("IBM"); Office of Economic Opportunity; Vermont Low Income Advocacy Council; Efficiency Vermont; Vermont Public Interest Research Group; Vermont Legal Aid, Inc.; Community of Vermont Elders; Central Vermont Council on Aging; Champlain Valley Agency on Aging; Council on Aging for Southeastern Vermont; Agency on Aging for Northeastern Vermont; Southwestern Vermont Council on Aging; Linda Rooker, Bennington-Rutland Opportunity Council, Inc.; Hal Cohen, Central Vermont Community Action Council, Inc.; Steve Geller, Southeastern Vermont Community Action, Inc.; Tim Searle, Champlain Valley Office of Economic Opportunity. To date, with the exception of IBM, none of these interested parties have participated in this proceeding.

2. Docket 7535, Order of 8/11/09 at 1.

equity and efficiency to include the other utilities at this time" in this investigation.³ The Department cited three reasons for this position: (1) if creating a low-income rate program were found to be appropriate as a matter of public policy in Vermont, then "all the consumers in the state should potentially be allowed to share in the benefits and costs;" (2) if there is "a good chance that any program arrived upon through this proceeding may be applied to the other utilities, it makes sense to include the other utilities up front in the interest of judicial economy . . . ;" and (3) the other utilities might provide valuable contributions to this proceeding.⁴

Also on August 11, 2009, a prehearing conference memorandum was issued detailing a procedural schedule for this docket and noticing a workshop for September 2, 2009.

Concurrently with the prehearing conference memorandum, the Clerk of the Board issued a separate memorandum inviting all Vermont electric distribution utilities to file comments by August 21, 2009, if they wished to respond to the Department's proposal to expand the scope of this docket beyond CVPS and GMP to include all Vermont utilities.

On August 21, 2009, the Group of Municipal Electric Utilities ("GMEU") filed comments supporting the Department's proposal to include all Vermont electric utilities in this proceeding.⁵

On August 25, 2009, Vermont Marble Power Division of Omya, Inc. ("VMPD") filed comments supporting the Department's proposal to include all Vermont electric utilities in this proceeding.

On August 26, 2009, a notice of appearance was filed by Frank Fontana, Esq., Leonard H. Singer, Esq., William J. McCarthy, Esq., Jonathan Aldrich and Janet Doyle on behalf of IBM. That same day, a motion to intervene was filed on behalf of IBM.

3. *Letter from Sarah Hofmann, Esq., on behalf of the Department, to Susan M. Hudson* dated August 11, 2009, at 1. Also on that date, CVPS filed a letter supporting the Department's comments. See *Letter from Jeanne E. Burns, Esq., on behalf of CVPS, to Susan M. Hudson* dated August 11, 2009.

4. *Id.*

5. The 13 GMEU members are: Barton Village, Inc. Electric Department ("Barton"); Village of Enosburg Falls Water & Light Department ("Enosburg"); Town of Hardwick Electric Department ("Hardwick"); Village of Hyde Park Electric Department ("Hyde Park"); Village of Jacksonville Electric Company ("Jacksonville"); Village of Johnson Water & Light Department ("Johnson"); Village of Ludlow Electric Light Department ("Ludlow"); Village of Lyndonville Electric Department ("Lyndonville"); Village of Morrisville Water & Light Department ("Morrisville"); Village of Northfield Electric Department ("Northfield"); Village of Orleans, Inc. Electric Department ("Orleans"); Town of Readsboro Electric Department ("Readsboro"); and Swanton Village, Inc. Electric Department ("Swanton").

Also on August 26, 2009, a motion to intervene was filed by Sandra Dragon on behalf of Associated Industries of Vermont ("AIV").

On August 27, 2009, a notice of appearance was entered by David John Mullet, Esq., Vermont Public Power Supply Authority ("VPPSA"), on behalf of GMEU. On that same date, GMEU filed a motion to intervene.

On August 28, 2009, a notice of appearance was entered by Avram Patt, *pro se*, on behalf of Washington Electric Cooperative, Inc. ("WEC"). On that same date, WEC filed a motion to intervene.

On September 2, 2009, a workshop was convened at which the participants⁶ reviewed and discussed the history of prior efforts to address low-income energy affordability in Vermont that culminated in the passage of Section 218(e) and the filing of the AARP Petition. Additionally, AARP described and answered questions concerning several components of the rate design in the AARP Proposal. GMP gave an overview of the GMP Energy Support Program (the "GMP Pilot Program") — a temporary, low-income rate program that GMP administered from July of 2007 through June of 2009.⁷

On September 21, 2009, the Board issued an Order expanding the scope of this proceeding to "include consideration of program-related issues, including design, that may have application beyond the service territories" of CVPS and GMP.⁸ The Board further stated that "all Vermont electric utilities shall be deemed joined in this proceeding" and accordingly directed these utilities to file notices of appearance. The Board then remanded this matter to the hearing officer.

Also on September 21, 2009, the hearing officer issued a separate order (1) ruling the intervention motions filed by GMEU and WEC to be moot due to the joinder of these parties in

6. The workshop was attended by representatives from the Department, CVPS, GMP, AARP, IBM, GMEU, WEC, Vermont Electric Cooperative, Inc. ("VEC"), AIV, VMPD, the Office of Economic Opportunity and the Community of Vermont Elders.

7. The GMP Pilot Program is described in more detail in finding 20, below.

8. Docket 7535, Order of 9/21/09 at 1 (hereinafter the "Scope Order").

the Scope Order; and (2) granting permissive intervener status, without objection, to AIV and IBM.⁹

On September 23, 2009, a notice of appearance was entered by Edward V. Schweibert, Esq., Kenlan Schwiebert Facey & Goss, P.C., on behalf of VMPD.

On September 24, 2009, AARP witnesses Philene Taormina and John Howat filed direct testimony.

On September 28, 2009, a notice of appearance was entered by Colin K. McNeil, Esq., McNeil, Leddy & Sheehan, on behalf of City of Burlington Electric Department ("BED").

On October 2, 2009, VMPD filed (1) a motion seeking leave to file and serve discovery out of time; and (2) a motion to compel discovery responses from AARP.

On October 5, 2009, GMEU filed a motion seeking to suspend the procedural schedule and requesting a status conference.

On October 7, 2009, AARP filed a response opposing (1)VMPD's motion to compel discovery responses due to the tardiness of VMPD's discovery; and (2) GMEU's request to suspend the schedule. AARP did not oppose GMEU's request for a status conference. That same day, VMPD filed a sur-reply to AARP's opposition to the motion to compel, arguing that equitable considerations militated in favor of allowing its discovery to be served and requiring answers from AARP.

Also on October 7, 2009, a public hearing was convened via the Vermont Interactive Television broadcast system from the following sites in Vermont: Middlebury, St. Albans, Williston, Waterbury, Montpelier, Lyndonville, Johnson, Newport, Randolph Center, White River Junction, Springfield, Rutland, Brattleboro, Castleton and Bennington. There were nine members of the public who spoke during this hearing. All of these individuals remarked upon the need to institute rate relief for low-income Vermonters. Among these speakers were representatives of the following organizations: the Area Agency on Aging for Northeastern Vermont; Vermont Legal Aid; and the Franklin County Senior Center. Others identified

9. Also in that Order, Attorneys Singer and McCarthy were granted leave to appear *pro hac vice* on behalf of IBM in this proceeding.

themselves as social workers who, speaking as private citizens, described how conditions of aging, poverty and mental illness are exacerbated by struggles to pay for electric service.¹⁰

On October 15, 2009, a procedural order was issued (1) granting VMPD leave to serve discovery out of time; (2) denying as premature VMPD's motion to compel; and (3) granting GMEU's request for a status conference.

On October 29, 2009, a status conference was convened during which the parties reached agreement on a revised procedural schedule.

On November 4, 2009, a notice of appearance was entered by Edward B. French, Jr., Esq., Stackpole & French, on behalf of the Town of Stowe Electric Department ("Stowe").

On November 6, 2009, a procedural order was issued adopting the parties' proposed revised procedural schedule of October 29, 2009.

On January 5, 2010, the Department filed a request to extend certain filing deadlines in the procedural schedule. No party opposed the Department's request.

On January 6, 2010, a notice of appearance was entered by Joslyn L. Wilschek, Esq., Primmer Piper Eggleston & Cramer, PC, on behalf of VEC.

On January 13, 2010, a procedural order was issued adopting the Department's proposed revised schedule.

On January 14, 2010, direct testimony was filed by Stowe.

On January 15, 2010, direct testimony was filed by the following parties: the Department, CVPS, VEC, GMEU and VMPD. That same day, GMEU and VEC also jointly filed a legal memorandum setting forth their views concerning the applicable law in this docket.

On January 19, 2010, direct testimony was filed by GMP.

On January 20, 2010, direct testimony was filed by WEC.

On February 3, 2010, a notice of appearance was filed by Kenneth C. Picton, Esq., on behalf of CVPS.

10. The Board also received two written public comments in connection with this docket. One comment supported the AARP Petition as a means of addressing childhood poverty. The other comment criticized the AARP Petition as a mechanism for redistributing wealth while incurring non-productive and wasteful administrative costs.

On February 17, 2010, AARP filed an objection to the admissibility of the direct testimony of Department witnesses Tamera Pariseau and John Becker. At that time, AARP also filed a motion for a revised procedural schedule. No party opposed AARP's request to modify the procedural schedule.

On March 12, 2010, the Department filed a response opposing AARP's objection to the admissibility of the prefiled, direct testimony of DPS witnesses Pariseau and Becker.

On March 15, 2010, IBM and CVPS filed responses opposing AARP's objection to the admissibility of the prefiled, direct testimony of DPS witnesses Pariseau and Becker.

Also on March 15, 2010, a procedural order was issued setting a new schedule for this docket.

On May 5, 2010, an order was issued overruling AARP's objection to the admissibility of the prefiled, direct testimony of DPS witnesses Pariseau and Becker.

On June 2, 2010, the Department filed a motion for a revised procedural schedule in this proceeding. No party opposed the Department's motion or its proposed revised procedural schedule.

On June 4, 2010, rebuttal testimony was filed by AARP.

On June 17, 2010, the Department filed a motion pursuant to V.R.C.P. 56 seeking summary dismissal of the AARP Petition because "it is not a rate schedule, tariff, agreement, contract or settlement and thus does not satisfy the procedural requirements of 30 V.S.A. §218(e)."¹¹

On June 28, 2010, a procedural order was issued adopting the Department's proposed revised schedule.

On July 2, 2010, sur-rebuttal testimony was filed by the Department. No other party elected to file sur-rebuttal testimony.

On July 6, 2010, AARP filed a reply opposing the Department's summary judgment motion.

11. The Department's summary judgment motion was supported by VEC, GMEU, and IBM. No responses were filed by GMP, CVPS, BED, WEC, Stowe or VMPD.

On July 16, 2010, a notice of appearance was entered by Morris L. Silver, Esq., on behalf of CVPS.

On July 21, 2010, technical hearings were noticed in this docket for August 11-13, 2010, in Montpelier, Vermont.

On July 28, 2010, the Department filed a correction to its motion for summary judgment.

On July 30, 2010, a notice of appearance was entered by Elijah D. Emerson, Esq., Primmer Piper Eggleston & Cramer PC, on behalf of GMEU. Concurrently, Attorney Mullet filed a notice of withdrawal of appearance on behalf of GMEU.

On August 4, 2010, Board staff issued an information request to the utility-parties (except CVPS, GMP and VMPD) seeking data projections that assumed the application to these utilities of the rate design principles reflected in the AARP Proposal.

On August 9, 2010, an order was issued denying the Department's motion for summary judgment.

On August 10, 2010, the utility-parties filed responses to the Board staff's information request of August 4, 2010.¹²

On August 11, 2010, the first of three days of technical hearings were convened in Montpelier, Vermont. At the end of the day on August 13, 2010, the technical hearings were continued in order to afford the parties an opportunity to further develop the evidentiary record.

On August 19, 2010, Board staff issued a second information request to the utility-parties seeking revised data projections from these utilities assuming the application of the rate design principles reflected in the AARP Proposal.¹³

On August 26, 2010, AARP filed a corrected version of the AARP Proposal.¹⁴ AARP made this filing to incorporate additions, changes and clarifications to the AARP Proposal that

12. Of these responses, the following were admitted into evidence: exh. Board-1; exh. Board-2; exh. Board-5; exh. VEC-Pratt-2. Additionally, two related exhibits prepared by VMPD — exh. VMPD-TAA-1 and exh. VMPD-TAA-2 — were admitted as well.

13. Hereinafter, the two Board staff information requests issued on August 4, 2010, and August 19, 2010, will be collectively referred to as the "Screening Data Requests."

14. The AARP Proposal, as originally filed, was identified for the record as AARP Petition - Appendix A. The corrected, revised version of this document will be cited to as "AARP Appendix A (revised)." Hereinafter, all references and citations to the AARP Proposal should be understood to mean AARP Appendix A (revised).

resulted from the questioning and testimony during the technical hearings. AARP also filed additional direct testimony regarding an energy affordability study that it had offered for admission into evidence during the technical hearings, but that had drawn an objection from CVPS and BED on the grounds of hearsay and lack of foundation.¹⁵ The objection to the admissibility of the disputed exhibit was sustained during the technical hearings.¹⁶ However, AARP was afforded an opportunity to cure the objection by filing additional supplemental testimony. In turn, the remaining parties received an opportunity to conduct discovery and to file rebuttal testimony concerning the disputed exhibit.¹⁷

On September 22, 2010, the parties filed responses to the Board staff's second information request. Included with these responses were revised versions of the data projections from each utility assuming the application of the rate design principles reflected in the AARP Proposal.¹⁸

On October 21, 2010, the final day of technical hearings was convened in this docket.

On November 12, 2010, the parties filed direct briefs, followed by the filing of reply briefs on December 10, 2010.

III. BACKGROUND

Over the past twenty years, several attempts have been made to introduce some form of rate relief to make electric service more affordable for low-income Vermonters. In 1989, the Board opened Docket 5308 to investigate "the adoption and implementation of energy programs for low-income households."¹⁹ The Board's investigation followed the publication of a report in

15. Tr. 8/13/10 (vol. II) at 55 (McNeil) and 57 (Silver). This study was identified for the record as exh. AARP-Cross-5.

16. Tr. 8/13/10 (vol. II) at 64.

17. Ultimately, during the final day of technical hearings in October, exh. AARP-Cross-5 was admitted into evidence without objection. Tr. 10/21/10 at 63.

18. These revised data projections were later admitted into the evidentiary record as exh. GMEU-1, exh. VMPD-TAA-1 (revised), exh. Board-16, exh. Amended Board-1, exh. Amended Board-2 and exh. VEC-Pratt-2 (revised). Exh. GMEU-1 was admitted over the objection of GMEU. Tr. 10/21/10 at 35-36.

19. That investigation was initiated at the request of CVPS, GMP, BED, VPPSA and the Department. Docket 5308, *Board investigation into the adoption and implementation of energy programs for low-income households*, Order of 3/26/90 at 6.

1987 by the Vermont Legislature's Joint Committee on Public Power, Public Advocacy and Basic Rates. The Committee's report urged the Board and other state agencies to "develop a long-term program to address comprehensive energy needs of low-income persons"20

In the Docket 5308 investigation, the Board determined that there was a need to assist low-income Vermonters with meeting the burden of their high energy costs. To that end, the Board made several recommendations for regulatory and legislative action to improve coordination of then-existing programs to assist low-income Vermonters with paying their energy bills.²¹ However, the Board declined at that time to order the creation of a ratepayer-funded low-income electric rate program because designing such a rate would have required cross-subsidization by the remaining, ineligible electric utility ratepayers. In view of existing law at the time, the Board concluded that rate designs "that deliberately allow major non-cost-based cross-subsidies should require specific legislative authorization."²²

Fifteen years later, in 2005, the Department released a 20-year electric plan that reiterated the need for some type of assistance for low-income Vermonters who experience difficulty in affording the electric service they need. The Department's electric plan also highlighted the cost to other ratepayers when rate-relief is not available to low-income ratepayers.²³

In the spring of 2006, with the passage of Act 208 ("An Act Relating to the Energy Security and Reliability"), the Legislature directed the Board to conduct a collaborative effort and to design a "proposed electricity affordability program in the form of draft legislation."²⁴ In the months that followed, the Board convened a series of workshops in which more than 30 stakeholders participated, including state agencies, economic development groups, business

20. *Id.*

21. Many of these recommendations were acted upon and, to this day, continue to aid low-income Vermonters. *See* Docket 5308, Order of 3/9/93 at 4-7.

22. Docket 5308, Order of 3/26/90 at 73.

23. Taormina *pf.* at 21-22 (quoting Vermont Electric Plan, January 2005, Section 10 at pp. 9 and 12 ("Although lack of affordability of electric rates is a social problem, it is also a utility problem that poses significant costs that are ultimately recovered in the form of higher rates.")).

24. 30 V.S.A. § 209c.

groups, organizations representing senior citizens, low-income consumers, residential consumers, utilities and energy efficiency providers.²⁵

In January of 2007, the Board presented the Legislature with a draft bill to create a state-wide, low-income rate program (the "2007 Legislative Proposal").²⁶ Consistent with the requirements of 30 V.S.A. § 209c(c)(3), this proposed legislation called for funding through retail electric revenue derived from "all customer classes in an equitable and reasonable manner . . . taking into consideration the benefits as well as the costs."²⁷ Specifically, the 2007 Legislative Proposal contained four alternatives for raising program funding by assessing an affordability charge on electric bills.²⁸ The 2007 Legislative Proposal also included an arrearage-forgiveness component in order to relieve the burden on low-income customers of paying off any existing, over-due balances and to help them remain current on their electricity bills going forward, thereby achieving savings for utilities — and therefore ratepayers — through reduced costs of collection activities.²⁹

During the 2007 legislative session, the Legislature determined that the needs of low-income electric customers in Vermont could be addressed with programs tailored to individual utility service territories instead of a single, statewide program as contemplated in the 2007 Legislative Proposal.³⁰ Consequently, with the passage of Section 218(e) in the spring of 2008, the Board received "specific legislative authorization" to approve non-cost-based, cross-subsidized low-income rate designs. The new statute granted the Board the discretion it previously had lacked in Docket 5308 to order the implementation of reduced electricity rates,

25. Exh. CVPS-1 at 5. This exhibit contains a comprehensive list of the workshop participants. *See* exh. CVPS-1, Attachment B.

26. The 2007 Legislative Proposal is included in exh. CVPS-1 as Attachment A.

27. While the 2007 Legislative Proposal was the product of a collaborative process, the process concluded without resolution of several disagreements. Among these were the funding recommendations in the proposed bill. Several utilities and business groups advocated for funding through the state's general revenue fund. Exh. CVPS-1 at 8 and 9 note 10.

28. These alternatives were: (1) a volumetric charge apportioned equally among customer classes based on usage; (2) a fixed, per-meter charge that differs across customer classes; (3) a charge based on percentage of utility revenue applied equally across customer classes; and (4) a volumetric charge on residential customers and per-meter charge on commercial and industrial customers. Exh. CVPS-1 at 10.

29. Exh. CVPS-1 at 17.

30. Taormina pf. at 5.

with the caveat that "the board shall take into account the potential impact on, and cost-shifting to, other utility customers."³¹ Accordingly, the investigation now underway in this docket is an inquiry into what action, if any, the Board should take — within the limits of its authority pursuant to Section 218(e) — to make electricity more affordable for low-income Vermonters.

IV. FINDINGS AND ANALYSIS

A. Need for low-income rate relief in Vermont

Findings

1. A significant portion of Vermont's population lives at or near poverty level. According to the 2000 Census, Vermont's per capita income and median income levels are lower than the average in the United States. Taormina pf. at 18.
2. As of the 2000 Census, 9.4% of Vermonters had income below the federal poverty level ("FPL"). Slightly over 100,000 Vermonters — almost 18% of Vermont's population — exist on income constituting 150% of FPL or less. There were 24,781 children under the age of 18 living in households with income at or below 130% of FPL. Taormina pf. at 18.
3. As of the 2000 Census, there were 240,634 households in Vermont, of which 22% included individuals age 65 and over. These elder Vermonters comprised 13% of the state's population. Approximately 8.5% of those who are age 65 or older (6,588 individuals) subsist on income at or below 100 % of FPL. Taormina pf. at 19.
4. Approximately 16.9%, or 22,997 of CVPS's residential customers have income at or below 150% of FPL. Exh. AARP-JH-7 (revised).
5. Approximately 16.9%, or 13,765 of GMP's residential customers have income at or below 150% of FPL. Exh. AARP-JH-8; tr. 8/13/10 at 168 (Howat).
6. Electricity is necessary for Vermont households to maintain minimum standards of health and safety. Taormina pf. at 20-21; exh. AARP-PT-2 at 14.
7. Other than households heated exclusively with wood, all other forms of home heating require the use of electricity. Taormina pf. at 20-21; exh. AARP-PT-2 at 14.

31. 30 V.S.A. § 218(e).

8. The loss of electricity can impose significant hardships on a household. Such hardships include going without heat, refrigeration and light, and experiencing broken connections with schools, employers, friends and community resources. Exh. AARP-Cross-6a; tr. 8/13/10 (vol. II) at 67 (Nagle).

9. Electricity is a necessity that is unaffordable for a significant segment of Vermonters as evidenced by electric utility disconnection data. Exh. CVPS-1 at 7.

10. In 2009, there were 11,901 instances in which Vermont electric customers experienced a disconnection of service. The majority of these disconnections occurred in four service territories: CVPS (4,731); GMP (3,723); VEC (1,259); and BED (1,083). These four utilities accounted for 90.6% of all electric utility disconnections in Vermont in 2009. Exh. AARP-Cross-10; tr. 8/13/10 (vol. II) at 14-17 (Pratt).

B. Low-income rate programs in the New England states

Findings

11. Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have long histories of providing ratepayer-funded low-income energy assistance programs. Each of these programs is funded through charges that accrue to all classes of customers. Howat pf. at 20.

Connecticut

12. Connecticut's statutorily mandated programs require the electric companies to set up a payment plan for low-income customers who receive federal Low Income Home Energy Assistance Program ("LIHEAP") benefits for heating expenses. Payments under the plan may be less than the actual customer bill if that is all the customer can afford. If the customer makes all payments required under the payment plan, on April 30th and October 31st of each year all customer payments and energy assistance are matched by the company dollar-for-dollar. Customers who maintain their payments are not at risk for shut-off during the non-moratorium period of the year, regardless of debt to the company. Howat pf. at 20-21.

13. The Connecticut Light and Power Company has a "NU START" payment incentive program that is designed to help customers with low and fixed income at or below 200% of FPL

to maintain year-round electric service, while reducing and eliminating past-due balances. NU START participants are customers who do not receive energy assistance for their electric bills and are ineligible for the statutorily mandated arrearage-forgiveness program. NU START customers receive year-round electric service as long as they make their budgeted payments on time each month. Their past-due balances are removed from their bills over time. With each month's budget payment, customers receive a credit toward the overdue amount of their bills. Howat pf. at 21.

14. The NU START program includes (1) dividing the customer's outstanding arrearage balance by twelve; (2) negotiating a payment plan; (3) delivering energy education and budget counseling; and (4) referral to the weatherization and utility energy efficiency program delivery network. Each timely monthly remittance under the negotiated payment plan results in a reduction of 1/12 of the outstanding arrearage balance. Howat pf. at 21.

Maine

15. Maine's investor-owned utilities have administered ratepayer-funded low-income energy assistance programs since 1991. Programs vary by utility company, and include a rate discount, a percentage-of-income payment plan, and a bill credit program. The largest program, operated by Central Maine Power, allows participants to pay a fixed percentage of their income for energy; the percentage varies based on their level of poverty and electric usage. About 30,000 Maine households received benefits through utility energy assistance programs in 2007. Howat pf. at 22.

Massachusetts

16. In Massachusetts, investor-owned electric companies have operated ratepayer-funded, low-income rate programs since the 1980s. Investor-owned gas utilities operating in Massachusetts now also operate discount rate programs. Costs of the programs, which operate as entitlements for income-eligible customers, are recovered through semi-annual true-up rate proceedings. The programs serve customers at or below 200% of FPL, and operate in close conjunction with LIHEAP and the Weatherization Assistance Program. In addition to offering

low-income discount rates, each investor-owned electric and gas distribution company in Massachusetts operates an Arrearage Management Program. The design elements of these programs differ between companies, but each matches customer payments to reduce and retire arrears over time. Community action agencies, advocates and investor-owned utilities work collaboratively with state agencies, regulators and legislators to ensure that low-income energy assistance and energy efficiency programs are well-coordinated and effective. Howat pf. at 22–23.

New Hampshire

17. New Hampshire's 1996 electric industry restructuring law authorized a system-benefits charge for low-income energy programs, including a charge of 1.2 mills per kilowatt hour ("kWh") charge on all customers' bills. In October 2002, the state began operating a "Tiered Discount Program" that provides discounts to participants ranging from 15% to 90%, with lower-income customer households receiving the steeper discounts. The tiers are structured to provide participating low-income households with monthly electric bill payments equal to, on average, 4.5% of income. Local community action agencies determine eligibility based on income levels and then identify the discount that goes with each income level. Furthermore, New Hampshire utilities have retired in full the pre-program arrearages of participants on two occasions since the program's inception. Howat pf. at 23.

Rhode Island

18. In Rhode Island, National Grid is the sole surviving investor-owned utility serving electric and natural gas customers. The company provides a straight, low-income discount rate similar to that offered in Massachusetts. However, unlike its affiliate operating in Massachusetts, National Grid does not operate an arrearage management program in Rhode Island. In addition, the Rhode Island discount rate does not operate as an entitlement, but is capped at a spending level approved in National Grid's most recent electricity rate case. Howat pf. at 23–24.

Vermont

19. Since 1989, Vermont has permitted individual electric utilities to design and implement experimental programs to address the basic needs of low-income households. Docket 5308, Order of 3/9/93 at 5-6.

20. Most recently, in 2007, GMP implemented the GMP Pilot Program, a low-income rate program developed in partnership with AARP. The program was designed to run for three years and derived \$1 Million in funding from GMP's Efficiency Fund.³² The GMP Pilot Program provided a 25% discount³³ on the electricity bills of low-income customers whose annual household income was at or below 200% of FPL and who chose to enroll in the program. GMP contracted with the Champlain Valley Office of Economic Opportunity at a cost of \$20,000 over two years to provide eligibility-screening services. GMP had enrolled 3,300 participants by the time the program funding was exhausted and therefore discontinued in June of 2009. Morris pf. at 3-4; tr. 8/12/10 at 166 (Morris).

Discussion

In 2007, ratepayer-funded energy assistance programs were offered in the majority of states across America.³⁴ Today, Vermont remains the only state in New England where electric utilities are not required to offer low-income rates.

In May of 2009, AARP petitioned the Board for an order directing Vermont's two largest electric utilities — CVPS and GMP — to establish a low-income rate program in their respective

32. The Efficiency Fund was established in conjunction with the Board's Order in Docket 7213 approving the merger of GMP with Northstars Merger Subsidiary Corporation. See Docket 7213, *Joint Petition of Green Mountain Power Corporation, Northern New England Energy Corporation (NNEEC), a subsidiary of Gaz Metro of Quebec, and Northstars Merger Subsidiary Corporation*, Order of 3/26/07 at 3-42.

33. Initially the discount level was set at 10%. In September of 2008, GMP increased the discount to 25% after concluding that the 10% level was too low to attract a robust number of program participants. Morris pf. at 6; Taormina pf. at 8.

34. These states were: Alabama, Arizona, California, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, Washington, and Wisconsin. AARP Brief at 16-17.

service territories using certain specified rate design principles. The AARP Petition containing the AARP Proposal was filed pursuant to 30 V.S.A. § 218(e), which provides as follows:

Notwithstanding any other provisions of this section, the board, on its own motion or upon petition of any person, may issue an order approving a rate schedule, tariff, agreement, contract, or settlement that provides reduced rates for low income electric utility consumers better to assure affordability. For the purposes of this subsection, "low income electric utility consumer" means a customer who has a household income at or below 150 percent of the current federal poverty level. When considering whether to approve a rate schedule, tariff, agreement, contract, or settlement for low income electric utility consumers, the board shall take into account the potential impact on, and cost-shifting to, other utility customers.

In this investigation, the electric utilities, the Department and IBM have almost unanimously opposed the AARP Petition and the AARP Proposal.³⁵ These parties widely share the view that the Board should defer to the Legislature and other state agencies on the issue of requiring Vermont's electric utilities to offer low-income rate relief because those policymakers are better situated and qualified to design and execute the social policy judgments inherent in crafting low-income assistance programs.³⁶

Apart from questioning the efficacy of tasking the Board with designing social welfare policy, the principal criticisms of the AARP Proposal have been that its implementation: (1) would depend upon unjustified cross-subsidization;³⁷ and (2) would not help all Vermonters who

35. Of the 20 utilities participating in this docket, only BED has declined to take a position "either for or against the implementation of the AARP proposed [low-income rate program] in CVPS or GMP's service territories or implementation of a varying form(s) of [program] in the service areas of all other Vermont electric utilities solely funded through customer rates." BED Brief at 9.

36. GMEU Brief at 16 ("The Board's difficult questions during the technical hearings illustrate why the Legislature or other state agencies, rather than the Board, should determine whether an [energy assistance program] is appropriate. Electric utility managers and staff are not in the business of assessing, developing or creating social welfare programs and, thus, have no basis/expertise to answer these questions."); VEC Brief at 16 ("[N]either the electric utilities nor the DPS are experts on determining the most effective funding schemes to assist low income Vermonters. Consequently, . . . these discussions should take place among a larger group of experienced stakeholders in the legislative process."); CVPS Brief at 3-4 ("The delivery of social welfare programs is not a function that is typically charged to Vermont electric utilities."); VMPD Brief at 1-2 ("[T]he issue of providing low-income assistance is one to be addressed by the Legislature and funded on a societal basis."); IBM Brief at 4 ("The Vermont Legislature is the appropriate venue to determine this policy issue.").

37. GMP Brief at 2-3; CVPS Brief at 3 (The AARP Proposal "will not serve the long-term general good, creates too great a risk of undue impact on, and cost-shifting to, other utility customers . . . and is at odds with long-standing Board policies recognizing that utility rates should be cost-based."); BED Brief at 3 ("[I]mplementation of any one

are in need of assistance in paying their electric bills.³⁸ Thus, the proponents of these arguments insist that if the Board nonetheless chooses in this docket to act pursuant to Section 218(e), then a more equitable and practical approach would be for the Board to reject the AARP Proposal and to instead institute a statewide, low-income rate program that is supported by adequate and transparent funding from the state general revenue fund.³⁹

I turn first to the objection that the Board, the Department and the electric utilities are poorly situated to engage in social welfare policymaking. In support of this "competency" objection, several parties have pointed to the absence of input in this proceeding from participants who hail from the social services community, arguing that their expertise is necessary to ensure the creation of "the most effective program to assist low income Vermonters" because these policymakers "understand how to best assist low income Vermonters in light of all the resources that are available."⁴⁰ While this point may be accurate, it does not compel the conclusion that the Board cannot or should not act pursuant to Section 218(e) to review and order the implementation of a low-income rate program, whether by adopting the AARP Proposal or approving some other rate design of this type.

37. (...continued)

of the [electricity assistance program] designs proposed by AARP, or any other [electricity assistance program] design solely funded by BED rate-payers, may not be sustainable or effective in addressing the issues raised by AARP in this docket without imposing a high, inequitable, and potentially unfeasible burden on BED rate-payers."); DPS Brief at 8; GMEU Brief at 12; VEC Brief at 12. I discuss the issue of cross-subsidization in detail later in this proposed decision. See *infra* pp. 43-48.

38. CVPS Brief at 10 ("Since program services would be constrained based upon the budgets raised in individual service areas, the percentage of eligible customers served by each utility would vary based on the characteristics of its customer base and the funds raised to cover program services."); DPS Brief at 7 ("[I]f a low-income program is approved, it should not only be for those in the GMP and CVPS service territories. All consumers should be given the opportunity to share in any benefits and any costs of such programs. Having a social benefit program that is based upon a participant's geographic location or electric service territory in a state as small as Vermont is unduly discriminatory."); VMPD at 9 ("[S]uch assistance should be provided uniformly, throughout the state, and funded by a broad based funding mechanism.").

39. See, e.g., GMP Brief at 5; CVPS Brief at 4; VPMD Brief at 1-2.

40. GMEU Brief at 17. See also VEC Brief at 16. Anticipating the possibility of a second phase in this investigation to develop a specific low-income rate program design, CVPS recommends that the Board "seek to involve the affected parties including other Vermont agencies and stakeholders to collaborate in any required program development." CVPS Brief at 5. As noted earlier in this proposed decision, many such agencies and stakeholders were invited to participate in this investigation, but none chose to do so. See *supra* p. 5, note 1.

First, the "competency" argument rests on the premise that the Board inherently is not qualified to perform the function assigned by the Legislature of exercising discretion to review and approve a low-income rate program pursuant to Section 218(e). Taken to its logical end, this argument implies that the Board should never act pursuant to Section 218(e) because it will never be qualified to do so. Consequently, the effect of accepting the "competency" objection would be to interpret Section 218(e) in a manner that would render this statute of no force or effect and therefore meaningless — a result that the Vermont Supreme Court traditionally has been reluctant to reach in construing legislative enactments.⁴¹

Second, as CVPS has noted, Section 218(e) does not expressly authorize the Board to compel the involvement of other agencies in the administration of any program the Board may seek to implement.⁴² If the Legislature had intended, as the parties suggest, for the Board to craft a comprehensive social welfare policy under Section 218(e) by designing "the most effective program" to assist low-income Vermonters "in light of all the resources that are available," and if the Legislature had shared the parties' concerns regarding the Board's competence to create such a program, then presumably the Legislature would have included language in Section 218(e) directing the Board to enlist the participation of the state's social welfare policy experts and other stakeholders in a low-income rate design process and empowering the Board to compel the cooperation of other state agencies in implementing and administering any resulting reduced-rate programs.⁴³

41. *See State v. Ben-Mont Corp.*, 163 Vt. 53, 60, 652 A.2d 1004, 1008-09 (1994) (holding court "cannot endorse an interpretation which leads to meaningless or incongruous results" and noting presumption that legislature does not intend to enact meaningless legislation); *see also State v. Baldwin*, 140 Vt. 501, 511, 438 A.2d 1135, 1140 (1981) ("If we adopt the construction urged by defendant [the statute] is not only ineffective, it is meaningless, since there is nothing to which it can apply to give it meaning.").

42. CVPS Brief at 10-11.

43. It bears noting that the Legislature included such a directive and powers when it commissioned the Board to develop the 2007 Legislative Proposal. *See* 30 V.S.A. § 209c(a) ("The program shall be developed with the aid of an electricity affordability program collaborative. The collaborative, composed of representatives from the electric utilities, residential customers, consumer representatives, low income program representatives, elderly program representatives, the department of public service, the department of human services, and other stakeholders identified by the board, shall aid in the development of an electricity affordability program, as well as requirements for the implementation and funding of the program.").

Utility companies and their regulators are not expert in designing or administering social welfare policy. However, this regulatory community is not wholly without experience in applying its judgment and expertise to devise practical mechanisms for addressing social needs that intersect with utility service regulation.⁴⁴ The Legislature may reasonably be presumed to have had this regulatory history in mind in enacting Section 218(e). Significantly, the Legislature was aware that as recently as January of 2007, the Board had completed — with material input from experts in social welfare and services issues — a study of how to create and implement a program to address the need for low-income rate relief in Vermont.⁴⁵ Accordingly, under these circumstances, the absence of a provision in Section 218(e) empowering the Board to compel the participation of other state agencies and stakeholders in designing and administering a low-income program strongly suggests that the Legislature deemed the Board's existing store of experiences and resources to be sufficient for competently exercising discretion in approving the implementation of low-income rate designs. Therefore, the "competency" objection does not provide a sound basis for concluding that the Board should defer to the Legislature or other state social services agencies by withholding its discretion under Section 218(e) to approve a rate design that makes electricity more affordable for low-income Vermonters.

I turn next to the argument for rejecting the AARP Proposal in favor of a statewide program with state general revenue funding. This proposition emphasizes the virtues of efficiency and fairness, as a statewide approach could make use of existing systems to distribute the social benefit of low-income electricity assistance and would have the advantage of ensuring that similar benefits are provided to like-situated individuals in need at comparable cost across all of Vermont's electric utility service territories, thereby avoiding the potential for confusing ratepayers and fostering resentment and recrimination due to the disparate treatment of low-

44. See, e.g., Docket 5294, *Tariff filing of Central Vermont Public Service Corporation*, Order of 2/26/90 (approving emergency "lifeline" electric rate program for CVPS); Docket 5028, *Board Investigation into the adoption and implementation of "Lifeline" telephone rates*, Order of 10/5/85. See also Board Rules 3.200 and 3.300 (utility deposit and disconnection rules including provisions to minimize the burden of utility services on low-income households and to protect elderly and low-income households from avoidable disconnections).

45. See discussion of the 2007 Legislative Proposal, *supra* p. 14.

income ratepayers that would otherwise attend the selective implementation of low-income electricity assistance contemplated by the AARP Proposal.⁴⁶

The creation of a statewide, low-income electric rate program that is paid for by Vermonters at large through the state's general fund may well be the optimal means of assisting Vermonters who struggle to afford the cost of their electricity consumption. However, the terms of Section 218(e) do not authorize the Board to adopt such a comprehensive approach to providing "reduced rates for low income electric utility consumers better to assure affordability." At most, the statute may reasonably be interpreted to permit the Board to construct on a case-by-case basis the effective equivalent of statewide rate relief for low-income Vermonters by issuing an order for each Vermont electric utility approving an individual low-income rate tariff for implementation in that utility's service territory. But even then, Section 218(e) is devoid of language that expressly or impliedly enables the Board to authorize utilities to recover their program-related costs through recourse to the state's general fund. Thus, while there may be great merit to the arguments favoring a statewide, societally-funded program, this approach to affording electricity rate-relief to low-income Vermonters lies beyond the scope of what the Board is empowered to order pursuant to Section 218(e).

The conclusion that Section 218(e) does not authorize the adoption of the arguably optimal system for helping low-income Vermonters with their electricity bills does not mean that the Board must or should reject an approach that will afford at least some measure of rate-relief to some eligible Vermonters. This follows logically from the legislative intent manifest in Section 218(e), which authorizes the Board to approve reduced rates so as to "better" assure affordability. The plain meaning of the phrase "better to assure affordability" includes a low-income rate design that only incrementally improves affordability — as opposed to maximizing affordability, or eradicating inaffordability — for eligible customers.⁴⁷ Thus, based on the plain language of Section 218(e), I conclude that the Legislature intended to countenance the implementation of low-income electric rate designs that may not be uniformly available to all

46. GMP Brief at 6-7; CVPS Brief at 4; VMPD Brief at 1-2; Stowe Brief at 3-4; Department Brief at 7.

47. It is well settled that statutes are to be construed in accordance with the plain meaning of the words used in them. *Burlington Elec. Dept. v. Vermont Dept. of Taxes*, 154 Vt. 332, 335, 576 A.2d 450, 452 (1990).

ratepayers in need, and that may only be of limited benefit to those eligible individuals who happen to live where such aid is offered.⁴⁸

In sum, Section 218(e) on its face does not authorize the creation of a statewide, low-income rate program that is funded by general state revenues. Rather, the statute expresses a more modest legislative objective, namely, that the Board should exercise its best judgment in approving low-income rate designs that achieve incremental affordability gains on a utility-specific basis. In reaching this conclusion, I am mindful that the Department, as the state's ratepayer advocate, has taken the position that it is not desirable "to create an electrical 'have or have not' divide" in Vermont by permitting the selective implementation of low-income rates depending on the utility service territory in which a ratepayer in need happens to reside.⁴⁹ Nonetheless, I am compelled to conclude that such an outcome is expressly contemplated by the existing language of Section 218(e), and the review of such a proposal has now been triggered by the AARP Petition pending in this Docket.

C. The AARP Proposal

Findings

21. The AARP Proposal calls for the implementation of an electricity affordability program for residential customers of CVPS and GMP whose household incomes are at or below 150% of FPL. AARP Appendix A (revised), generally.

22. CVPS and GMP are the two largest electric utilities in Vermont, serving more than 70% of Vermont's ratepayers. The creation and implementation of low-income rate programs for these two utilities would make low-income rates available to a majority of the eligible households in Vermont. Taormina pf. at 17-18.

48. This construction of Section 218(e) is further strengthened by the fact that the Legislature chose to enact Section 218(e) notwithstanding the Board's recommendation in January of 2007 to create a statewide low-income rate program for all eligible ratepayers, regardless of utility service territory. *See* exh. CVPS-1, Attachment A (Board-recommended legislation would have mandated delivery of program benefits to "any residential customer of an electric company" who met the proposed eligibility requirements).

49. Department Brief at 7.

23. CVPS and GMP have large service territories that, combined, serve the highest percentage of Vermont ratepayers. Both service territories have a mix of residential customers in larger towns and cities and small rural ones. Both utilities also cover areas of the state with high concentrations of low-income customers. Both utilities also have a mix of different classes of ratepayers among whom the cost of low-income rates reasonably could be spread. Taormina pf. at 16.; findings 62-63 and 66-67, below.

Discussion

The AARP Petition seeks an order directing CVPS and GMP, respectively, to collaborate with AARP to develop a rate design and program terms that will provide reduced rates for low-income customers in the service territories of these two utilities.⁵⁰ In the first part of this analysis section, I explain my basis for concluding that the Board should issue an order directing CVPS and GMP to either implement the AARP Proposal, subject to further modification consistent with the discussion in this proposed decision, or to develop alternative rate designs that deliver comparable rate relief to program participants. The second portion of this analysis section discusses what it would mean for the design principles in the AARP Proposal to be applied to the remaining utilities in Vermont.

1. Application of the AARP Proposal to CVPS and GMP

In the section that follows, I will evaluate the merit of the rate design principles of the AARP Proposal and explore the implementation challenges raised by this rate design. I will then discuss the policy implications of authorizing a cross-subsidy in the form of low-income rates, as well as other equitable considerations attendant to implementing the AARP Proposal's rate design principles.

50. AARP Appendix A (revised). The AARP Petition further contemplates that the Board will order the Department to participate in this collaborative process. *Id.* at 1. Such a directive, however, lies beyond the power of the Board.

(a) The AARP Proposal design principles

(i) The 25% block discount

Findings

24. An "energy burden" measured as 6% of a household budget is considered to be an affordable expenditure level for all residential energy usage combined (electricity and heating fuels). Exh. CVPS-1 at 13-14.

25. In New England, due to generally higher energy prices, the average energy burden is 5%. Exh. AARP-PT-2 at 7.

26. For low-income households in Vermont at or between 50% of FPL and 150% of FPL, the annual energy expenditure amounts to 25% of annual income. Exh. AARP-PT-2 at 2.

27. For a low-income household in Vermont below 50% of FPL, the annual expenditure on energy on average constitutes 62.4% of annual income. Exh. AARP-PT-2 at 2.

28. The AARP Proposal would provide an electricity block rate discounted by 25% to the program participants of CVPS and GMP. AARP Appendix A (revised) at 2.

29. This level of discount would make electricity more affordable for the low-income rate program participants of CVPS and GMP. At 25%, this level of discount falls in the middle of the range of low-income rate discounts offered in other states, with the lowest being 20% (California) and the highest being 30% (Massachusetts). Howat pf. at 7-8; exh. AARP-PT-2 at 18.

30. In the hypothetical case of a program-eligible, 2-person household in CVPS's territory with an annual income at 100% of FPL (\$14,570), an average annual electricity bill of \$1,015, and an average arrearage balance of \$150.00, the impact of AARP's proposed 25% electricity block discount, combined with arrearage forgiveness,⁵¹ would be to reduce that household's annual "electric burden"⁵² from 8.0% of annual household income to 5.2%.⁵³ Howat pf. at 7-8; Howat reb. 11; exh. AARP-JH-7 (revised); finding 40, below.

51. See *infra* pp. 30-32.

52. In this context, the term "electric burden" is defined as the proportion of monthly household income that is devoted to expenditures for electric service. It combines the cost of new service and repayment of an arrearage balance.

53. $(\$1,015.00 + 150.00)/\$14,570 = 8\%$; $(\$1,015 - 25\%)/\$14,570 = 5.2\%$.

31. In the hypothetical case of a program-eligible, 2-person household in GMP's territory with an annual income at 100% of FPL (\$14,570), an average annual electricity bill of \$1,041, and an average arrearage balance of \$84.24, the impact of AARP's proposed 25% discount combined with arrearage forgiveness would be to reduce that household's annual "electric burden" from 7.72% of annual household income to 5.36%.⁵⁴ Exh. AARP-JH-8; finding 41, below.

32. The discounted electricity block would apply to a participant's monthly usage up to the serving utility's average monthly residential consumption level. AARP Appendix A (revised) at 2.

33. The total monthly 25% discount would not exceed 25% of the average monthly bill for the serving utility's residential customers, nor would it exceed 25% of the company's average monthly residential electric bill for that month. Monthly usage in excess of the utility's monthly residential class average would be billed at the non-discounted, residential rate. AARP Appendix A (revised) at 2.

34. The inclining block structure reflected in the 25% discount in the AARP Proposal would provide participants with an incentive to use electricity efficiently because the discounted rate would apply only for usage up to the serving utility's monthly residential average consumption level. Participant usage beyond that level would be billed at the non-discounted rate. Howat pf. at 11.

35. To maximize the program participants' incentive to keep consumption from exceeding the residential class monthly average, AARP recommends keeping fixed, customer charges constant and reducing the volumetric charges on participants' bills – up to residential monthly average consumption – to the level necessary to achieve an overall bill reduction of 25%. Howat pf. at 11.

54. $(\$1,041 + \$84.24)/\$14,570 = 7.72\%$; $(\$1,041 - 25\%)/\$14,570 = 5.36\%$.

36. Using this approach for applying the discount, the monthly customer charge would remain at non-discounted levels, while the volumetric charges would be reduced by slightly more than 25% to achieve an overall bill reduction of 25%.⁵⁵ Howat pf. at 12.

Discussion

The AARP Proposal features a 25% initial block discount for program-eligible customers of CVPS and GMP. This rate design component essentially would operate as an inclining block rate structure that would apply uniformly and consistently to all program participants. This block discount mechanism for promoting energy affordability is simple to administer⁵⁶ and would contribute toward achieving the legislative goal in Section 218(e) of reducing the electric burden of low-income ratepayers to a level that is more affordable.⁵⁷

Furthermore, the 25% discount would only apply to a limited block of the program participant's electricity usage. AARP contends that this design feature has the added virtue of creating a conservation incentive: usage above the discounted block would become more expensive, as it would not be subsidized. The Department counters that the opposite is true, namely, that "lower rates will promote increased use."⁵⁸ Neither party presented any empirical evidence on this point to support its position. That said, I note that AARP's reasoning is consistent with the Board's recent observation that "the fundamental economic principle

55. For example, GMP's general residential tariff allows for a monthly customer charge of \$10.08 and for a volumetric charge of \$0.1302 per kWh, and in 2008 the average monthly residential consumption was 591 kWh. Thus, the average monthly bill under this tariff would have been \$88.10 ($\$10.08 + (591 \times \$0.13202) = \88.10). The monthly bill of \$88.10 discounted by 25% would be \$66.08. To achieve this discount at the average consumption level while leaving the customer charge unchanged at \$10.08, the volumetric charge would need to be discounted by 28.2% to \$0.09476 per kWh. Thus, under this discounting method, a GMP program participant would be billed \$0.9476 per kWh for the first 591 kWh used. The volumetric charge would revert to the undiscounted \$0.13202 per kWh for monthly consumption in excess of 591 kWh. Howat pf. at 12.

56. There are alternatives to this discount mechanism, such as the tiered-discount model and the fixed-credit-percentage-of-income plan. Both of these models require more calculations and individual calibration than the straight block-discount proposed by AARP in this docket. See ex. CVPS-1 at 13-14 and ex. AARP-PT-2 at 3 and 18-26. The tiered-discount model assigns participants to different tiers of income level with corresponding levels of discount, while the fixed-credit-percentage-of-income plan discounts a participant's electric bill by a fixed percentage that is individually calculated to mitigate the participant's energy burden. *Id.*

57. See findings 24 through 33, above.

58. Department Brief at 13.

governing the relationship between supply and demand (as price increases demand decreases) would support a conclusion that inclining block rates would promote energy efficiency."⁵⁹ Therefore, I do not accept the Department's argument that the AARP Proposal should be rejected because "[a]ccording to Board precedent the [proposal] discourages energy efficiency."⁶⁰

In sum, I find there is much to commend AARP's rate design component of a 25% discount mechanism. However, in reaching this conclusion, I do not find that the flat 25% discount mechanism in the AARP Proposal is the only acceptable means of making electricity bills more affordable for low-income ratepayers. Accordingly, I would encourage CVPS and GMP to explore other models, as warranted, provided such alternatives deliver a degree of rate relief to program participants that is of equivalent economic value to the 25% electricity block rate discount in the AARP Proposal.⁶¹

(ii.) Arrearage forgiveness

Findings

37. Under the AARP Proposal, customers participating in a low-income rate program would be given a one-time opportunity to have past-due balances retired. AARP Appendix A (revised) at 2.

38. This arrearage forgiveness opportunity would be available to all customers who enroll during the first three months of the program. The opportunity for arrearage forgiveness would apply only to arrearages accumulated prior to the date on which a customer first enrolls in the program, and shall be available to each customer only during the first three months of the program offered in that service territory. Howat pf. at 10; tr. 8/11/10 at 82-85 (Howat).

59. Docket 7575, *Tariff filing of Washington Electric Cooperative, Inc.*, Order of 9/13/10 at 20.

60. Department Brief at 13.

61. For instance, the tiered-discount model and the fixed-credit-percentage-of-income model both offer the advantage of a more refined income analysis that allows the energy assistance to be weighted toward the lowest income group at a much higher percentage rate discount, while the highest income group conversely receives a lower percentage discount. Exh. AARP-PT-2 at 18.

39. The retirement of pre-program arrearages reduces the need for disconnection notices, establishment of deferred payment agreements, disconnection of service for non-payment, and the write-off of accounts as uncollectible. Howat pf. at 12-13.

40. AARP estimates that, on average, a CVPS customer who is in arrears owes a balance of \$150.00. Howat reb. at 11; exh. AARP-JH-7 (revised).

41. AARP estimates that, on average, a GMP customer who is in arrears owes a balance of \$84.24. Exh. AARP-JH-8; tr. 8/11/10 at 22-24.

Discussion

A common design principle for electricity affordability programs is to provide for arrearage forgiveness.⁶² This practice assists low-income ratepayers in remaining current on their bills, thereby achieving savings for utilities and ratepayers through the attendant reduction in costs associated with collection activities. The AARP Proposal incorporates the arrearage forgiveness design principle. It provides that a program participant's past-due electric bill balance will be retired at the time of enrollment, provided that such enrollment occurs during the first three months of the first year of the program.

I find the arrearage-forgiveness principle is a desirable feature of the AARP Proposal. A low-income ratepayer who participates in a low-income rate program is unlikely to attain the goal of electricity affordability if that person is concurrently burdened with paying down arrearages for past electricity service.

I further find that the "one-time" limit on arrearage forgiveness and the initial three-month enrollment sunset in the program's first year are two useful design elements that help to contain the cost of the program while striking a reasonable balance between the participants' need for meaningful help and the administering utilities' need to ensure that eligible individuals do not abuse the program by continuously and deliberately accumulating arrearages before enrolling and re-enrolling in a low-income rate program to avoid paying past-due electricity bills. Finally,

62. This principle was included in the low-income rate program developed as part of the 2007 Legislative Proposal as well. See exh. CVPS-1 at 18.

these design limits will provide the utilities with greater certainty in planning for the cost bubble associated with offering arrearage forgiveness during the program's start-up phase.

The Department has suggested that an alternative approach to arrearage forgiveness would be preferable to instituting the initial three-month limitation in the AARP Proposal. The Department favors offering at least "some arrearage forgiveness whenever a person becomes eligible" because it would be undesirable to deny the benefit on the basis of "bad timing on top of bad luck" to an individual who happens to become newly unemployed in the fourth month of the program's existence.⁶³ If the Board orders CVPS and GMP to implement either the AARP Proposal or an alternative low-income rate design, I would encourage the Department to collaborate with these utilities to develop a mutually acceptable approach to arrearage forgiveness, keeping in mind the countervailing need to preserve the modest nature of the program funding charge to ratepayers who are not benefitting from the program as participants.

(iii.) Eligibility

Findings

42. The AARP Proposal includes two eligibility criteria: an "eligible customer" is defined as any residential utility customer who is taking, or who seeks to establish, residential service, not including seasonal service and (1) whose household receives assistance from any program administered by the Agency of Human Services for which eligibility is based on a means-test with a threshold at or below 150% of FPL; or (2) whose household income is at or below 150% of FPL and is certified as such by the Office of Economic Opportunity. AARP Appendix A (revised) at 1.

43. The AARP Proposal provides that in any year in which the cost of a program exceeds the revenue from the meter charges, the affected utility shall prioritize enrollment on the basis of the ratio of household income to the federal poverty guidelines as defined annually by the U.S. Department of Health and Human Services. Such prioritization would not take effect without notice to the Department and AARP. Any disputes concerning the utility's administration of its prioritization mechanism would be resolved by the Board. AARP Appendix A (revised) at 3.

63. Department Brief at 12.

44. The AARP Proposal would require participating customers to enter into a budget-billing plan. AARP Appendix A (revised) at 2.

Discussion

Section 218(e) specifies an enrollment standard for any low-income rate approved thereunder. A "low income electric utility consumer" is defined as an individual who has a household income at or below "150 percent of the current federal poverty level." The AARP Proposal is designed to comply with this standard.⁶⁴

That said, as the Department correctly points out, the AARP Proposal raises other questions relating to eligibility determinations that presently remain unanswered. For instance, the plan does not specify whether or when income-eligibility verifications will be performed once a participant has initially qualified for enrollment.⁶⁵ Similarly, the AARP Proposal offers no guidance on how to reconcile its budget-billing participation requirement with existing utility tariff provisions that bar customers from entering into budget-billing plans when they have missed two consecutive payments.⁶⁶ The Department's concerns are legitimate and would need to be addressed by CVPS and GMP as part of either implementing the AARP Proposal or devising their respective low-income rate programs.

There are additional issues that also would need more design consideration. These issues relate to the AARP Proposal's prioritization requirement that would be triggered in the event there is a year where program costs exceed the program revenue raised from the monthly meters charge. The Department points to the problem "of continually shifting enrollment from month to month if new people qualify" for program participation.⁶⁷ The DPS also notes that an enrollment prioritization mechanism could increase the cost of administration as it would require a "ranking

64. Finding 42, above.

65. Department Brief at 13. In this same vein, the Department and other parties have pointed out that the AARP Proposal's eligibility standards do not address the issue of whether students — who often are ratepayers with low incomes but who receive financial support from their parents — would qualify to participate in a low-income rate program. *See, e.g.*, tr. 8/13/10 (vol. II) at 96 (Pariseau); tr. 10/21/10 at 38 and 48-49 (Hastings). This is an issue for which CVPS and GMP would need to propose a resolution in implementing the AARP Proposal or an alternative, equivalent low-income rate program.

66. Department Brief at 13.

67. Department Brief at 12.

calculation."⁶⁸ CVPS, in turn, is concerned that a "fairness" question may arise if and when program enrollment limitations are reached.⁶⁹ None of these points were explored extensively during the technical hearings or in the parties' respective briefs, nor were any findings proposed for consideration. Thus, in the event the Board issues an order directing CVPS and GMP to adopt the AARP Proposal or to devise alternative low-income programs, these concerns would warrant closer examination to determine whether the prioritization provision of the AARP Proposal should be further developed for possible implementation, or whether it should be rejected as unduly burdensome or unfair in its application.⁷⁰

(iv.) Administration

Findings

45. The AARP Proposal would require CVPS and GMP to use an automatic method for identifying and enrolling eligible program participants. AARP-Appendix A (revised) at 3.

46. The AARP Proposal does not otherwise specify how prospective program participants would be identified and enrolled. AARP Appendix A (revised) at 3.

47. The AARP Proposal would authorize CVPS and GMP to use the services of third-party contractors to administer their programs, to include making customer eligibility determinations and implementing automatic enrollment procedures. AARP Appendix A (revised) at 3-4.

48. It is possible for utilities to develop arrangements with regional community action agencies to make eligibility determinations and to provide certification and decertification services. Exh. CVPS-1 at 20; findings 16, 17 and 20, above.

49. AARP has projected a program administration cost for CVPS ranging in the first year of the program from \$175,037 (assuming 30% participation) to \$583,457 (assuming 100% participation). Exh. AARP-JH-7 (revised).

68. *Id.*

69. CVPS Brief at 3.

70. To this end, I would encourage the parties to keep in mind the fairness concerns the Board has previously articulated on the subject of enrollment limitations driven by funding limitations in the context of approving the GMP Pilot Program. See Docket 7213, Order of 3/29/07 at 2 and Order of 2/7/07 at 3.

50. AARP has projected a program administration cost for GMP ranging in the first year of the program from \$107,500 (assuming 30% participation) to \$358,335 (assuming 100% participation). Exh. AARP-JH-8.

51. AARP's program administration cost projections for CVPS and GMP equate to 10% of the total value of the 25% block discounts each utility would provide to eligible low-income customers under the AARP Proposal. Howat pf. at 16; exh. AARP-JH-7 (revised); exh. AARP-JH-8.

52. The 10% program administration cost estimate is reasonable for CVPS and GMP. The cost of running a similar program in New Hampshire is reported to be 10.6% of the total value of program discounts. The federal LIHEAP program pays 10% in program administration costs. CVPS pays 12% of program costs to administer its ShareHeat program. Tr. 8/11/10 at 88-90 and 119-120 (Howat); tr. 10/21/10 at 69-71 (Howat).

53. GMP paid \$22,000 and two hours of staff time per week over a two-year period to administer the GMP Pilot Program from July of 2007 until June of 2009. Morris pf. at 4-5; tr. 8/12/10 at 166 and 195 (Morris).

54. The AARP Proposal would require CVPS and GMP to maintain sufficient data on participating and non-participating residential customers to permit a determination of the actual costs and savings associated with the program. These utilities would also be required to track and monitor all funding, benefits and expense data associated with the program, and to furnish monthly reports regarding this data to the Department and the Board. AARP-Appendix A (revised) at 3-4.

55. The AARP Proposal would require CVPS and GMP to respectively contract with an independent third-party every three years to conduct an evaluation of the program processes and impacts, including an analysis of the program's effect on the participants' ability to pay for and retain electric service. The reasonable costs of this review would be reimbursed from revenues raised through the program funding mechanism. AARP-Appendix A (revised) at 4.

Discussion

A rate design that incorporates the principles of simplicity and efficiency is likely to promote economy, thereby constraining administrative expenses and ensuring that program revenues are maximally directed toward paying out program benefits. The AARP Proposal contains several measures that are intended to effect efficient administration of the program, but some of these administrative provisions are not yet well developed. For instance, while an automatic process for participant identification and enrollment would be required, AARP has not offered any specific mechanisms for implementing such a process, beyond asserting that the requirement could be met "through outreach and intake by the Companies, the state office of economic opportunity . . . and local community-based organizations" involved in the delivery of federal benefits.⁷¹ Alternatively, AARP suggests that the utilities and state agencies (or other stakeholders) could negotiate agreements that facilitate the automatic enrollment of eligible customers who participate "in other means-tested benefit programs that may be available to low income Vermonters."⁷²

Several utilities have expressed concerns about being involved in screening and enrollment activities associated with administering a low-income rate program.⁷³ However, there is evidence in the record that shows it is realistic to assume that there are program designs and resources available that could satisfactorily address these concerns.⁷⁴ For instance, the low-income rate programs in New Hampshire and Massachusetts both rely on community action agencies to provide participant screening services, including income eligibility determinations.⁷⁵ In Vermont, there is the example of the GMP Pilot Program — GMP was able to contract with the Champlain Valley Office of Economic Opportunity to provide participant screening services for its program.⁷⁶

71. AARP Brief at 23-24.

72. Howat pf. at 7.

73. *See, e.g.*, CVPS Brief at 4 ("[k]ey program activities, including qualification and enrollment requirements are challenging to a distribution utility."); GMEU Brief at 16-17; VEC Brief at 15. This concern was also raised in the context of drafting the Board's 2007 Legislative Proposal. Exh. CVPS-1 at 20.

74. Finding 48, above.

75. Findings 16 and 17, above.

76. Finding 20, above; Taormina pf. at 8-9; tr. 8/12/10 at 166 (Morris).

Turning to the issue of administrative cost, the evidence further shows it is reasonable to assume that, at least in the first year, CVPS and GMP would be able to administer their programs at a cost that equates to approximately 10% of the value of the electricity block discounts to be provided to the program participants.⁷⁷ While I find these cost estimates to be reasonable, I am mindful that there is no "hard data" available at this time to assess whether these estimated costs equate to an efficient or economic use of program revenues for program administration. This is a determination that must await the passage of time and the accumulation of data on this point once program implementation is underway, should the Board issue an order to that effect.

Finally, the absence of "hard data" regarding administrative costs reflects an important point that has emerged from this investigation, namely, the need to track — and the need for a system to track — the utility data necessary to evaluate the impact and success of low-income rate programs. For instance, the economic efficiency of program administration costs cannot be assessed absent the collection of supporting data.⁷⁸ The evidence indicates that it would be possible for CVPS and GMP to develop the systems necessary to track such data.⁷⁹ I therefore conclude that it would be reasonable to require these utilities to include data gathering and reporting mechanisms in their programs, keeping in mind the competing need for streamlined requirements in order to avoid unnecessary administrative expenses.

In sum, while AARP has proposed several useful suggestions for how to structure the administrative elements of a program, the design of these components as reflected in the AARP Proposal is incomplete. However, GMP's pilot program experience strongly suggests that the details of designing administrative efficiency and simplicity into programs for CVPS and GMP are likely to develop readily if and when these utilities are directed to implement low-income rates pursuant to Section 218(e).

77. Findings 52 and 53, above.

78. The same need for data collection arises in the context of attempting to quantify the benefit to other ratepayers — reduced costs associated with collection activities and bad debt — of implementing a low-income rate program. *See infra* p. 48.

79. Tr. 8/12/10 at 156-157 (Morris) and 214-216 (Anderson).

(v.) Program funding

Findings

56. Under the AARP Proposal, the low-income rate programs for CVPS and GMP would be funded through meter charges that would vary according to customer class. AARP Appendix A (revised) at 2; Howat pf. at 6, 11 and 13-14.

57. A single, monthly charge would be assessed for each meter in use in the utility's service territory. Howat pf. at 11.

58. The monthly meter charge is administratively efficient and provides a predictable funding stream that is necessary for smooth program planning and implementation. Howat pf. at 11.

59. Under the AARP Proposal, all customers would pay a meter charge, regardless of whether or not the customer is also a participant in the low-income rate program. The meter charge would be \$1.50 per residential meter, \$2.50 per meter for each commercial and industrial ("C&I") customer whose monthly usage during the previous 12 months did not exceed 12,000 kWh, and \$83.33 per meter for each commercial and industrial customer whose average monthly usage during the previous 12 months exceeded 12,000 kWh. Howat pf. at 14; AARP Appendix A (revised) at 3; tr. 8/13/10 (vol. II) at 183-185 (Howat).

60. In 2008, CVPS on average served a total of 160,312 customers: 136,074 (85%) residential; 23,204 (14%) small commercial; 1,034 (1%) large-scale commercial. Exh. AARP-JH-5.

61. For the year 2008, CVPS collected retail revenues totaling \$280,728,233: 49% (\$138,091,191) from residential customers; 16% (\$45,828,096) from small commercial customers; 35% (\$96,808,946) from large-scale commercial customers. Exh. AARP-JH-5.

62. Annual CVPS revenues from the proposed monthly meter charges would total approximately \$4,179,452: \$2,449,332 (59%) from residential customers, \$696,120 (16%) from small commercial and industrial customers, and \$1,034,000 (25%) from large commercial and industrial customers. Exh. AARP-JH-5; Howat pf. at 14.

63. In the case of CVPS, the total annual revenues raised from the monthly meter charges of \$4,179,452 would represent 1.49% of CVPS' total annual retail revenue. The total annual meter

charge revenue would be enough (1) to fund a 25% electricity block rate discount and retire arrearages for in excess of 40% of CVPS's program-eligible customers during the first year of the program at a cost of \$3,947,030; and (2) to fund a 25% electricity block rate discount for in excess of 60% of CVPS' program-eligible customers in subsequent years at an annual cost of \$3,850,815. Exh. AARP-JH-5; exh. AARP-JH-7 (revised).

64. In 2008, GMP on average served a total of 97,498 customers: 81,447 (84%) residential; 14,347 (14%) small commercial and industrial; 1,704 (2%) large commercial and industrial. Exh. AARP-JH-6.

65. For the year 2008, GMP collected retail revenues totaling \$225,300,339: 38% (\$84,812,943) from residential customers; 11% (\$24,262,753) from small commercial and industrial customers; 51% (\$116,224,643) from large commercial and industrial customers. Exh. AARP-JH-6.

66. Annual GMP revenues from these monthly meter charges would total approximately \$3,600,000: \$1,466,000 (41%) from residential customers, \$430,000 (12%) from small commercial and industrial customers, and \$1,704,000 (47%) from large commercial and industrial customers. Exh. AARP-JH-6; Howat pf. at 14.

67. In the case of GMP, the total annual revenues raised from the monthly meter charges of \$3,600,000 would represent 1.6% of GMP's total annual retail revenue. The total annual meter charge revenue would be enough (1) to fund a 25% electricity block rate discount and retire arrearages for in excess of 70% of GMP's program-eligible customers during the first year at a cost of \$3,475,177; and (2) to fund a 25% electricity block rate discount for in excess of 100% of GMP's program-eligible customers in subsequent years at an annual cost of \$3,583,347. Exh. AARP-JH-6; exh. AARP-JH-8.

68. There is no utility energy assistance program in operation today that is known to serve every income-eligible customer — including mature programs capable of funding full participation by all eligible customers. Howat pf. reb. at 10.

69. Data on program participation rates in states such as Maryland, Pennsylvania, New Jersey and the District of Columbia suggest that it is reasonable to expect a program participation rate of 30-45% of program-eligible customers. Howat pf. reb. at 10.

70. Under the AARP Proposal, if the demand to participate in the program were to exceed the funding raised through the meter charges, then a waiting list would be established for eligible applicants. Tr. 8/11/10 at 105 (Howat).

71. As calculated under the AARP Proposal, the rate impacts of the meter charges on each class of CVPS and GMP customers would be modest. Exh. AARP-JH-5; exh. AARP-JH-6.

72. The total rate impact of the AARP Proposal on CVPS would be an increase of 1.49%. Distributed across CVPS's rate classes, the rate impact of the AARP Proposal would result in an increase of 1.77% for CVPS's residential customers; 1.52% for CVPS's small commercial and industrial customers; and 1.07% for CVPS's large commercial and industrial customers. Exh. AARP-JH-5.

73. The total rate impact of the AARP Proposal on GMP would be an increase of 1.6%. Distributed across GMP's rate classes, the rate impact of the AARP Proposal would result in an increase of 1.73% for GMP's residential customers; 1.77% for GMP's small commercial and industrial customers; and 1.47% for GMP's large commercial and industrial customers. Exh. AARP-JH-6.

74. The projected rate impacts for GMP and CVPS compare favorably with similar programs adopted in other New England states. For Central Maine Power, the impacts of the low-income rate subsidy are: 2.16% (total); 1.42% (residential); and 3.42% (commercial and industrial). For Western Massachusetts Electric Company, the rate impacts are: 2.58% (total); 1.77% (residential); 3.31% (commercial); and 5.42% (industrial). For National Grid/Massachusetts Electric Company, the rate impacts are: 2.04% (total); 1.98% (residential); and 2.18% (commercial and industrial). For National Grid/Narragansett Electric Company, the impacts are: 0.81% (total); 0.79% (residential); and 0.82% (commercial and industrial). For Public Service Company of New Hampshire, the impacts are: 1.13% (total); 0.92% (residential); and 1.33% (commercial and industrial). Exh. Board-6.

Discussion

Energy assistance programs require adequate, secure and predictable funding to be successful in reducing the energy burdens of low-income electric utility customers.⁸⁰ Spreading program costs among all classes of ratepayers is one way to secure predictable low-income rate funding while ensuring that no one ratepayer class is singled out to bear the total expense of the program.⁸¹ This design principle of requiring all ratepayer classes to fund the program — including the commercial and industrial classes who would never qualify for the benefit of low-income rate relief targeted at residential customers — has the added attraction of equitably apportioning the cost of mitigating a societal burden that cannot readily be assigned to or identified with the system demands of any one rate class.

The funding mechanism included in the AARP Proposal applies these foregoing rate design principles by providing for a flat, monthly charge on each customer's bill.⁸² In the case of a typical residential customer, the fee would be assessed assuming the use of one meter. In the case of commercial customers — some of whom use multiple meters — a fee would be assessed counting each meter. The cumulative effect of raising program funding in this manner would be a total rate increase of 1.49% for CVPS customers and 1.6% for GMP customers.⁸³ These percentages compare favorably with the 2% magnitude of impact that is common and generally considered reasonable for a low-income rate program.⁸⁴

80. Howat pf. at 14.

81. *Id.* at 15. The Legislature's endorsement of this design principle is reflected in 30 V.S.A. § 209c(c)(3) (identifying as a legislative goal "[t]he need to design a program that is funded by all customer classes in an equitable and reasonable manner . . .").

82. To clarify, AARP has analyzed two variations of the fixed meter charge design, the "Fixed Meter Charge" and the "Alternate Fixed Meter Charge." However, AARP has only recommended the adoption of the Alternate Fixed Meter Charge. Howat pf. at 14; AARP Appendix A (revised) at 3. Therefore, the analysis in this proposed decision assumes that AARP is exclusively advocating for the adoption of the Alternate Fixed Meter Charge. Accordingly, all mention of AARP's meter charge design in this decision should be understood to refer to the Alternate Fixed Meter Charge.

83. The rate impacts on the individual rate classes of CVPS and GMP are modest as well. In CVPS's case, the impacts range from 1.07% (large commercial and industrial) to 1.77% (residential). For GMP, the comparable range of impacts is 1.47% to 1.73%. Findings 72 and 73, above.

84. Tr. 8/11/10 at 70-71 (Howat).

Of all of the design principles in the AARP Proposal, it is the issue of program funding that has occasioned the severest criticisms. Apart from concerns about cross-subsidization,⁸⁵ the principal objection has been that the revenues generated by the meter charges would not produce adequate funding for a low-income rate program as envisioned by AARP.⁸⁶ AARP's data projections suggest that the meter charges as presently designed would only suffice to extend program benefits during the first year of the program to at least 40% of the target low-income population in CVPS service territory and to at least 70% of GMP's eligible low-income customers.⁸⁷

At first glance, it would seem problematic that the projected revenues from the meter charges would not be enough to provide benefits to all, or at least nearly all, of the targeted low-income ratepayer population in the territories of CVPS and GMP. However, the evidence adduced by AARP indicates that, to date, there is no known low-income energy assistance program that has succeeded in serving 100% of its target population, even in the case where a program is of long tenure. Rather, based on the actual program participation rates documented in other states with such programs, it is reasonable to expect that the participation rate in any program offered in Vermont is likely to fall between 30% to 45% of eligible customers.⁸⁸ Therefore, upon closer examination, I do not find the "insufficiency" objection to the meter charges to be persuasive. Rather, I conclude that it is reasonable to design and implement a low-income rate program that at a minimum supports an initial 30% participation rate.

As in the case of program eligibility and administration, there are details about the proposed meter charges that remain incomplete. For instance, the AARP Proposal does not precisely specify the conditions under which a meter charge would be assessed. During the technical hearings, AARP witness Howat testified in favor of different meter charge rules for

85. See separate discussion of cross-subsidization *infra* pp. 43-48.

86. See, e.g., CVPS Brief at 6; GMP Brief at 4.

87. See findings 63 and 67, above. These findings further demonstrate that the meter charge funding would be sufficient to support even higher program participation rates for CVPS and GMP in the years after the first year, when arrearage forgiveness has ended.

88. Findings 68 and 69, above. This conclusion finds additional support in the documented experience of the GMP Pilot Program, where GMP succeeded in enrolling a maximum of 3,300 low-income customers. Morris *pf.* at 6. This participant number was much lower than the 8,000 originally GMP expected. *Id.*; *exh.* AARP-Cross-1 at 3 and 8.

different rate classes, pursuant to which residential customers would pay the meter charge only once, no matter how many meters they use, while commercial/industrial customers with multiple meters would pay a meter charge for every meter they use. Mr. Howat suggested that drawing such a distinction between customer classes is justified by the superior financial circumstances of very large commercial/industrial customers.⁸⁹ Such differential reasoning is a familiar and generally accepted approach in rate design theory. That said, this reasoning also reflects value judgments and factual premises that may benefit from refinement and verification through additional review by CVPS and GMP in developing a low-income rate program.

To summarize, I find the meter charge design component of the AARP Proposal to be a desirable means of securing predictable funding for a low-income rate program. This mechanism is capable of raising an adequate amount of program funding for CVPS and GMP, as it would produce revenues sufficient to initially fund at least a 30% program participation rate.

(b) Cross-subsidization

Findings

75. A program designed in keeping with the AARP Proposal would be funded by all electric customer classes for the direct benefit of low-income residential electricity customers. Howat pf. at 14-15.

76. AARP has estimated the costs for CVPS and GMP to implement low-income rate programs in their respective service territories. Exh. AARP-JH-7 (revised); exh. AARP-JH-8.

77. AARP calculated these cost estimates by multiplying the number of estimated program participants by the sum of the value of the monthly discount per customer and the average arrearage per customer that is retired. AARP then added a projected program administration cost of 10% of the value of the total program discounts. Howat pf. at 15–16.

78. AARP estimates that for the first year, CVPS's total cost for a program created pursuant to the AARP Proposal would be between \$2,960,273 (assuming a 30% participation rate) and \$9,867,576 (assuming a 100% participation rate). Exh. AARP-JH-7 (revised).

⁸⁹. Tr. 8/11/10 at 87-88 (Howat). Mr. Howat's testimony on this point finds support in the low-income rate program impacts reported from other jurisdictions. See finding 74, above.

79. AARP estimates that for the first year, GMP's total cost for a low-income rate program created pursuant to the AARP Proposal would be between \$1,529,371 (assuming a 30% participation rate) and \$4,657,682 (assuming a 100% participation rate). Exh. AARP-JH-8.

80. The cost estimates are highest for the first year of program operation. The program costs in subsequent years would be lower because of the one-time nature of the arrearage-forgiveness component of the program. In the case of CVPS, for instance, AARP anticipates that CVPS's total program costs after the first year would drop to between \$1,925,408 (30% participation) and \$6,418,026 (100% participation). Howat pf. at 16; exh. AARP-JH-7 (revised).

81. Electricity bills that are more affordable are likely to result in higher "bill coverage rates," thereby reducing some of the utility costs that would otherwise be incurred due to non-payment or default. Howat pf. at 18.

82. Examples of utility costs that accrue when customers fall behind on their electricity bills are: (1) credit and collection activities, including time and resources spent negotiating deferred payment plans, sending shut-off notices, making personal contact with customers prior to disconnection of service, disconnecting and reconnecting service, and post-disconnection collection activities; (2) bad debt write-offs; and (3) working capital expenses associated with the lag between the time service is rendered and the late payment. Howat pf. at 18-19.

83. The data for quantifying and projecting system cost savings for CVPS and GMP are not readily available at this time. The utility accounting systems do not presently track some of the data needed for such analyses. Tr. 8/12/10 at 214-215 (Anderson); tr. 8/12/10 at 156-157 (Morris).

84. A low-income rate program would likely produce system cost savings for CVPS. Tr. 8/12/10 at 231-232 (Anderson)

85. The system cost savings CVPS is likely to realize from implementing a low-income rate program are not expected to exceed the added costs of implementing and administering the program. Tr. 8/12/10 at 230-232 (Anderson).

86. A low-income rate program would likely produce system cost savings for GMP. During the GMP Pilot Program, GMP realized system savings in the form of improved payment records. The program participants were able to maintain their arrearage payment agreements. GMP also

experienced a 17% drop in disconnections during the program. Morris pf. at 6-7; tr. 8/12/10 at 155 and 159 (Morris).

87. During the operation of its pilot program, GMP's costs were not fully offset by realized savings or the reduction of accounts receivables. Morris pf. at 7; tr. 8/12/10 at 183 (Morris).

Discussion

In considering whether to issue an order approving the implementation of a low-income rate program, Section 218(e) provides that "the board shall take into account the potential impact on, and cost-shifting to, other utility customers." Most of the parties have taken the position that, when tested against this statutory requirement, the Board should not approve the AARP Proposal because it requires an unjustified cross-subsidization of low-income rates by the remaining other ratepayer classes — a result that directly contravenes the Board's long-established practice of favoring rate designs that are cost-based and therefore do not include cross-subsidies.⁹⁰

The last attempt at devising a low-income rate program in Vermont was in Docket 5308, where the Board delineated several standards for evaluating proposed energy assistance programs for low-income households.⁹¹ These criteria evinced a distinct preference for programs that (1) feature broad-based funding and collection mechanisms, (2) avoid cross-subsidies among rate classes by relying on cost-based rates, and (3) promote the efficient use of energy. Therefore, it is beyond dispute that the Board would be departing from its precedent and at least some of these principles in issuing an order approving AARP's proposed 25% rate discount and the use of the meter charges as described in the AARP Proposal as a funding mechanism for a low-income rate program.

However, it is equally beyond dispute that the promulgation of Section 218(e) is an invitation from the Legislature to the Board to depart from its traditional rate design principles by authorizing the creation of reduced rates "better to assure affordability," with due consideration for "the potential impact on, and cost-shifting to, other utility customers." In statutorily

90. GMP Brief at 2-4; CVPS Brief at 8-11; VEC Brief at 13; GMEU Brief at 12-14; Department Brief at 11; IBM Brief at 1-2.

91. Docket 5308, Order of 3/9/93 at 3.

instructing the Board to consider whether to approve such rates, the Legislature well understood that the Board would not be able to grant affirmative relief pursuant to 218(e) unless the Board altered its policy stance of guarding against cross-subsidies — indeed, the Board itself had advised the Legislature that the very nature of designing any low-income rate proposal is "to create a subsidy by a subset of customers for the benefit of others."⁹² Thus, it is reasonable to conclude that in passing Section 218(e), the Legislature instructed the Board to consider granting approval of cross-subsidies embedded in low-income rates, notwithstanding the Board's traditional commitment to designing rates to be cost-based and without cross-subsidies.

Section 218(e) directs the Board to "take into account" the cost-shifting and the potential impact on ratepayers of approving a low-income rate program for implementation, but the statute specifies no standard to guide the Board's exercise of this discretion. The parties' arguments opposing the AARP Proposal reflect the assumption that the "take into account" language means using a cost/benefit analysis to assess the "potential impact on and cost-shifting to, other utility customers" in approving a low-income rate program. Accordingly, many parties have faulted AARP for failing to quantitatively demonstrate (1) the existence of cost savings as a result of the program, (2) that there is any benefit from the proposed cross-subsidy for the ratepayers to whom the cost of a program would be shifted, and (3) that the benefit of the subsidy to low-income ratepayers will either off-set or exceed the costs of the program.⁹³

While I recognize the appeal of the objectivity that typically characterizes a quantitative cost/benefit analysis, I find no statutory language that compels this analytical approach in considering the cost-shifting effect or other impact of an approval granted under Section 218(e). Because it is a given that any cross-subsidy approved pursuant to 218(e) will shift a cost and have an impact upon the ratepayers who do not qualify for the attendant reduced electricity rate, the pertinent inquiry would appear to be whether or not that cost-shift or impact is reasonable,

92. Exh. CVPS-1 at 27.

93. See, e.g., GMP Brief at 4-5; CVPS Brief at 11-12; DPS Brief at 11; IBM Brief at 3-4 and 6-9; Stowe Brief at 5.

meaning, whether or not it is excessive in nature.⁹⁴ No persuasive evidence has been adduced in this case to demonstrate that only a cost/benefit analysis would provide an acceptable means for assessing the reasonableness of the impact upon and cost-shifting to the ratepayers who would bear the burden of subsidizing reduced rates for their low-income counterparts.⁹⁵

Under the AARP Proposal, the total rate impacts would be 1.49% for the customers of CVPS and 1.6% for the customers of GMP.⁹⁶ These rate impacts reflect that the typical residential ratepayer would pay \$18.00 per year in monthly meter charges to fund a low-income rate program in the service territory of either CVPS or GMP.⁹⁷ In the case of commercial/industrial customers, the typical, corresponding charges would range from \$30.00 per year (for usage less than 12,000 kWh/month) to \$1,000 per meter per year (for usage in excess of 12,000 kWh/month).⁹⁸ I do not find these amounts to be excessive.⁹⁹ They strike me as a modest — and therefore reasonable — price to pay for realizing the Legislature's goal of

94. This approach is consistent with the "reasonableness" standard the Board used in 2007 in deciding whether to approve the GMP Pilot Program for implementation. *See* Docket 7213, Order of 3/29/07 at 2. At issue in that case was the reasonableness of GMP's proposal to offer a low-income rate — on a trial basis over three years — on a first-come, first-served basis until the annual funding of \$330,000 was exhausted. The Board rejected the first iteration of this proposal as "unreasonable" because the practice of awarding the benefits to those participants who were quickest to sign up was deemed to be unfairly discriminatory. Eventually, the Board concluded it was "reasonable" to approve a revised version of the GMP Pilot Program in which the first-come, first-served rule was eliminated, along with the annual spending cap.

95. While CVPS has criticized AARP for not conducting a cost/benefit analysis of the AARP Proposal, CVPS has not chosen to fill this data gap, notwithstanding the Company's evident ability to do so. Tr. 8/12/10 at 244-246 (Anderson).

96. Findings 72 and 73, above.

97. Finding 59, above (12 x \$1.50/month = \$18.00).

98. Finding 59, above (12 x \$2.50 = \$30.00; 12 x \$83.33 = \$999.96).

99. The Department has argued that the AARP Proposal would have excessive bill impacts ranging from 6.4% to 7.9% upon GMP Rate 63 customers whose monthly electricity usage is above 12,000 kWh. Department Brief at 10. However, AARP has persuasively demonstrated that there are design options available to mitigate such outlying bill impacts. AARP Reply Brief at 7-8. Significantly, Department witness Becker testified under cross-examination that one possible rate design solution would be to adopt a meter charge for residential and small commercial/industrial customers, while using a volumetric charge for large commercial/industrial customers. Tr. 10/21/10 at 73-75 (Becker).

In a similar vein, the Department has expressed concern regarding the comparative hardship of requiring a household with an annual income of \$18,000 to make the same contribution toward program funding as a household with an annual income of \$180,000. DPS Brief at p.8. Without conceding the need for it, AARP has persuasively demonstrated that a design measure could be crafted to address this issue, if warranted. *See* AARP Reply Brief at 6.

rendering the benefits of electric service — health, safety, heat and light — more affordable for ratepayers who subsist on incomes at or below 150% of FPL.¹⁰⁰

I further find the Department's suggestion helpful that a cross-subsidy in rates may be acceptable when there is at least "some benefit to the class receiving the burden of the costs."¹⁰¹ Such an off-set has the virtue of mitigating — whether in whole or in part — the impact on utility customers of a decision to authorize a cross-subsidy to implement a low-income electricity rate.

There is evidence that CVPS and GMP are likely to avoid some system costs by implementing low-income rates in their service territories.¹⁰² Though not quantified in this docket — and shown not to be readily quantifiable at this time — these avoided costs are likely to manifest in the form of reduced utility-system costs for activities such as disconnection and debt collection.¹⁰³ To be clear, these savings are not expected to fully off-set the costs of implementing and administering a low-income program for CVPS or GMP.¹⁰⁴ Nonetheless, I find the prospect of realizing at least some savings through avoided system costs to be a benefit that will mitigate "the impact on, and cost-shifting to, other utility customers" in the event the Board ultimately issues an order in this Docket approving the implementation of low-income rates in the service territories of CVPS and GMP.

In sum, for the reasons discussed above, I conclude that it would be a reasonable exercise of discretion pursuant to Section 218(e) for the Board to approve the cross-subsidy embedded in the AARP Proposal because (1) it constitutes a modest cost-shift to the funding customers of CVPS and GMP, and (2) the potential impact on these funding customers is likely to be mitigated by some system savings (i.e., reduced costs for disconnections and debt collection) stemming from the implementation of the low-income rate program.

100. Findings 6 through 8 and 71, above.

101. Department Brief at 11.

102. Findings 84 and 86, above.

103. Findings 81 and 82, above. This point reinforces the need for utility data tracking and reporting requirements. *See* discussion *supra* p. 37, finding 54, above.

104. Findings 85 and 87, above.

(c) Equity and fairness concerns beyond cross-subsidization

Findings

88. Many of Vermont's electric utilities have contiguous service territories. For example, in most towns that are served by WEC, there is at least one other utility serving that town as well.

Patt pf. at 2.

89. There are eleven towns where service is provided by WEC and CVPS. Patt pf. at 2.

90. There are twenty-five towns where service is provided by WEC and GMP. Patt pf. at 2.

Discussion

CVPS has raised the concern that by singling out the service territories of CVPS and GMP for the establishment of low-income rate programs, the AARP Proposal could foster unfairness because similarly situated low-income electricity consumers would be treated differently, depending on where such customers take electric service.¹⁰⁵ In addition, the Department contends that such differential treatment would be unduly discriminatory, arguing that "[a] low-income customer on one side of the street should not have to stare enviously or with resentment at their low-income neighbor across the street because the neighbor is getting a 25% discount on his or her electric bill while across the street the same benefit is not available in any form."¹⁰⁶

These arguments resonate with the familiar regulatory principle barring the establishment of rates that are unjust or unduly discriminatory. The prohibition against unjust or unduly discriminatory rates has long been embedded in Vermont's ratemaking statutes.¹⁰⁷ The purpose of this ban is to prevent a utility from abusing the monopolistic power attendant to being the sole service provider within an exclusive service territory. To protect captive ratepayers from exploitation, a utility is not permitted to engage in "undue discrimination" by manipulating its

105. CVPS Brief at 3.

106. Department Brief at 7.

107. 30 V.S.A. §§ 218(a) (prohibiting unjust, unreasonable, or unjustly discriminatory rates) and 219 (requiring non-discriminatory rates).

rates for the benefit of some customers and to the detriment of others within its territorial borders.¹⁰⁸

As the designated public advocate in utility regulation, the Department properly is intent upon ensuring the even-handed treatment of the ratepayers it is charged with representing. That said, I note that Vermont's traditional prohibition of "undue discrimination" in rate setting pertains to the rates charged by a utility within its service territory — this legal principle does not extend to protecting ratepayers from differential treatment across utility-territory lines. Thus, in the case of ordinary, just and reasonable rates set with all of the protections of traditional Vermont ratemaking rules, it would be unsurprising — and neither unjust nor unduly discriminatory — to discover that a WEC residential customer pays a different rate for electricity than a neighboring CVPS or GMP customer across the street in the same town. Vermont ratepayers have never enjoyed a guarantee of paying identical rates for electric service, regardless of where they happen to reside and take service.¹⁰⁹

It may be accurate to characterize the AARP Proposal as "discriminatory" to the extent that it would afford different treatment to the low-income ratepayers of CVPS and GMP vis-a-vis their WEC counterparts. However, it does not follow as a matter of Vermont law that such "discrimination" in rates would be unjust or undue, given that Section 218(e) does not authorize the Board to impose a blanket obligation upon all Vermont utilities to implement a single, unified program that makes electricity more affordable for low-income ratepayers. Rather, by authorizing the Board to individually approve "a rate schedule, tariff, agreement, contract, or settlement that provides reduced rates for low income electric utility consumers," it would seem the Legislature squarely contemplated that any assistance afforded to low-income Vermonters

108. See Docket 6077, *Investigation into three special contracts filed by New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont*, Order of 2/8/00 at 50–51.

109. With this point in mind, I find no cause to fear that unacceptable consumer confusion would ensue from directing only CVPS and GMP to offer low-income rates in their service territories. CVPS Brief at 3; tr. 8/12/10 at 237–238 (Anderson). I note that the risk of such confusion has not foreclosed CVPS from offering Cowpower for sale in its service territory, nor has it deterred the Company from advertising its exclusive offering of this distinctive tariff item state-wide on Vermont Public Radio, within earshot of the ineligible utility customers in adjacent service territories.

pursuant to Section 218(e) may vary from utility territory to utility territory, with some utilities offering reduced rates and other utilities providing no assistance at all.

A Board order directing the implementation of low-income programs only for CVPS and GMP is likely to result in the low-income customers of these two utilities faring better than a comparable WEC customer who lives across the street in the same town. This differential treatment is the outcome of a straightforward application of the plain language in Section 218(e). As a matter of social policy, the Department may be correct in insisting that Vermont "can do better" than to accept low-income rate discrimination "based on electrical service territory" and that such disparate treatment is "unfair to low-income people throughout the state" ¹¹⁰ Under existing law, though, I cannot accept the Department's argument, as it implies that the only just action under Section 218(e) would be to order the implementation of low-income rate programs either in all or in none of Vermont's electric utility service territories. This restrictive construction of Section 218(e) is difficult to reconcile with the plain language of the statute, which is written in the singular case to authorize the Board to individually approve "a rate schedule, tariff, contract or settlement" designed to promote electric affordability.

In the end, the power to do better — in the manner urged by the Department — lies with persuading the Legislature to revise Section 218(e). The Department appears to hold out the possibility of "going back to the drawing board to come up with a low income affordability plan that is not dependent on which electrical service territory a person happens to live in" ¹¹¹ Such a proposal certainly would be welcome, to the extent that it could be designed to be consistent with Section 218(e) as presently written and construed in this proposed decision. Alternatively, I would encourage the Department to seek an amendment of Section 218(e).

Accordingly, for the reasons I have discussed, I do not accept the argument that the implementation of low-income rates in only the service territories of CVPS and GMP would result in unfair or unduly discriminatory treatment of some low-income electricity consumers in Vermont.

110. Department Brief at 7.

111. Department Brief at 7.

(d) Summary of analysis regarding CVPS and GMP

Based on the foregoing analysis, I conclude that it would be appropriate for CVPS and GMP either to implement the AARP Proposal — subject to further refinement of the incomplete elements of the plan as discussed in this proposed decision — or to develop an alternative low-income rate program for their respective territories that is comparable in effect to the AARP Proposal.

If the review of the AARP Proposal in this Docket ultimately persuades the Board to direct CVPS and GMP to either adopt the AARP Proposal or to design and implement alternative low-income rate programs, the practical effect of this decision likely will be to make electricity rates more affordable in Vermont's two largest electric service territories, wherein reside an estimated 37,000 eligible, low-income customers — a significant portion of the population the Legislature was aiming to assist in promulgating Section 218(e).¹¹²

2. Application of the AARP Proposal to other Vermont electric utilities

(a) The screening framework

In opening this investigation into the AARP Proposal, the Board specifically directed the consideration of the following issue:

Whether, and if so, to what extent, the central features of any program that may be established in the context of this proceeding may appropriately be extended to other Vermont electric utilities that may either choose to, or may become obligated to, establish a low-income rate program[.]¹¹³

In the context of analyzing the applicability of the AARP Proposal to CVPS and GMP, I found the following components to be central to that rate design: (1) the 25% block discount; (2) the one-time forgiveness of arrearages during the first three months of the first year of the program; (3) the program eligibility threshold of 150% of FPL or below; (4) the principle of administrative simplicity and efficiency, with an estimated cost of administration equal to 10% of the total annual rate discounts provided to program participants; (5) the funding mechanism of

¹¹². Findings 4 and 5, above. AARP has projected that, combined, there are 37,000 residential customers with incomes at or below 150% of FPL in the CVPS and GMP service territories.

¹¹³. Scope Order at 3.

fixed meter charges that vary in amount depending on the rate class; (6) the maintenance of sufficient data on the progress of the program in serving the electric affordability needs of participating customers; (7) the maintenance of sufficient data to measure the costs and system savings experienced by the utility in administering the program; and (8) the requirement of preparing a program assessment for review by the Board every three years.

Additionally, the findings and analysis in this proposed decision support assessing the appropriateness of implementing the AARP Proposal by using the following additional "acceptability" criteria. First, the program funding mechanism should raise sufficient revenue to meet the cost of at least a 30% participation rate during the first year of the program.¹¹⁴ Second, depending on the circumstances, the rate impacts of the program revenue raised through the funding mechanism preferably would remain below 2%, but in any event should not exceed 5% of: (a) the total annual revenue collected by the utility; and (b) the annual revenue collected from each rate class.¹¹⁵ Finally, the rate impacts of the program should be equitably balanced among the rate classes.¹¹⁶

What follows next is a discussion of what it would mean to extend to Vermont utilities other than CVPS and GMP the central rate design features of the AARP Proposal, as well as the additional "acceptability" criteria identified above. I will use these standards collectively as a screening tool to assess whether it would be appropriate to require these utilities to either adopt the AARP Proposal, subject to the modifications discussed herein, or to design and implement an alternative low-income rate program of comparable benefit to eligible program participants.

(b) Data reliability concerns

The analysis that follows in this section is based in large measure upon data contained in the exhibits prepared by the utility-parties (except CVPS, GMP and VMPD) in response to the

114. Finding 69, above. See also discussion *supra* pp. 42-43.

115. See discussion *supra* p. 41. As is discussed later in this proposed decision at pp. 57-59, the determination of what constitutes an acceptable rate impact will vary depending upon the circumstances of each utility and its customer base. Therefore, this range of impacts should not be treated as a firm standard, but rather should be viewed as a guideline that produces one point of reference among many in assessing the acceptability of a rate impact. xx

116. See, e.g., findings 72 and 73, above.

Screening Data Requests.¹¹⁷ With the exception of GMEU, none of the utility-parties formally objected to the admission into evidence of the exhibits they prepared in response to these requests. However, the concerns raised by GMEU were general in nature and also could be expected to be of concern to the utility-parties who responded to the Screening Data Requests, but who did not lodge a formal objection to the admission of their own responses into evidence. Thus, while only GMEU's exhibits were admitted over a formal objection,¹¹⁸ the following discussion of the reliability and use of the GMEU data should be understood to generally apply as well to the data submitted by the other utilities in response to the Screening Data Requests.

According to GMEU, the data in exhibit GMEU-1 and exhibit GMEU-2 are only as reliable as the many underlying assumptions that its members were required to make in order to answer the Screening Data Requests, which assumed the existence of data that these utilities do not track or maintain in the ordinary course of business.¹¹⁹ Therefore, GMEU has cautioned that its data "may provide unreliable results should it be used to demonstrate achievable benefits and cost savings of the AARP Proposal for GMEU members."¹²⁰

GMEU further disputes "some of the assumptions implicit in AARP's method of calculating program costs and revenues, which were adopted for the purpose of producing GMEU-1 and GMEU-2."¹²¹ For example, the meter charge design in the AARP Proposal reflects distinctions between commercial and industrial customers based on usage — those who exceed 12,000 kWh annually would pay a higher meter charge than those who use less power.¹²² However, there was no customer-specific information available for the GMEU members that corresponded to the 12,000 kWh usage-breakpoint.¹²³ Nor does the 12,000 kWh breakpoint assumed in AARP's meter charge design correspond to the residential/commercial/industrial

117. *See supra* p. 11 note 13.

118. Tr. 10/21/10 at 35-36 (overruling objection and admitting exh. GMEU-1 and exh. GMEU-2).

119. Tr. 10/21/10 at 12 (Emerson); Affidavit of Steven Farman dated November 8, 2010, at p. 2. I hereby admit this document into evidence as exhibit Board-18. Any party wishing to object to exhibit Board-18 shall do so in writing no later than the deadline for filing comments in response to this proposed decision and may be included in any such comments.

120. Exh. Board-18 at 2.

121. Exh. Board-18 at 1.

122. AARP Appendix A (revised) at 2.

123. Exh. Board-18 at 3.

classification scheme in the GMEU tariffs. Thus, as a result of the 12,000 kWh breakpoint classification under the AARP Proposal, the data in exhibit GMEU-1 likely reflects that an artificially high number of commercial customers have been assigned to the higher industrial-meter-charge category, which in turn would result in overstated program revenues derived from those charges.¹²⁴

GMEU also points to a similar reliability issue with respect to the arrearages estimates in exhibit GMEU-1. For instance, in some cases, it was not possible to separate residential arrearages balances from a GMEU member's total arrearages tally. Instead, an assumption was made that residential arrearages were roughly proportional to the retail revenue generated by that class.¹²⁵ Furthermore, exhibit GMEU-1 reflects the additional assumption that all residential arrearages were attributable to program-eligible, low-income ratepayers. Consequently, it is possible that the GMEU data overstates the sum of arrearages to be forgiven by the GMEU members in the first year of program implementation. In many instances, this data point makes the difference between whether the meter charges do or do not produce sufficient funding for the first year of the program, assuming a 30% participation rate.

The Board has long been aware of the challenges posed by designing a low-income rate program in the absence of "hard data" that could illuminate policy decisions such as defining the scope of feasible arrearage forgiveness.¹²⁶ Accordingly, I find the data concerns raised by GMEU in this docket are legitimate — they reinforce the merit of the data-tracking requirements contained in the AARP Proposal. For this reason, I have not proposed any findings of fact based on the exhibits prepared by GMEU, BED, Stowe, VEC, WEC or VMPD in response to the Screening Data Requests.¹²⁷

124. Exh. Board-18 at 3. The incompatibility of the GMEU members' tariff classifications with the AARP Proposal's usage breakpoints reflects the fact that the AARP Proposal was not designed with the GMEU members in mind.

125. Exh. Board-18 at 3-4.

126. *See, e.g.*, exh. CVPS-1 at 17 and 24-25.

127. Specifically, these exhibits are: exh. GMEU-1; exh. GMEU-2; exh. Board-1; exh. Amended Board-1; exh. Board-2; exh. Amended Board-2; exh. Board-5; exh. Board-16; exh. VMPD-TAA-1; exh. VMPD-TAA-2; exh. VMPD-TAA-1 (revised); exh. VMPD-TAA-2 (revised); exh. VEC-Pratt-2; exh. VEC-Pratt-2 (revised).

While GMEU has highlighted some of the reliability questions that may arise from a dearth of data and the use of assumptions as a substitute for absent data, these concerns need not foreclose all reference to the information in the responses to the Screening Data Requests. For instance, there appears to be little or no cause to question the reliability of ordinary business data such as customer counts and annual revenue totals generated by class, or simple calculations such as the projected rate impacts of the meter charges on the different rate classes. To this end, this data remain sufficiently reliable for use as a screening tool in examining whether the central design features of the AARP Proposal could be extended to the GMEU members and other Vermont utilities besides GMP and CVPS. Therefore, strictly for reference purposes in the analysis to follow, I have created an appendix that is attached to this proposed decision (the "Appendix to the Proposal for Decision").¹²⁸ In the PFD Appendix, I have set forth the data points distilled from the evidentiary record that logically illustrate what it would mean to apply the AARP Proposal to Vermont utilities other than CVPS or GMP.¹²⁹

More specifically to the point of GMEU's evidentiary objection, using GMEU's data to analyze the applicability of the AARP Proposal's design principles to the GMEU members does not implicate the issue of whether the data in GMEU's exhibits will be used to "demonstrate achievable benefits and costs savings of the AARP Proposal for GMEU members."¹³⁰ Thus, GMEU's data — and that of BED, Stowe, VEC, WEC and VMPD — will be used in the screening analysis that follows to examine a different issue, namely, whether the central features of the AARP Proposal — in their present form — may appropriately be extended to Vermont utilities other than CVPS and GMP so as to provide "reduced rates for low income electric utility customers better to assure affordability."¹³¹

128. The Appendix to the Proposal for Decision will be cited hereinafter as "PFD Appendix at ¶ _."

129. I emphasize that neither the enumerated paragraphs nor the record citations in the PFD Appendix are intended to constitute proposed findings of fact pursuant to 30 V.S.A. § 8(c).

130. Exh. Board-18 at 2; tr. 10/21/10 at 35 (Emerson).

131. 30 V.S.A. § 218(e).

(c) Municipal utilities

(i.) BED

Before the AARP Petition was filed, AARP and BED worked together to collect and analyze BED's data to determine whether the AARP Proposal could be implemented in BED's service territory. Ultimately, AARP concluded that the program it had designed with CVPS and GMP in mind would not work for BED. This is because BED has a large percentage of the state's low-income households, a smaller customer base than CVPS or GMP, and a less favorable mix of classes of ratepayers than either of those two utilities.¹³² Based on the record in this investigation to date, I concur with AARP's assessment.

From a strictly mathematical point of view, it would appear that the funding mechanism in the AARP Proposal could deliver enough revenue to fund a 25% block discount and arrearage forgiveness for 100% of the eligible low-income customers in BED's service territory.¹³³ However, this degree of low-income rate relief would have a significant rate impact upon BED's remaining ratepayer classes, most of whom would see rate increases ranging from 0.17% (large-scale primary service) to 3.82% (large-scale commercial) if the AARP Proposal were implemented in BED's service territory.¹³⁴ Collectively, the total rate increase would amount to 2.73%.¹³⁵

BED argues that these rate impacts are too high, citing in support Mr. Howat's testimony that a 2% rate impact is considered reasonable.¹³⁶ This argument rests on an unduly narrow characterization of Mr. Howat's testimony. BED assigns no significance to Mr. Howat's additional testimony that an impact of 3% could also be reasonable, depending on the circumstances, such as the comparative level of rates statewide.¹³⁷ When pressed, Mr. Howat further testified that a 4% impact could be considered high, but he did not opine that this

132. Taormina pf. at 16.

133. PFD Appendix at ¶ 7.

134. PFD Appendix at ¶ 9.

135. PFD Appendix at ¶ 10.

136. BED Brief at 4-5.

137. Tr. 8/11/10 at 70-71 (Howat).

magnitude would be considered unreasonable.¹³⁸ Ultimately, Mr. Howat allowed that an impact of 5% would be considered excessive.¹³⁹ Thus, applying these guidelines, the range of impacts from the AARP Proposal on BED — as a whole, and on its rate classes in particular — could be considered reasonable, as they all fall well below 5%.

BED has a large percentage of the state's low-income households.¹⁴⁰ Under a strict application of BED's proposed 2% rate impact test, the AARP Proposal clearly would pass muster for CVPS (1.49%) and GMP (1.6%), but not for BED (2.73%).¹⁴¹ The difference in outcomes reflects the fact that BED has a smaller customer base and lower annual revenues than CVPS and GMP — thus the revenue raised from the meter charges constitutes a smaller percentage of the annual revenues for CVPS and GMP than for BED.¹⁴² But BED arguably has a greater need for a low-income rate program than CVPS or GMP — an estimated 27% of BED's residential customers subsist on incomes at or below 150% of FPL, compared to an estimated 16.9% in the territories of CVPS and GMP.¹⁴³ Considering that the AARP Proposal's total rate impact on BED of 2.73% would be below 3% — a reasonable magnitude under some circumstances — it may be shortsighted to reject implementing the AARP Proposal or a modified version thereof — for BED's service territory simply because the total rate impact would exceed 2%, particularly when, in the case of the AARP Proposal, BED's large-scale, primary service class would only be facing a 0.17% rate impact.¹⁴⁴

The weakness of a categorical application of a 2% reasonableness standard is further exposed upon considering that the significance of a rate impact's magnitude may vary from one service territory to the next. For instance, a 2% rate impact may be more difficult to accept in a territory such as Hardwick, where the rate of average revenue-per-kWh is \$0.1670, compared to Swanton's rate of \$0.0987 or BED's rate of \$0.1413.¹⁴⁵ Furthermore, the record shows there are

138. *Id.*

139. *Id.*

140. PFD Appendix at ¶ 3.

141. *See* discussion *supra* p. 41.

142. Compare PFD Appendix at ¶¶ 1, 2 and 5; findings 60-63 and 64-67, above.

143. PFD Appendix at ¶ 4; findings 4 and 5, above.

144. PFD Appendix at ¶ 9.

145. Exh. GMEU-1 at 5 and 25; exh. Amended Board-1 at 1.

service territories in which the cost of adequately funding a program requires accepting some rate impacts of 3% or more.¹⁴⁶ For ratepayers in a territory where rates are below the statewide average, a 3% rate impact may be more acceptable than in a territory where electric rates are higher than the statewide average.

Finally, the 2% standard may also yield perverse results. Again, BED's average revenue-per-kWh rate of \$0.1413 is lower than Hardwick's rate of \$0.1670 and yet, under a 2% rate impact standard, the AARP Proposal would pass muster for Hardwick (1.98%), but not for BED (2.73%). Thus, BED — a utility whose average rate is lower than Hardwick's — would be excused from implementing the AARP Proposal while Hardwick would not be, even though BED's rates are lower than Hardwick's rates and BED ratepayers therefore could more readily absorb the additional cost of a low-income program.

Thus, while it is tempting to distill the reasonableness of program rate impacts down to a simple scale of percentages, the compelling nature of the societal benefits to be gained from adopting a low-income rate program militates in favor of a more nuanced approach to assessing whether the cost of such a program is acceptable. A "bright line" test of 2% may offer a clear standard, but that clarity is of little value if the application of the test results in perverse outcomes and shortsighted assessments of whether the cost of implementing a low-income rate program would have an acceptable rate impact in a given territory.

That said, assuming that the existing AARP Proposal would result in unacceptable rate impacts for some of BED's rate classes, it does not necessarily follow that it would be impossible to design a workable low-income rate program for BED using some of the design principles in the AARP Proposal. BED disagrees, arguing forcefully that it would be "unsustainable" to implement a program in its territory that is exclusively funded by its ratepayers.¹⁴⁷ However, the record reveals two considerations that call BED's position into question.

First, the monthly meter charges as presently set and allocated under the AARP Proposal would produce \$1,216,594 in annual program funding for BED. This sum exceeds what BED

146. For instance, the impact of Western Massachusetts Electric Company's low-income rate program is 3.31% for its commercial class and 5.42% for its industrial class. Similarly, the commercial and industrial class of Central Maine Power has sustained an impact of 3.42%. Finding 74, above.

147. BED Brief at 4-5.

would need to pay the total cost of providing discounts (25% block discount + one-time arrearage forgiveness) at a 100% participation rate in the first year of the program (\$1,167,074), as well as the amount BED would need to pay for 100% participation in the years thereafter (\$923,112).¹⁴⁸

Second, it is reasonable to expect a 30% to 45% participation rate in a low-income rate program.¹⁴⁹ Thus, assuming for the sake of discussion a participation rate of 30% in BED's program, the funding needed to support a 25% electricity block discount and one-time arrearage forgiveness in the first year would be \$350,122, followed by \$276,933 to support the 25% electricity block discount in the years thereafter.¹⁵⁰ Both of these sums are far below the \$1,216,594 that BED would raise if it implemented the meter charge of the AARP Proposal as presently designed.

Taken together, these two points suggest that the existing meter charges in the AARP Proposal are higher than necessary to meet the demand for low-income assistance in BED's service territory, whether assuming either a 30% or a 100% program participation rate. Thus, it may be appropriate for BED to further investigate whether a schedule of lower meter charges would produce sufficient program funding for a 30% participation rate with lower rate impacts.¹⁵¹

BED has argued, though, that if AARP's rate design were applied to BED, then the 10% program administration cost estimate would likely be unrealistically low, considering all of the additional administrative requirements the implementation of the AARP Proposal would entail. In addition to the enrollment screening activities and data tracking components of the AARP Proposal, BED points to other program cost escalators such as the need to alter its billing system

148. PFD Appendix at ¶¶ 5 and 7.

149. Finding 69, above.

150. PFD Appendix at ¶ 8.

151. Indeed, BED and AARP have explored a program design that would result in a levelized 1.75% rate increase across all of BED's rate classes. *See* exh. AARP-PT-3 at 6; tr. 8/12/10 at 130-133 (Taormina). BED now argues in its brief that this same design would not be acceptable because it would produce disproportionate bill impacts for 15 of BED customers, one of whom is the City of Burlington. BED Brief at 6. In making this argument, BED overlooks that such outlying impacts are not fatal *per se* to a rate design. As noted earlier in connection with a similar argument raised by the Department in regard to potentially excessive bill impacts on GMP customers with monthly usage above 12,000 kWh, the discipline of rate design is flexible and allows for incorporating measures that mitigate outlying bill impacts. *See supra*. p. 47, note 99.

to add the meter charges and to reflect the discount provided to program participants.¹⁵²

Unfortunately, BED did not volunteer any specific financial data to support this argument.

Without question, it would be unreasonable to require a utility to implement a low-income rate program with an estimated administrative cost that is excessive when considered as a percentage of total program costs. As noted earlier, it is reasonable to expect a program participation rate of 30%-45%. In BED's case, a participation rate of 30% is projected to result in BED providing assistance to 1,323 eligible customers, at an estimated 10% program administration cost of approximately \$25,175.¹⁵³ These numbers compare favorably to the documented experience of the GMP Pilot Program, where over two years GMP ultimately served 3,300 eligible customers at a cost of two hours per week of staff time and \$22,000 for an outside contractor to perform eligibility screening activities.¹⁵⁴ Thus, even allowing for BED's smaller customer base and annual revenues when compared to GMP,¹⁵⁵ I am not persuaded that the \$25,175 projected program cost is likely to be too low for BED — GMP was able to serve a much larger group of eligible customers at a comparable cost.

In sum, while I find that it would not be appropriate to apply the AARP Proposal as presently drawn to BED, I am not persuaded by BED's argument that it would not be feasible to design a sustainable, low-income rate program for its service territory that is funded only by BED ratepayers. I do not find the record to be conclusive on this point. Rather, I conclude there may be value in exploring (1) whether and how the meter charges in the AARP Proposal could be modified in BED's case to produce sufficient program revenue to support a 30%-45% first-year participation rate, (2) whether such a modified rate design could be implemented at an administrative cost that is reasonable for BED to bear, and (3) whether BED could craft an alternative rate design for a low-income rate relief program that would be appropriate for implementation in BED's service territory.

152. BED Brief at 8.

153. PFD Appendix at ¶¶ 6 and 8.

154. Finding 53, above; Morris pf. at 6; exh. AARP-Cross-1 at 8.

155. Compare findings 64 and 65, above, and PFD Appendix ¶¶ 1 and 2.

(ii.) Stowe

Stowe is a municipal utility that serves a much smaller customer base than CVPS or GMP. However, Stowe has a mix of ratepayer classes that compares favorably with CVPS and GMP for purposes of designing a low-income rate program. Stowe has a commercial class that represents a larger percentage (17%) of its customer base than the commercial customer base of CVPS (14%) and GMP (14%).¹⁵⁶ Furthermore, Stowe has an industrial base that generates 48% of its annual revenue — a figure that falls between the comparable percentages for CVPS (35%) and GMP (51%).¹⁵⁷

The total rate impact for Stowe ratepayers from applying the rate design principles of the AARP Proposal would be 1.17%.¹⁵⁸ Furthermore, none of Stowe's rate classes would see a rate increase in excess of 2%.¹⁵⁹ Therefore, the rate impacts of the AARP Proposal for Stowe's funding rate classes — and for Stowe as a whole — would be of a magnitude considered to be common and acceptable for a low-income rate program.¹⁶⁰

However, as in the case of BED, there is good cause to question whether the existing meter charges in the AARP Proposal are set at an appropriate level for Stowe. First, the monthly meter charges as presently set under the AARP Proposal would produce \$118,642 in annual program funding for Stowe.¹⁶¹ This sum exceeds what Stowe would need to pay the total cost of providing discounts (25% block discount + one-time arrearage forgiveness) at a 100% participation rate in the first year of the program (\$67,613), as well as the amount Stowe would need to pay for 100% participation in the years thereafter (\$38,137).¹⁶²

Second, assuming a participation rate of 30% in Stowe's program, the funding needed to support a 25% block discount and one-time arrearage forgiveness in the first year would be \$20,344, followed by \$11,501 to support the 25% block discount in the years thereafter.¹⁶³ Both

156. Compare findings 60 and 64, above, with PFD Appendix at ¶ 11.

157. Compare findings 61 and 65, above, with PFD Appendix at ¶ 12.

158. PFD Appendix at ¶ 18.

159. PFD Appendix at ¶ 17.

160. See *supra* pp. 57-58.

161. PFD Appendix at ¶ 13.

162. PFD Appendix at ¶ 14.

163. Exh. Amended Board-2 at 5.

of these sums are far below the \$118,642 that Stowe would raise if it implemented the meter charge of the AARP Proposal as presently designed.

Taken together, these two points suggest that the existing meter charges in the AARP Proposal are higher than necessary to meet the demand for low-income assistance in Stowe's service territory, whether assuming a 30% or 100% program participation rate.

I turn next to another important consideration that must inform the appropriateness of extending the AARP Proposal to Stowe and other similarly situated utilities — the magnitude and proportionality of the program administration cost for the utility. Under the AARP Proposal, assuming a participation rate of 30%, Stowe would provide its eligible customers with discounts totaling \$10,456, which, in turn implies an estimated 10% administrative cost of \$1,046.¹⁶⁴ This administrative cost estimate does not strike me as realistic.

Unlike in the case of CVPS and GMP, there are far fewer economies of scale in terms of existing staff and administrative system infrastructure that may fairly be imputed as a partial cost-absorbing resource to a small utility such as Stowe, which serves 3,822 customers and generates annual revenues of \$9,424,320.¹⁶⁵ Stowe estimates that it pays an employee a maximum of \$31.25 per hour to deal with arrearage-related administrative activities.¹⁶⁶ For its pilot program, GMP required 2 hours per week of staff time (in addition to its outside contractor screening and enrollment support) to administer that program.¹⁶⁷ Thus, assuming it took a Stowe employee two hours per week to effectively administer its low-income rate program (without outside contractor support for screening and enrollment), the approximate, annual cost would come to \$3,000 — a sum that is far higher than \$1,046, and that translates to 29% (as opposed to 10% in the AARP Proposal) of the program's 25% block discount.¹⁶⁸

Nor do these percentages improve for Stowe when a higher program administration cost is assumed to account for the screening and enrollment functions that GMP outsourced at a cost

164. PFD Appendix at ¶¶ 15 and 16.

165. Stowe Brief at 2-3; PFD Appendix at ¶¶ 11 and 12.

166. Exh. Amended Board-2 at 7.

167. Finding 53, above.

168. Furthermore, the \$3,000 cost likely would be higher if it also incorporated the cost to Stowe of shifting its customer service representative away from existing core duties for one work day (eight hours) a month.

of \$22,000 over two years. An annual administration cost of \$5,000 (approximately 13 hours/month @ \$31.25/hr) would represent 48% — as opposed to 10% — of the Stowe program's total \$10,456 block discount.

On balance, I am persuaded that the AARP Proposal as presently configured should not be applied to Stowe. While the projected rate impacts for all classes would be less than 2%, the meter charges as presently designed would result in (1) a significant over-collection of program revenue needed to fund a 30% participation rate, and (2) an unrealistically low administrative cost estimate of \$1,046 per year.

However, the AARP Proposal's modest rate impacts on Stowe customers and the projected excess in program revenue suggest that it may be feasible for Stowe to redesign the meters charge schedule of the AARP Proposal in a manner that would permit Stowe to institute some form of a low-income rate program. Furthermore, it may be possible for Stowe to achieve a more favorable administrative cost ratio by exploring an alternative such as joining with other small municipal utilities to create or enhance economies of scale in outsourcing the program screening and enrollment functions. These considerations — as well as Stowe's favorable rate class mix and small number of eligible program participants¹⁶⁹ — lead me to conclude there may be value in requiring Stowe to explore whether there is a different schedule of meter charges or some other funding design that would produce sufficient program funding for a 25% block discount and one-time, first-year arrearages forgiveness at a 30% participation rate without exacting an unreasonable administrative cost from Stowe.¹⁷⁰

In reaching this conclusion, I am mindful of the objections Stowe has raised to implementing the AARP Proposal in its service territory. Specifically, Stowe argues that it does not need to implement a low-income rate program because it occupies a "unique position" due to

169. Stowe reported that it serves 126 eligible customers, who represent 4% of Stowe's residential customer base. Exh. Amended Board-2 at 3.

170. Stowe witness Burt also raised several concerns about the difficulty of administering a low-income rate program in a utility territory that has a large seasonal and transient population, and that includes many rental properties. These are issues I would expect Stowe — and any similarly situated utility — to address in any future examination of feasible alternatives to the AARP Proposal.

the electric service lien provision in the Charter of the Town of Stowe.¹⁷¹ Stowe actively relies on its lien power to "enter into flexible payment schedules with delinquent customers and keep accounts in service because it has the assurance that delinquencies on those accounts will be resolved in the long run."¹⁷² Consequently, because of how it administers its lien power, Stowe claims it has "virtually no serious arrearages and no uncollectible accounts."¹⁷³ Thus, Stowe characterizes the use of its lien power as the effective equivalent of a "low income assistance program that both assures integrity of its ongoing finances and provides for continuity of electric service to its ratepayers suffering from financial hardship."¹⁷⁴

I am not persuaded that a lien power is a plausible substitute for a low-income rate program implemented pursuant to Section 218(e). The lien power simply affords Stowe a means to secure payment for electric service rendered by proceeding *in rem* against the property to which Stowe distributes electricity, thereby possibly avoiding the need to proceed *in personam* for payment against the individual who legally contracted for delivery of the electricity that Stowe distributed to the premises. While the lien power may be a serviceable strategy for a municipal utility to secure payment on its delinquent accounts, the exercise of that legal remedy does nothing to provide "reduced rates for low income electric utility consumers better to assure affordability."¹⁷⁵ It is merely an alternative means for the utility to make itself whole by compelling payment of an over-due balance from a property owner who may — or may not — be a delinquent, low-income utility customer.

171. Stowe Brief at 6, referring to 24 V.S.A. App. § 1101(f). To the extent Stowe claims to be uniquely situated, I understand Stowe to be asserting that it is alone in making effective use of its lien power. Stowe certainly is not unique in possessing such a tool for collecting on past-due debts — there are nine other municipal utilities in this docket who also are empowered to file a lien for non-payment against the real property served by the utility. These utilities are BED, Barton, Enosburg, Hardwick, Ludlow, Morrisville, Orleans, Swanton and Hyde Park. *See generally* 24 V.S.A. Appendix - Municipal Charters.

172. Stowe Brief at 6.

173. Stowe Brief at 6.

174. Stowe Brief at 6-7.

175. 30 V.S.A. § 218(e). To the extent that the lien power implicates the issue of crafting a low-income rate program, it would make more sense to view this power as a justification for dispensing with the arrearage forgiveness component. The existence of the lien power suggests there is no need for ratepayers to fund an arrearage forgiveness component of a low-income rate program when the utility is able to secure recoupment of any existing arrearages by filing a property lien, thereby assuring eventual payment from the property owner.

Finally, Stowe raised an important issue about ensuring the privacy of its customers who may interact with the utility as low-income program participants. Stowe worries that this privacy may be compromised because the utility "is established and operates as an open public entity."¹⁷⁶ Therefore, Stowe fears that it would be "difficult, if not impossible" to maintain the privacy of these customers.¹⁷⁷ Presumably Stowe has devised adequate practices for addressing these same considerations in other, similar contexts, such as in administering its budget-billing program and collections activities. Thus, while I agree that Stowe has raised a legitimate concern, it does not appear to be unique to administering a low-income rate program.

(iii.) GMEU

The GMEU members are small utilities, each of whom serves a much smaller customer base than CVPS or GMP, and all of whom have a much less favorable mix of ratepayer classes for purposes of spreading the cost of a low-income rate program.¹⁷⁸ A third of the GMEU members have no industrial customer base.¹⁷⁹ Three-quarters of the GMEU members have a commercial class that is smaller than the commercial customer base in the territories of either CVPS or GMP.¹⁸⁰ Significantly, with the exception of Hyde Park, it appears that every GMEU member territory is populated by a percentage of low-income residential customers that is higher than the 16.9% estimate that AARP used to quantify the potentially eligible customers in the CVPS and GMP territories.¹⁸¹ In 2008, the average annual adjusted gross income reported for residential customers in almost all GMEU territories was below the state average of \$24,281.¹⁸²

Based on these demographics, it is reasonable to infer that there is at least as great a need for low-income rate relief in the GMEU service territories as there is in the case of CVPS and GMP. These demographics further signify that, in many instances, the burden of providing such

176. Burt pf. at 7.

177. *Id.* at 8.

178. Taormina pf. at 17.

179. These utilities are Barton, Hyde Park, Morrisville and Swanton. PFD Appendix at ¶¶ 19, 49, 99 and 139.

180. Compare findings 60 and 64, above, with PFD Appendix at ¶¶ 19, 29, 39, 49, 59, 69, 79, 89, 99, 109, 119, 129 and 139.

181. Findings 4 and 5, above, and PFD Appendix at ¶¶ 22, 32, 42, 62, 72, 82, 92, 102, 112, 122, 132 and 142.

182. PFD Appendix at ¶¶ 21, 31, 41, 51, 61, 71, 91, 101, 121, 131 and 141.

relief in these small utility territories would fall largely upon an economically vulnerable population of funding ratepayers, many of whom are likely to be subsisting on incomes that are only marginally above the 150% of FPL threshold for low-income rate relief. In short, it would be a case of the needy receiving assistance from the nearly-needy.

The analysis in the PFD Appendix indicates that, for 11 of the 13 GMEU members, the aggregate rate impact of the AARP Proposal would fall below the 2% guideline for the commonly acceptable rate impact of a low-income rate program.¹⁸³ However, for 10 of the 13 GMEU members, there is at least one rate class that would see a rate increase in excess of 2%.¹⁸⁴ Furthermore, for at least 5 of the 13 GMEU members, the revenues generated by the existing meter charge design would appear to not be enough to pay for a 30% participation rate in the first year, when arrearages are due to be forgiven.¹⁸⁵ Finally, for 11 of the 13 GMEU members, the 10% administrative cost estimate results in a dollar amount that would appear to be unrealistically low for covering the expense of administering a low-income rate program.¹⁸⁶ In many instances, when the administrative cost is more realistically projected at \$5,000, the administrative cost ratio would deviate significantly from the 10% estimate embedded in the AARP Proposal.¹⁸⁷ This suggests the undesirable outcome that a disproportionate amount of program funding revenue would need to be expended for purposes other than helping the intended program recipients.

Still, there may be value in examining in a future, separate proceeding whether some of the central features of the AARP Proposal could be used to develop alternative low-income rate

183. Only Jacksonville (2.39%) and Readsboro (5.15%) would experience total rate increases in excess of 2%. PFD Appendix at ¶¶ 68 and 138.

184. These 10 utilities are: Barton, Enosburg, Hardwick, Jacksonville, Ludlow, Morrisville, Northfield, Orleans, Readsboro and Swanton. PFD Appendix at ¶¶ 27, 37, 47, 67, 87, 107, 117, 127, 137 and 147. The only three GMEU members who had no rate class that would see an increase above 2% are Hyde Park, Johnson and Lyndonville. PFD Appendix ¶¶ 57, 77 and 97.

185. PFD Appendix at ¶¶ 24, 54, 74, 124 and 144.

186. PFD Appendix at ¶¶ 26, 36, 56, 66, 76, 86, 106, 116, 126, 136 and 146.

187. For instance, in the case of Northfield, the 10% cost estimate would yield an annual program administration budget of \$1,652, assuming a participation rate of 30% at an annual cost of \$16,526 for the electricity block discounts. PFD Appendix at ¶¶ 115 and 116. In turn, an annual administrative budget of \$5,000 would equate to 30% of the discounts to be provided pursuant to Northfield's program — a percentage that is triple the size of the 10% program cost estimate envisioned in the AARP Proposal.

programs that are tailored for a better fit with the GMEU. As the example of Lyndonville suggests, the assessment of whether the AARP Proposal is appropriate for implementation in a particular GMEU territory may change depending on the soundness of the underlying information and assumptions included in GMEU's data exhibits. This conclusion becomes clear upon close examination of the following points.

As noted earlier, for most of the GMEU members, the total rate impact of the AARP Proposal would have been less than 2%. In many instances, though, there was at least one rate impact above 2% on one rate class that called into question the appropriateness of implementing the AARP Proposal. Often, that single rate impact stood in marked contrast to the much lower rate impacts for that utility's remaining classes.¹⁸⁸ In the case of Morrisville, for example, the residential class would have experienced a rate impact of 2.09%, while Morrisville's commercial class only faced the prospect of a 0.50% rate increase.¹⁸⁹ This suggests that the present AARP meter charge design could be reexamined to determine if an alternative — such as a more equalized rate impact for both of Morrisville's rate classes — could produce sufficient program revenue to fund the first year of a low-income rate program, assuming a 30% participation rate.

There were also cases where the application of AARP's meter charge design was questionable because it would have raised an excessive amount of program revenue. In Northfield, for instance, the existing meter design would generate \$50,178 in program revenues, which exceeds the \$35,681 that Northfield would need to fund the first year of its program at a 30% participation rate.¹⁹⁰ This funding level would have been achieved by imposing a 2.31% rate increase on the residential class, coupled with much smaller increases on the commercial class (1.54%) and the industrial class (0.96%).¹⁹¹ As in the case of Morrisville, these data points suggest that an alternative meter charge design could be explored to produce an adequate program funding level for Northfield with a more equalized rate impact for all of its rate classes.

In addition to questionable rate impacts, there were several instances where the existing meter design would not produce sufficient revenue to fund the first year of the program at a 30%

188. PFD Appendix at ¶¶ 27, 37, 47, 57, 67, 87, 97, 107, 117, 127, 137 and 147.

189. PFD Appendix at ¶ 107.

190. PFD Appendix at ¶ 114.

191. PFD Appendix at ¶ 117.

participation rate. In the case of Swanton, for instance, the meter charge design would only produce \$68,754 to fund a projected first-year total program cost of \$193,700 (assuming 30% participation).¹⁹² Significantly, the cost of the 25% block discount for Swanton would be \$36,597, both in the first year of the program and in the years thereafter. By comparison, Swanton's one-time, first-year cost for retiring arrearages would be \$153,444 — a sum that deviates materially from all of the other GMEU members' comparable 30% arrearages forgiveness totals.¹⁹³ Thus, but for the magnitude of the arrearages to be forgiven, Swanton's meter charges under the AARP Proposal would suffice to fund the first year of the program.

This point highlights the importance of the reservations GMEU has expressed in regard to infirmities in its reported arrearages data. For purposes of responding to the Screening Data Requests, Swanton attributed all \$511,480 (100%) of its residential arrearages to all 594 (100%) of its potential program recipients.¹⁹⁴ This assumption implies that 30% of Swanton's low-income customers in the aggregate are responsible for 30% (\$153,444) of Swanton's total \$511,480 arrearages. However, considering that Swanton's 594 potential program participants represent only 19% of Swanton's 3,128 residential ratepayers, it may be equally reasonable to assume that only 19% of Swanton's \$511,480 in residential arrearages (\$97,181) are attributable to Swanton's 594 low-income customers.¹⁹⁵

Using this new assumption, the sum of arrearages to be forgiven in Swanton's first program year would be reduced from \$153,444 to \$29,154 (30% of \$97,181). In turn, Swanton's revised total first-year program cost at a participation rate of 30% would be reduced from \$193,700 to \$69,410 — a sum that is nearly fully covered by Swanton's projected funding

192. PFD Appendix at ¶¶ 143 and 144.

193. Swanton reported a total of \$511,480 in residential arrearages — by far the largest sum among the GMEU members. Exh. GMEU-1 at 25. The next highest residential arrearages total is \$164,601, which was reported by Lyndonville. Exh. GMEU-1 at 15. Like Swanton, Lyndonville gave no aggregate number of residential customers who are responsible for these arrearages. Furthermore, for purposes of calculating the total first year cost of implementing the AARP Proposal in its territory, Lyndonville ascribed 100% of its residential arrearage to 100% of its 1089 potential program participants. *See* exh. GMEU-1 at 15.

194. Exh. GMEU-1 at 25.

195. *Id.*; PFD Appendix at ¶ 142.

revenue of \$68,754.¹⁹⁶ The remaining small deficit of \$656.00 likely would be eliminated if the AARP meter design were rebalanced to equalize the rate impacts for Swanton's residential class (2.19%) and its commercial class (0.40%).¹⁹⁷ Thus, the case of Swanton suggests that, going forward, there may be value in developing a more robust analysis of GMEU's arrearages assumptions and data to more precisely assess the viability of the AARP meter charge design for those GMEU utilities that are similarly situated to Swanton.

The foregoing discussion makes plain that there may be technical data adjustments that in some cases may render the AARP Proposal more appropriate for implementation than it now appears for many of the GMEU members. But even if all warranted technical adjustments were made to the underlying data and calculations in the record, the fact remains that the AARP Proposal's estimated administrative costs are too low for the vast majority of the GMEU members to seriously consider implementing the existing program design.

This does not necessarily mean, though, that there is no acceptable form of a low-income rate program that could be created for the GMEU members. Rather, it signifies that larger, conceptual changes to the framework of the AARP Proposal may be needed in order to devise a more suitable low-income rate design for the GMEU territories. For instance, as a small utility, each GMEU member is at a disadvantage to CVPS and GMP when it comes to spreading the fixed costs of administering a low-income rate program across a comparatively small base of ratepayers. However, it may be possible to overcome this logistical barrier if the GMEU members were to pool their administrative resources in some manner, for instance, in the form of a group contract for outsourcing program screening and enrollment functions. Similarly, in cases where the rate impacts of the existing AARP meter charge design are too burdensome, or where the resulting program funding is insufficient, the solution for these impediments may lie in reducing the 25% block discount to 20% or 15%. Therefore, I conclude that while the existing AARP Proposal is not appropriate for implementation in the GMEU service territories, there may

196. The revised program cost total is derived as follows: $\$69,410 = \$36,597$ (25% discount) + $\$29,154$ (arreages forgiveness) + $\$3,659$ (10% administrative cost).

197. PFD Appendix at ¶ 147.

be value in examining possible modifications and alternatives to the AARP Proposal for the benefit of GMEU's eligible low-income ratepayers.

(d) Cooperative utilities

(i.) VEC

As in the case of many of the small municipal utilities, VEC has a large percentage of the state's low-income households, a smaller customer base than CVPS or GMP, and a less favorable mix of classes of ratepayers than either of those two utilities.¹⁹⁸ Nonetheless, as a matter of strict mathematics, it appears the funding mechanism in the AARP Proposal would deliver enough revenue for VEC to fund a 25% block discount and one-time arrearage forgiveness during the first year of a low-income rate program, assuming a 30% rate of participation.¹⁹⁹ This rate relief would have an aggregate rate impact of 1.36% for VEC's funding rate classes, and no single rate class would experience a rate increase above 2%.²⁰⁰ Therefore, the rate impacts of the AARP Proposal as presently designed would appear to be acceptable in VEC's case.

However, as in the case of Lyndonville, VEC's tariff categorization of commercial and industrial customers based on their usage does not correspond to AARP's 12,000 kWh breakpoint.²⁰¹ Thus, as VEC points out, the AARP breakpoint of 12,000 kWh results in reclassifying 17 of its small commercial customers — some of whom are nursing homes — as "industrial" customers who would be obliged to pay the substantially higher \$1,000 annual meter charge.²⁰² In turn, this higher meter charge would represent an excessively high bill impact of 4.2% for such customers.²⁰³ As noted earlier, the discipline of rate design is sufficiently flexible to allow for mitigation of outlying or other unreasonable impacts of a particular rate design

198. Taormina pf. at 16.

199. PFD Appendix ¶ 154.

200. The rate impacts from the AARP Proposal on VEC's rate classes are comparable to CVPS and GMP. Compare PFD Appendix ¶¶ 156 and 157 with findings 72 and 73, above.

201. Tr. 8/13/10 at 43 and 46 (Pratt).

202. Tr. 8/13/10 at 47 (Pratt).

203. The monthly bill for an average small commercial customer in VEC's territory is \$1,976. Pratt pf. at 6. Under the AARP Proposal, the bill impact of the monthly \$2.50 meter charge for such a customer would be 0.13% ($\$2.50/\$19.76 = 0.13\%$). If that same customer were assigned to the industrial class and therefore required to pay the \$83.33 monthly meter charge, the monthly bill impact would be 4.2% ($\$83.33/\$19.76 = 4.2\%$).

proposal.²⁰⁴ That said, a more complete evidentiary record would be required in order to assess more firmly to what degree there would be a need in VEC's case to mitigate the rate design of the AARP Proposal as presently drawn.

I turn next to the issue of administrative costs. Like BED, VEC contends that the implementation of the AARP Proposal would impose additional, burdensome administrative costs, such as new data tracking requirements and the need to "rewrite its software at considerable expense" to accommodate new billing calculations and program revenue accounting.²⁰⁵ Unfortunately, VEC did not volunteer any specific financial data to quantify these new expenses. Assuming a participation rate of 30%, the estimated 10% program administration cost would be \$46,397 to serve 1,715 program participants (30% of 5,718 eligible customers). These numbers compare favorably with the \$22,000 GMP spent to administer its pilot program over two years for a group of 3,300 program participants.²⁰⁶

In all, the foregoing points suggest that it may be appropriate for VEC to implement a modified version of the AARP Proposal, but there are additional considerations that would need to be addressed. For one, VEC has made a compelling showing that there may be a need for a more granular examination of the rate impacts of the meter charge design in the AARP Proposal. For another, many of the same data reliability concerns previously discussed in connection with GMEU also apply to VEC's case.²⁰⁷

In sum, I cannot conclude with confidence that the AARP Proposal, as presently constituted, is appropriate for implementation in VEC's service territory. I do not find the record to be conclusive on this point. Instead, I find there may be value in further pursuing the

204. *See supra* p. 60, note 151. Xx

205. Pratt pf. at 7.

206. Over two years, it cost GMP \$22,000 and 2 hours per week of staff time to deliver benefits to 3,300 program participants.

207. For instance, as discussed earlier in the case of Swanton, VEC's arrearages data reflects the assumption that 100% of VEC's estimated residential arrearages are attributable exclusively to VEC's estimated 5,718 eligible program participants, who represent 16.9% of VEC's 33,834 residential ratepayers. Exh. VEC-Pratt-2(revised) at 1. Assuming instead that only 16.9% of VEC's arrearages (\$111,051) are attributable to VEC's eligible program participants, VEC's meter charge revenues would readily cover the cost of retiring 30% of those arrearages (\$33,315) during the first year of the program. This revised calculation further suggests that, as with BED and Stowe, the meter charges in the AARP Proposal may be higher than necessary when applied to VEC. *See supra* pp. 59-60 and 62-63.

development of a low-income rate program tailored to VEC's service territory, whether by modifying the AARP Proposal or devising an alternative rate design. In connection with any such subsequent inquiry, VEC should be afforded an opportunity to provide more concrete data to support its concerns about the cost of implementing the AARP Proposal's rate design.²⁰⁸

(ii.) WEC

WEC is a significantly smaller cooperative utility than VEC. However, like VEC, WEC's service territory is mostly rural and is characterized by a large percentage of the state's low-income households, a smaller customer base than CVPS or GMP, and a less favorable mix of classes of ratepayers than either of those two utilities.²⁰⁹

The total rate impact of the AARP Proposal on WEC would be 1.89%.²¹⁰ WEC has a seasonal residential rate class that would experience a 4.31% rate increase, as well as an industrial rate class whose rates would rise by 2.71%. Both of these percentages are well above the 2% guideline for commonly acceptable rate impacts of a low-income rate program, but both are below the 5% guideline for excessive rate impacts.²¹¹ Therefore, these rate impacts may be reasonable in WEC's case. The meter charge rates in the AARP Proposal would generate \$202,032 in program revenue, which is enough for WEC to fund in excess of a 30% participation rate in the first year of the program, when arrearages are to be forgiven.

Given its annual revenues and the size of its customer base, WEC is neither a "small" utility in the sense of the GMEU members, nor a "large" utility in the sense of CVPS and GMP. Assuming a 30% participation rate in the first year, WEC's estimated 10% program administration cost would be \$9,581²¹² — a sum that may or may not be adequate for administering a low-income rate program, as it clearly exceeds the \$5,000 cost test that was

208. VEC also raised other concerns about the implications of the AARP Proposal for the timeliness of billing calculations and the need to monitor the meter charge assessments to guard against collecting too little or too much program revenue. Pratt pf. at 6-7. These are legitimate concerns that I would expect VEC — and any similarly situated utility — to address in any subsequent proceeding as well.

209. PFD Appendix at ¶ 159.

210. PFD Appendix at ¶ 166.

211. See discussion *supra* p. 57.

212. PFD Appendix at ¶ 164.

applied to the GMEU members, but may not quite rise to the level of the GMP Pilot Program standard that was applied to BED and VEC.²¹³ WEC also does not compare favorably in organizational size with BED or VEC. Therefore, it is unclear whether there are any economies of scale that fairly may be imputed to WEC in terms of existing staff, office facilities and administrative systems.

In the end, there is no need, at this time, to resolve whether \$9,581 is a realistic estimate for WEC's program administration cost. It appears that the AARP Proposal would not be appropriate for implementation in WEC's service territory absent modifications to rebalance the rate impacts upon WEC's seasonal and industrial customer classes. That said, there may be value in exploring further whether there is a different schedule of meter charges or some other rate design that could more equitably balance the rate impacts on WEC's rate classes and that could be administered at a reasonable administrative cost for WEC.

(e) VMPD

The total rate impact of the AARP Proposal on VMPD would be 1.7%.²¹⁴ The residential rate class would experience a 2.44% rate increase, which is above the 2% guideline for commonly acceptable rate impacts of a low-income rate program, but below the 5% guideline for excessive impacts.²¹⁵ By contrast, the rate impacts would be significantly lower for VMPD's light commercial class (0.82%) and its large commercial class (0.65%).²¹⁶

The meter charges in the AARP Proposal would only generate \$16,414 in program revenue, which is not enough for VMPD to fund a 30% participation rate in the first year of the program, when arrearages are to be forgiven.²¹⁷

Finally, even assuming there were sufficient program revenue to fund a 30% participation rate in the first year, VMPD's estimated 10% program administration cost would be \$683.00 — a sum that is patently inadequate, considering that there are few economies of scale that fairly may

213. See discussion *supra* pp. 60 and 71.

214. PFD Appendix at ¶ 173.

215. PFD Appendix at ¶ 172.

216. *Id.*

217. PFD Appendix at ¶ 169.

be imputed to VMPD in terms of existing staff, office facilities and administrative systems. A higher cost of \$5,000 would equate to 74% of the total discount benefit to be delivered to VMPD's program participants. This percentage is far in excess of the 10% estimated program cost contemplated under the AARP Proposal. Accordingly, I conclude that the AARP Proposal, as presently drawn, would not be appropriate for implementation in VMPD's service territory.

However, as in GMEU's case, I find there may be value in exploring further whether there is (1) a different schedule of meter charges that could more equitably balance the rate impacts on VMPD's rate classes of providing a 25% block discount and one-time arrearage forgiveness, (2) an alternative rate design that would allow VMPD to fully fund a 30% participation rate during the first year of the program, and (3) any mechanism that could produce a more reasonable administrative cost for VMPD, such as a resource pooling arrangement with other utilities.

(f) Summary of analysis regarding other Vermont electric utilities

Based on the present evidentiary record, I agree with AARP that "the smaller cooperative and municipal utility companies would need a different approach to help make electric rates more affordable for their low-income customers."²¹⁸ The validity of this assessment has been confirmed by the foregoing review of what it would mean, in practical terms, to apply the AARP Proposal as presently designed to the other electric utilities in Vermont besides GMP and CVPS. However, while the existing AARP Proposal may not be appropriate for implementation by these utilities, there may be value in examining possible modifications or alternatives to the AARP Proposal for these utilities, particularly given the need for low-income rate relief in those service territories.

V. RECOMMENDATIONS

A. Responses to Board questions

In the Scope Order, the Board identified three issues for particular consideration in this investigation, in addition to reviewing the merits of the AARP Petition.

218. Taormina pf. at 16.

Issue 1

Whether, and if so, to what extent, the central features of any program that may be established in the context of this proceeding may appropriately be extended to other Vermont electric utilities that may either choose to, or may become obligated to, establish a low-income rate program.²¹⁹

The AARP Proposal contains the following principles and components that I find to be central to the rate design:

- (1) a monthly electricity block rate discount of 25%;
- (2) a one-time forgiveness during the first three months of the first year of the program of any arrearages accumulated by eligible, low-income ratepayers prior to their enrollment in the program;
- (3) a program eligibility requirement that a participating customer have a household income at or below 150% of FPL as defined annually by the United States Department of Health and Human Services;
- (4) administrative simplicity and efficiency, with an estimated cost equal to 10% of the total electricity block rate discounts provided under a utility's program;
- (5) a funding mechanism that assesses to all of the utility's ratepayers a fixed, per-meter charge that varies in amount depending on the rate class;
- (6) a requirement for the utility to track and maintain sufficient data to assess the progress of its low-income rate program in making electricity more affordable for participating, low-income customers;
- (7) a requirement for the utility to track and maintain sufficient data to measure the costs and savings resulting from the implementation of its low-income rate program; and
- (8) a requirement for the utility to prepare and file a program assessment for review by the Board every three years, beginning after the third year following the start date of its low-income rate program.

Additionally, through this investigation I have concluded that the appropriateness of implementing the AARP Proposal should be assessed using the following additional

219. Scope Order at 3.

"acceptability" criteria: (1) the program funding should suffice to meet the cost of at least a 30% participation rate during the first year of the program; (2) depending on the circumstances, the rate impacts of the program revenue raised through the funding mechanism preferably would remain below 2%, but in any event should not exceed 5% of (a) the total annual revenue collected by the utility, and (b) the annual revenue collected from each rate class; (3) the rate impacts of the program should be equitably balanced among the rate classes.

I recommend that the Board conclude that it may be appropriate to extend these central features of the AARP Proposal to low-income rate designs for the other Vermont utilities, but only if further inquiry in a separate proceeding were to demonstrate that, where needed, there are modifications that could be made to these features to address the concerns that have been identified in this proposed decision.²²⁰

Issue 2

Whether an obligation to have a low-income program should extend to other Vermont electric utilities not named in AARP's petition.²²¹

To date, the record of this investigation is not sufficiently developed to conclusively resolve this issue. The review of the AARP Proposal in this docket has served the useful purpose of preliminarily screening the appropriateness of extending to Vermont utilities other than CVPS and GMP an obligation to implement a low-income rate relief program. However, the present record does not support imposing such an obligation at this time.

Issue 3

Whether all of the necessary or appropriate mechanisms that could be used under existing law to produce efficiencies or economies in the administration of a low-income rate program with more than one utility have been incorporated into the AARP proposal as reflected in AARP's pending petition.²²²

When read in the entirety, the AARP Proposal clearly contemplates the establishment of separate programs for CVPS and GMP, and otherwise does not reflect an intent to invite or require multiple utilities to join in establishing low-income rate programs of their own. This

220. See *supra* pp. 61, 64 and 69-75.

221. Scope Order at 3.

222. Scope Order at 3.

comes as no surprise, as it was never the intent of AARP to apply its rate design to Vermont's other utilities.²²³

One important observation that has emerged from this investigation is that Vermont's smaller utilities face a significant challenge when it comes to implementing low-income rate programs at a reasonable administrative expense level. If such programs are to become a reality in these utility territories, it will be necessary to devise one or more mechanisms for achieving economies of scale in program administration costs. One appropriate mechanism may be for the smaller utilities to enter into a joint contract for outsourcing program screening and enrollment activities to a community action agency, as GMP did in administering the GMP Pilot Program. In any case, the AARP Proposal as presently constituted does not include any such "necessary or appropriate" mechanism. Nor has this investigation to date focused on examining whether such a joint contract "could be used under existing law."

However economic and preferable it may be for there to be a joint endeavor among multiple utilities to offer low-income rate relief, I have concluded that 30 V.S.A. § 218(e) does not authorize the Board to direct the establishment of "a low-income rate program with more than one utility."²²⁴ This legal limitation explains why the AARP Proposal properly does not include efficient and economic mechanisms for administering a low-income rate program for multiple utilities.

B. Recommendation regarding CVPS and GMP

For the reasons discussed in this proposed decision, I recommend that the Board issue an order requiring CVPS and GMP to develop low-income rate designs for implementation in their respective service territories. Because the AARP Proposal itself is incomplete, I do not recommend ordering CVPS and GMP to strictly adopt the terms of the AARP Proposal. Instead, CVPS and GMP should be directed to develop complete rate designs — subject to an opportunity for input and comment by AARP and the Department — that incorporate all of the central design principles and components reflected in the AARP Proposal and that address and resolve

223. Taormina pf. at 17; Howat and Taormina supp. pf. at 2.

224. See *supra* pp. 23-24 and 50.

any design or implementation issues arising from the AARP Proposal as presently drawn, to include specifically the issues identified in this proposed decision.²²⁵

Alternatively, CVPS and GMP should be permitted to develop their own rate design proposals, subject to an opportunity for input and comment by AARP and the Department. I further recommend requiring that any such alternative rate designs: (1) deliver to participating low-income ratepayers a degree of rate relief that is economically equivalent to the 25% electricity block rate discount and one-time arrearage forgiveness that participating low-income ratepayers otherwise would receive through the implementation of a low-income rate program designed pursuant to the AARP Proposal; and (2) result in rate impacts that are less than or comparable to the projected impacts of the AARP Proposal on the total rates and individual class rates of CVPS and GMP.²²⁶

C. Recommendation regarding remaining Vermont electric utilities

For the reasons discussed in this opinion, I recommend that the Board take no further action at this time to require BED, Stowe, GMEU, VEC, WEC or VMPD to implement the AARP Proposal or to otherwise develop low-income rate programs for their service territories. Instead, I recommend that the Board revisit this matter at a later date, after sufficient time has passed for any party, who so wishes, to pursue any legislative amendments to Section 218(e) that may be deemed to be warranted.

VI. CONCLUSION

At this time, a utility-by-utility approach to low-income rate relief is all the Board is empowered to undertake pursuant to Section 218(e) in order to provide "reduced rates for low income electric consumers better to assure affordability." The alternative would be to do nothing at all — an outcome that guarantees absolute parity and non-discriminatory treatment for all low-income ratepayers in Vermont, but that would not help those low-income ratepayers residing in the service territories of CVPS and GMP, for whom AARP has demonstrated it is feasible to

225. See *supra* pp. 30-32, 33-34, 36-37, 42 and 47 note 99.

226. See *supra* pp. 46-47 and findings 72-73, above.

provide at least some rate relief "better to assure affordability." Limited in reach though this assistance may be, I find it is more consistent with the legislative intent behind Section 218(e) to help some Vermont ratepayers in need than to help none.

Finally, I would be remiss in reporting the results of this investigation if I did not acknowledge the commendable steps many Vermont electric utilities were taking before the passage of Section 218(e) to assist struggling Vermonters with the economic burden of their energy needs. For example, for many years, several utilities have collected and matched charitable contributions from their ratepayers for assistance programs such as WARMTH, Power Partners and the Shareheat Fund.²²⁷ Many utilities also use bill inserts and check-boxes to solicit incremental energy assistance donations by inviting customers to "round up" their payments.²²⁸ Perhaps most striking of all is the familiarity and empathy that several utility witnesses expressed in characterizing their day-to-day interactions with customers who are known by these utilities to be in need, and who are struggling in good faith to pay their bills.²²⁹ This sense of community leads some utilities to reach out proactively to contact these customers in advance of shut-off to discuss possible budget-billing arrangements.²³⁰ In turn, when shut-off does occur, some utilities make a point of contacting the affected customers within 24 hours to offer long-term, "no interest" payment plans.²³¹ These efforts by our regulated utilities reflect great credit upon Vermont's long and deep tradition of neighbor helping neighbor.

I am reporting my findings of fact in writing to the Board pursuant to 30 V.S.A. § 8(c). This Proposal for Decision has been served upon the parties pursuant to 3 V.S.A § 811. Findings

227. Tr. 8/12/10 at 181-183 (Morris); tr. 8/12/10 at 216-220 (Anderson); tr. 8/13/10 at 9-10 (Patt); tr. 10/21/10 at 26 (Buckley).

228. Tr. 8/12/10 at 190 (Morris); tr. 8/13/10 at 9-10 (Patt).

229. As GMEU witness Hastings put it:

[T]hey are all in contact with us if there's any issues or the rates are a problem or et cetera, but we also know at the end of the billing cycle those customers who are having difficulty paying their bills and who need to sign agreements with us or who are being shut off for non-payment. We know them quite personally because they come to the window and they come to the office. So it is a conundrum and we tend -- because of our local knowledge we tend to know those people . . . clearly there are a group of people who have difficulty paying their bills and make very good faith efforts to pay their bills and try very hard.

Tr. 10/21/10 at 51 (Hastings).

230. Tr. 10/21/10 at 28-29 (Buckley).

231. Exh. AARP-Cross-6 at 9-11 (Burt deposition).

proposed and arguments made by any party that are inconsistent with this Proposal for Decision are hereby rejected.

Dated at Montpelier, Vermont, this 14th day of July, 2011.

s/June E. Tierney

June E. Tierney, Esq.
Hearing Officer

VII. BOARD DISCUSSION

We have received written comments on the Proposal for Decision ("PFD") from the Department, CVPS, GMP, AARP and IBM. Of those parties, only IBM opposes the PFD, although the Department, CVPS and GMP have requested certain clarifications and a modification. No party requested oral argument. Having considered all the written comments that were filed, we accept the PFD, subject to the clarifications discussed below.

In different ways, the Department, CVPS and GMP have asked the Board to clarify and modify the PFD so as to provide these utilities with greater discretion in designing and implementing acceptable low-income rate programs. CVPS seeks permission to "consider a range of options" in rate designs, while GMP proposes to adjust its pilot program to "meet the requirements as outlined in the Proposal for Decision." The Department, in turn, requests the addition of a provision in the Board's Order that would afford AARP, DPS, CVPS and GMP the flexibility to agree to a program design that is "materially different than the parameters" set forth in the proposed ordering clauses of the PFD at pages 82-84.

It is our intent for CVPS and GMP to have maximum flexibility within the limits of the evidentiary record of this proceeding to bring their expertise and resources to bear on designing low-income rate programs in response to this Order. Thus, the existing language of proposed ordering clause 5 ("Clause 5") should be construed to express this objective. The evidentiary record in this proceeding has established that the AARP Proposal, subject to modifications consistent with the PFD, will provide rate relief "better to assure affordability" for certain low-income electricity customers without imposing an undue burden or excessively shifting costs to other utility customers. As now written, Clause 5 permits CVPS and GMP to develop alternatives to the AARP Proposal, subject to the conditions of (1) providing a degree of rate relief to program participants that is of equivalent economic value to the AARP Proposal, and (2) limiting the rate impacts of these alternative programs to less than or comparable to the rate impacts projected for the AARP Proposal as identified in this docket. These conditions in Clause 5 serve to ensure that any alternative programs proposed by CVPS and GMP will pass muster under Section 218(e) as construed by the Hearing Officer in the PFD, relying upon the evidentiary record developed by the parties in this proceeding.

We note that the PFD encourages CVPS and GMP to explore other program models besides the AARP Proposal, "provided such alternatives deliver a degree of rate relief to program participants that is of equivalent economic value to the 25% electricity block rate discount in the AARP Proposal."²³² We read both this language in the PFD and the nearly identical language in Clause 5 to mean that design elements such as a "percent of income" discount or a "straight line" discount may be proposed as substitutes for the 25% electricity block rate discount featured in the AARP Proposal.²³³ A 25% electricity block rate discount is only required if the utilities elect to implement a low-income rate program pursuant to proposed ordering clauses 3 and 4 instead of designing an alternative plan pursuant to Clause 5.

In sum, we find that Clause 5 as presently written allows AARP, DPS, CVPS and GMP to petition the Board for approval of program designs that depart materially from the parameters set forth in proposed ordering clauses 3 and 4.

In addition to seeking the design flexibility discussed above, the Department has raised a concern with regard to the legal analysis in the PFD. The Department disagrees with the legal conclusion on page 50 of the PFD that Section 218(e) "does not authorize the Board to impose a blanket obligation upon all Vermont utilities to implement a single, unified program that makes electricity more affordable for low-income ratepayers." Rather, the Department believes that "[t]aken as a whole, the statute allows for the Board, on its own motion or by petition, to take action on a wide variety of filings," and that tariffs and rate schedules could be implemented on a utility-by-utility basis "subsequent to a Board order on a statewide program design."²³⁴ Thus,

232. PFD at page 30 (citing examples of "the tiered-discount model and the fixed-credit percentage-of-income model"). In assessing the economic equivalency of an alternative to the 25% electricity block discount, the controlling consideration is the value of the total rate relief provided to program participants as a group, as opposed to the value of the rate relief provided to program participants on an individual basis.

233. We further read the PFD and Clause 5 as granting the flexibility needed for proposing other design element modifications as well. Thus, GMP could design its arrearage-forgiveness program component such that the forgiveness of a past-due balance is pro-rated over 12 months. GMP Comments at 2-3. Similarly, CVPS has the option of designing a program that takes advantage of any efficiencies to be realized from its customer information and billing systems, and that does not require the Company "to review or maintain customer income data" CVPS Comments at 2-3.

234. Department Comments at 1.

the Department maintains that Section 218(e) does not preclude the Board "from reviewing, proposing or approving a statewide program."

The Hearing Officer acknowledges at page 24 of the PFD that Section 218(e) "may reasonably be interpreted to permit the Board to construct on a case-by-case basis the effective equivalent of statewide rate relief for low-income Vermonters by issuing an order for each Vermont electric utility approving an individual low-income rate tariff for implementation in that utility's service territory." This conclusion is consistent with the Department's view that Section 218(e) permits the Board to order "a statewide program design." That said, we note that, to date, no party to this proceeding has proposed a "statewide" program design. Therefore, based on the existing record, there is no evidentiary basis for us to order the implementation of a "statewide" program design at this time.

Nor has the Department or any other party to this proceeding suggested a path to a "statewide" program design that could address the implementation issues identified in the PFD for the GMEU members — specifically, the challenges of offering reduced rate programs in small service territories that do not have large, diverse customer bases, and doing so at reasonable administrative expense levels. To overcome these implementation barriers, a "statewide" program design would require a unified approach to funding, be it an allocation of tax revenues from the State, or contributions from all Vermont electric utilities that are pooled and then redistributed as needed among the service territories. However, Section 218(e) contains no language authorizing the Board to draw upon the State's general fund or to otherwise order the electric utilities to pool their revenues for purposes of funding a "statewide" low-income rate program. Therefore, we agree with the Hearing Officer's conclusion that Section 218(e) as presently written does not permit the Board to order all Vermont utilities to implement "a single, unified program that makes electricity more affordable for low-income ratepayers."

We agree with the Department that it would be beneficial to "continue to consider a statewide model."²³⁵ To this end, we invite the Department to explore further its idea of "going back to the drawing board to come up with a low income affordability plan that is not dependent

235. Department Comments at 2.

on which electrical service territory a person happens to live in"236 We caution, though, that there is little point in continuing down this path in the absence of either (1) a legislative amendment to Section 218(e) that would authorize the Board to order a unified funding mechanism to support a statewide, low-income rate program, or (2) an agreement among all of Vermont's electric distribution utilities to cooperate in creating and administering such a mechanism.

Turning next to GMP's request to modify the PFD to raise the program eligibility standard from 150% of FPL to 185% of FPL, we are compelled to agree with AARP's comment that such a change cannot be effectuated through a ruling from the Board to modify the PFD on this point. The 150% of FPL eligibility criterion is statutorily prescribed in Section 218(e). We find GMP's point well taken that it would make sense for the eligibility standard of a low-income rate program to be consistent with other assistance programs such as the federal Low Income Home Energy Assistance Program. However, this requires a legislative amendment to Section 218(e).

Finally, we turn to IBM's comments in opposition to the PFD. IBM argues that the PFD should be rejected because the record of this docket demonstrates the inadequacy of the AARP Proposal and the insufficiency of the record evidence available for the Board to "take into account the potential impact on, and cost-shifting to, other utility customers, which is required under 30 V.S.A. § 218(e)."237 Specifically, IBM contends that the PFD reflects no "analysis of the impact on individual customer classes," and no "analysis of the effect on industrial ratepayers."238 IBM also faults the PFD for "not satisfying its burden of demonstrating that the cost-shift associated with a low-income program will produce some benefit to the class receiving the burden of the costs."239

We do not accept IBM's characterization of the PFD. Rather, the PFD shows that the Hearing Officer carefully considered the "potential impact on, and cost-shifting to, other utility

236. Department Brief at 7.

237. IBM Comments at 1.

238. IBM Comments at 5.

239. IBM Comments at 7.

customers" as required under Section 218(e).²⁴⁰ The PFD also contains findings regarding the specific, projected rate impacts of the AARP Proposal upon the residential, commercial and industrial classes of CVPS and GMP.²⁴¹ Furthermore, we perceive no language in Section 218(e) — and IBM has pointed to none — requiring a showing that non-participant ratepayers will receive a benefit from accepting the burden of a cross-subsidy in order to fund a low-income rate program.²⁴² Therefore, we find no merit in IBM's claims regarding the sufficiency and analysis supporting the conclusions reached in the PFD.

IBM further contends that "[i]f, *arguendo*, the Board decides to implement an [energy assistance program] in Vermont, . . . the record in this proceeding demonstrates that the only appropriate funding mechanism is a meters charge."²⁴³ We disagree. The PFD establishes that the meters charge is *one* appropriate funding mechanism for a low-income rate program in Vermont. The proceedings in this docket did not include a comparison of a variety of funding mechanisms — no party besides AARP chose to submit any alternative mechanisms for consideration. Accordingly, we find IBM's assessment of the evidentiary record on this point to be overly broad and, therefore, unpersuasive.

Finally, IBM expresses particular concern with the following language on page 43 of the PFD:

Mr. Howatt suggested that drawing such a distinction between customer classes is justified by the superior financial circumstances of very large commercial/industrial customers. Such differential reasoning is a familiar and generally accepted approach in rate design theory. (Footnote omitted.)

IBM contends that this language could be read to suggest that it is a "generally accepted approach in rate design theory" to treat large commercial and industrial customers differently than other customer classes because of their "superior financial circumstances." IBM correctly asserts that this would be contrary to Vermont's long-standing history of relying upon cost-based rates.

240. PFD at 41-48.

241. PFD at 40 (findings 72 and 73). We note that IBM was granted intervenor status in this proceeding, but chose not to file any direct or rebuttal testimony on the issue of the AARP Proposal's potential rate impacts for large industrial customers.

242. Again, we observe that IBM chose not to exercise its option as an intervenor to present evidence in support of this argument.

243. IBM Comments at 8.

It is generally the practice of this Board to differentiate among customer classes when designing and setting rates. However, the reason for doing so is not related to the customer's ability to pay; it is related to the fact that consumption patterns vary among customer types, and different consumption patterns cause a utility to incur different costs. Establishing separate rates for each customer class enables a utility to charge each class for the costs it causes the utility to incur. Thus, we do not adopt the language on page 43 of the PFD to the extent that it may suggest that it is the Board's practice to approve rate designs that treat large customers differently based on their ability to pay.

Finally, we agree with IBM that "all interveners in this docket should be given the opportunity for input and comment" on any low-income rate programs CVPS and GMP may choose to develop as alternatives to the AARP Proposal.²⁴⁴ Therefore, we amend the proposed ordering clauses 3 and 5 to this effect.

Other comments

Finally, we take this opportunity to express our appreciation for the written comments on the PFD that we have received from the Agency of Human Services ("AHS") and the Vermont Community Action Partnership ("VCAP"), two low-income advocacy stakeholders who are not formal parties to this docket, but who nonetheless have volunteered to bring to bear their expertise and resources on the pressing public policy concern of making electricity more affordable for Vermonters in need of such assistance.²⁴⁵ We strongly encourage CVPS and GMP to seek the input of AHS and VCAP — in addition to collaborating with the Department, AARP and other interveners — in the process of designing and implementing low-income rate programs that comply with this Order.

244. IBM Comments at 3.

245. See *Letter from Secretary Douglas A. Racine, on behalf of AHS, to Susan M. Hudson*, dated June 17, 2011; *Letter from VCAP to June E. Tierney, Esq.*, dated June 15, 2011.

VIII. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings of fact, conclusions of law, and recommendations of the Hearing Officer are adopted, except as modified above.

2. The Hearing Officer shall convene a status conference in this Docket to establish a procedural schedule for the next phase of this Docket, the scope of which shall include the development and review of low-income rate designs for implementation in the service territories of Central Vermont Public Service Corporation ("CVPS") and Green Mountain Power Corporation ("GMP").

3. Subject to an opportunity for input and comment from AARP, the Department of Public Service (the "Department") and any Intervenors in this Docket, CVPS and GMP shall develop low-income rate designs for implementation in their respective service territories. These rate designs shall reflect the following design principles and include the following design components:

- (a) a monthly electricity block rate discount of 25%;
- (b) a one-time forgiveness during the first three months of the first year of the program of any arrearage balances accumulated by program participants prior to their program enrollment;
- (c) a program eligibility requirement that a participating customer have a household income at or below 150% of the federal poverty level as defined annually by the United States Department of Health and Human Services;
- (d) administrative simplicity and efficiency, with an estimated cost equal to 10% of the total electricity rate discounts provided under a utility's low-income rate program;
- (e) a funding mechanism that assesses to all ratepayers a fixed, per-meter charge
 - (i) that may vary in amount from rate class to rate class, as warranted;

(ii) that results in rate impacts that are equitably balanced among the rate classes; and

(iii) that will raise sufficient funds to sustain at least a 30% participation rate during the first year of implementation of a low-income rate program;

(f) a requirement for the utility to track and maintain sufficient data to assess the progress of its implemented low-income rate program in serving the electricity affordability needs of its participating, low-income customers;

(g) a requirement for the utility to track and maintain sufficient data to measure the costs and savings resulting from the implementation of its low-income rate program; and

(h) a requirement for the utility to prepare and file an assessment of its low-income rate program for review by the Board at the end of the third year after the initial program implementation date, and continuing every three years thereafter.

4. In addition to incorporating the foregoing design principles and components, the low-income rate designs developed by CVPS and GMP to comply with this Order shall address and resolve, as warranted, any design or implementation issues arising from the low-income rate design proposed by AARP in this Docket (the "AARP Proposal"), to include the issues relating to the AARP Proposal that were identified in the Hearing Officer's proposed decision.²⁴⁶

5. Subject to an opportunity for input and comment from AARP, the Department and any Intervenors in this Docket, CVPS and GMP may develop and propose low-income rate designs as alternatives to the AARP Proposal, provided that such alternative rate designs:

(a) would deliver to participating low-income ratepayers a degree of rate relief that is economically equivalent to the 25% electricity block rate discount and one-time arrearage forgiveness that participating low-income ratepayers otherwise would receive through the implementation of a low-income rate program designed pursuant to the AARP Proposal; and

246. See *supra* pp. 56-57, 65-66, 67-70.

(b) would result in rate impacts that are less than or comparable to the projected impacts of the AARP Proposal on the total rates and individual class rates of CVPS and GMP.

Dated at Montpelier, Vermont, this 22nd day of July, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: July 22, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us).

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.