Energy Safety Net Toolkit

TOOL #4

A FRAGILE INCOME:

DEFERRED PAYMENT PLANS AND THE ABILITY TO PAY OF WORKING POOR UTILITY CUSTOMERS

An Energy Safety Net Tool from:

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Natural gas and electric utilities provide varying types and degrees of protections against the termination of winter utility service due to nonpayment.[1] Some protections prevent shutoffs during a specified time period,[2] while others prohibit shutoffs only when temperatures fall below a designated level.[3] Some protections prevent shutoffs only for "low-income" customers,[4] while others apply to all customers irrespective of income. Some protections impose a complete prohibition on winter service terminations, while others simply require utility commission approval prior to effecting a winter service termination.

Whatever the form of the winter protections, when those protections end with the arrival of spring, a multitude of customers face the prospect of paying off accrued arrears or losing their utility service altogether.[5] When this happens, customers frequently end up seeking financial assistance from local fuel funds to help prevent the termination of service.

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1 The 1990 *Annual LIHEAP Report to Congress* presented a national survey of the type, and the extent, of winter utility shutoff restrictions. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance (September 1991). ***Low Income Home Energy Assistance Program, Report to Congress for Fiscal Year 1990***, at 153 – 162, Department of Health and Human Services: Washington D.C.

2 For example, shutoffs may be prohibited between November 15th and April 1st.

3 For example, shutoffs may be prohibited on any day when the temperature is forecast to fall below 32° F.

4 For example, shutoffs may be prohibited only for households qualifying for the Low-Income Home Energy Assistance Program (LIHEAP).

5 A study by the National Fuel Funds Network, and other national energy groups, found that at the end of the 2000/2001 winter heating season, at least 4.3 million low-income households were at risk of having their utility service cutoff because of an inability to pay their winter home energy bills. National Fuel Fund Network, et al. (June 2001). ***The Cold Facts***, at 1, National Fuel Fund Network: Washington D.C.

With high natural gas bills and a sagging economy, it is more critical than ever to develop appropriate policies to allow winter arrears to be paid. A failure to do so not only places the dollars of arrears in jeopardy of non-collection, but it places the payment of future bills in jeopardy as well. One alternative to the springtime disconnection of service is for a customer to make a downpayment on his or her arrears and enter into a reasonable deferred payment plan. Standard regulations adopted by utility regulators around the country provide that a utility shall take into account designated factors in deciding what payment plans are "reasonable." These factors include, but are not limited to, "ability to pay."[6]

The phrase "ability to pay" is often treated as being synonymous with "level of income." If a household's income is sufficiently high,[7] the reasoning goes, the household is deemed to have an ability to pay its home energy bills. Taking into account the "ability to pay" of the working poor, however, should involve *more* than simply taking into account income level. The *stability* of income is one additional aspect of the ability to pay of the working poor. The discussion below considers how this facet of ability to pay might affect the administration of a deferred payment plan for utility arrears.

INCOME STABILITY AND ABILITY TO PAY

The negotiation of a deferred payment plan for utility arrears should take into account the potential instability of income amongst the working poor as one aspect of ability to pay. Income for the working poor, in particular, can be erratic and unpredictable. A working poor customer may not *know* in April what his or her income is going to be in July or August, let alone in the following December or January. Periods of unstable wages may make payments that were reasonable in April unreasonable at a later date.

This income attribute of working poor households has been recognized in a variety of contexts. The instability of income has been found to be a barrier to effective budget counseling. The evaluation of one asset-building program, for example, reported that "staff and participants thought the budgeting worksheet. . .became obsolete almost immediately because participants' incomes were very unstable."[8] One major barrier to savings and asset accumulation by working

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6 *See e.g.*, IDAPA 31.21.01.313 (2001) (Idaho); 83 Ill. Adm. Code 280 Appx. D (2001) (Illinois); CMR 65-407-860 (2001) (Maine); 4 CSR 240-13.060 (2001) (Missouri); MONT. ADMIN. R. 38.5.1415 (2001) (Montana); 52 Pa. Code § 56.97 (2001) (Pennsylvania); 16 TAC § 7.45 (2001) (Texas); Wis. Adm. Code PSC 113.0404 (2001) (Wisconsin).

7 While the question of what income is "sufficiently high" is explicitly set aside for purposes of this discussion, the reader can gain guidance from the determination of what constitutes a "livable wage." ***Working Hard—Earning Less***, National Priorities Project: Northhampton: MA. (http://www.natprior.org/grassrootsfactbook/jobgrowth/jobgrowth.html). Further guidance can be gained from a review of self-sufficiency budgets. A calculation of self-sufficiency standards for about 20 states can be found at the World Wide Web site of Wider Opportunities for Women. http://www.sixstrategies.org/resources/resources.cfm

8 Dianne Lazear (September 1999). ***Implementation and Outcomes of an Individual Development Account Project***, at 12, Center for Social Development, Washington University: Saint Louis (MO).

poor households involves their "irregular incomes."[9] One barrier to the long-term accumulation of assets has been found to be the "recurring crises," such as unemployment, which force working poor households to deplete their savings.[10] Individuals have been found to view saving and systematic budget planning as not worthwhile because of the inability to predict income and labor-market conditions.[11]

Reductions in Hours

Working poor families tend to find themselves in lower quality hourly wage jobs, often marked by considerable income fluctuations due to the number of hours they are called upon to work. The Urban Institute quantified the types of occupations which characterize the working poor. The table below shows the difference in occupations between working poor families and non-poor families in 1996.[12] Even aside from the level of wages,[13] the presence of hourly wages and unpredictable hours mark occupations that are the province of the working poor. Three times as many working poor families (as compared to non-poor families) are in service occupations (11.5% vs. 4.1%) and laborer occupations (11.5% vs. 4.1%), while nearly twice as many working poor (compared to non-poor) families have workers who are in operator/transportation occupations (18.9% vs. 11.1%).

Percent of Non-Elderly Persons by Occupation of Primary Earner		
	All Families: Poor	All Families: Non-Poor
Professional/managerial/technical	15.1%	43.3%
Sales	8.6%	10.2%
Clerical/administrative support	9.9%	8.5%
Service	20.1%	7.4%
Craft/repair	15.8%	15.4%
Operators/transportation	18.9%	11.1%
Laborers	11.5%	4.1%

Persons working in these occupations often face periods of lost wages. The U.S. Department of Labor refers to periods of lost wages caused by a reduction in hours as "involuntary part time employment."[14] "Involuntary part time workers are persons who in at least one week of the year worked fewer than 35 hours because they could not find full-time work."[15] In 1999, 3.9 million workers experienced involuntary part time employment.[16] In 2000, 3.045 million non-

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9 *See e.g.*, David Smyth (1993). *Toward a Theory of Savings*, in James Gapinski (ed.). ***The Economics of Savings***, at 47 – 92, Klewer Academic Publishers: Boston; Franco Modigliani (1986). "Life cycle, individual thrift, and the wealth of nations," ***American Economic Review***, 76(3): 297-313.

10 Cathleen Finn, *et al*. (1994). "Assets and Financial Management Among Poor Households in Extreme Poverty Neighborhoods," ***Journal of Sociology and Social Welfare***, 21(4):75-94.

11 Arthur Kennickell, Martha Starr-McCluer, and Annika Sunden (1997). "Saving and Financial Planning: Some Findings from a Focus Group," ***Financial Counseling and Planning***, 8(1):1-8.

12 Acs, Gregory, Katherin Ross Phillips and Daniel McKenzie (May 2000). ***Playing by the Rules but Losing the Game***, at 10 – 11, Urban Institute: Washington D.C.

13 The median hourly wage of primary earners in working poor families ($7.55) is less than half the median wage of primary earners in families with incomes above 200% of poverty ($16.67).

14 This is sometimes known, also, as "part time employment for economic reasons."

15 Bureau of Labor Statistics (February 2001). ***A Profile of the Working Poor, 1999***, Report No. 947, at 3, U.S. Department of Labor: Washington D.C.

16 ***1999 Profile***, *supra*, at Table 8, page 11.

agricultural workers experienced involuntary part time employment. A full 60% of these workers (1.835 of the 3.045 million) faced their cutbacks in hours due to slack work or business conditions.[17]

The number of lost hours, and thus the amount of lost wages, is substantial. Persons who usually worked fulltime in non-agricultural industries, but did not do so in 2000 because of economic reasons, worked on average only 24.0 hours a week in 2000.

This fact of unstable income presents no commentary on the working poor individuals themselves. Rather it reflects the nature of work in which the working poor find themselves. Given the nature of that work, to simply *assume* that the income of a working poor household at any given point in time will continue unabated to support payment plan payments is to ignore one major attribute of the working poor's ability to pay.

The Impact of Paid Leave Benefits

A second factor contributing to the instability of income of the working poor involves the paid leave benefits provided. The absence of paid vacation and sick leave can directly affect the ability of a household to maintain a deferred payment arrangement over time. One researcher for the Institute for Women's Policy Research (IWPR) reports:[18]

> Low-income workers often have few or no workforce benefits, like paid leave or flexible schedules that are essential if workers are to meet the needs of their family members. Paid leave would make it economically possible for workers to spend time away from work in order to address their family's needs. Flexibility would allow workers to meet with teachers, care for sick or disabled family members, and deal with emergencies without having to miss work or go without wages. . .Without flexibility in their work schedules or access to paid leave, workers have no choice but to take unpaid leave when family or medical emergencies occur.[19]

The IWPR found that:

> Families in the bottom quartile of income are significantly less likely to have access to paid sick leave, paid vacation leave, or flexible work schedules than families with higher incomes. More than three fourths (76 percent) of workers in the bottom quartile of family income lack regular sick leave; more than half (58 percent) do not have consistent vacation leave. Families in the bottom income

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17 U.S. Department of Labor, Bureau of Labor Statistics, ***January 2001 Employment and Earnings***, at Table 20, Department of Labor: Washington D.C.

18 The principal data sources for the IWPR research include primary and secondary data from the U.S. Department of Labor's National Longitudinal Survey of Youth (NLSY), the Survey of Midlife in the United States, the Urban Working Families Study, and the National Daily Diaries Study.

19 Jody Heymann (October 2001). ***The Widening Gap: A New Book on the Struggle to Balance Work and Caregiving***, at 3, Institute for Women's Policy Research: Washington D.C.

> quartile are more likely than other workers to lack *both* sick leave *and* vacation leave. (emphasis in original).
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> Low-income families are also less likely to have flexible work schedules. Among low-income parents, 78 percent have jobs that offer no flexibility at all. The majority of workers beneath the median income level say they cannot choose or change their starting and quitting times, or take days off to care for their sick children.[20]

The lack of paid leave time may directly affect the ability of a working poor customer to maintain payments on a deferred payment arrangement. A person working 35 hours a week on hourly wages may lose three days of work simply due to a sick child missing school and requiring care. If no leave time exists for that employee, the sick child translates into permanently lost wages. Personal illness, too, results in permanently lost wages, whether illness keeps a worker away from his or her job for a day, for two days, or for a week.

The lost wages attributable to the lack of paid leave for the working poor is not theoretical. Data from the U.S. Department of Labor shows that absence rates in occupations where the working poor tend to work are from 50% to 60% higher than the absence rates in occupations populated by their higher income counterparts. [21] Absence rates for higher income occupations are lower because time missed from work covered by paid leave is not counted as an "absence."

IMPLICATIONS FOR UTILITY DEFERRED PAYMENT ARRANGEMENTS

The instability of income for the working poor has multiple implications with respect to the negotiation of deferred payment arrangements for utility arrears. These implications exist both for the initial negotiation of payment plans and for the ongoing administration of payment plans.

Building Success: On the front-end, utilities may want to build check-points into the deferred payment plans of the working poor. Such a process could be implemented in one of two ways. On the one hand, a utility may simply break-up arrears into multiple component parts. A deferred payment arrangement for a $400 arrears, for example, might be made subject to a payment plan for the first $200 over a 3-month period. Upon successful completion of that plan, the utility would develop a payment plan for the next increment of arrears.

Such a process builds on the "learning" about savings amongst low-income households. One researcher at Washington University's Center for Social Development reports with respect to household savings:

> . . .aspirations and expectations of success are likely to affect saving. Those who do not expect their saving attempts to be 'successful' are unlikely to try to save. In a study of saving in Britain, Furnham found that beliefs about the pointlessness of

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20 *Id.*
21 ***Employment and Earnings***, *supra*, at Table 27.

> saving were negatively associated with income, even though lower-income individuals recognized the benefits of saving. . .Since the possibility of accumulating even a fairly small amount of savings probably seems remote to many low-income individuals, some poor individuals may not even attempt to save. In fact, Furnham suggests that 'these feelings of helplessness may. . .serve to maintain low levels of saving even when ability to save increases.'[22]

The same statements made above could easily be made by substituting references to the retirement of utility arrears for references to saving. An individual who makes progress toward a goal of retiring his or her arrears is more likely to raise that goal, while those whose attempts are unsuccessful are likely to lower their aspirations. Those who do not expect their efforts to maintain utility bill payments to be successful are unlikely to try as hard to do so.

To enter into a deferred payment plan, with no chance to "revisit" the payments at regular intervals, fails to recognize the income variability that is inherent in much of the employment that is available to the working poor. To operate in such a fashion creates the risk of raising the "feelings of helplessness" among working poor families with utility arrears. In contrast, to address each part of the arrears through a successful short-term plan will help to build the "expectation of success."

<u>One-Strike-You're-Out Policies</u>: In addition to the structure of payment plans on the front-end, utilities should revise their "one-strike-you're-out" policy on payment plans. Many utilities have a policy providing that once a customer negotiates a deferred payment plan, the customer is not entitled to a second or renegotiated plan if the first one is breached. What this policy implicitly assumes is a constant, predictable, stream of income over time, some portion of which can be earmarked for the repayment of utility arrears. If, however, a customer is an hourly wage employee without leave, something as commonplace as a sick child requiring parental care can compromise the customer's ability to make agreed-upon payments. In such a case, the one-strike policy fails to take into account the fragility of the working poor customer's income stream.

Moreover, something as common as short-term periods of involuntary part time employment may threaten the ability of a customer to maintain agreed-upon payments. As the above discussion shows, these situations –lost wages due to family care responsibilities or involuntary part time employment—not only "may" happen to the working poor, but can reasonably be

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[22] Sondra Beverly (1997). ***How Can the Poor Save? Theory and Evidence on Saving in Low-Income Households*** at 26 – 27, Center for Social Development, Washington University: Saint Louis (MO), *quoting*, Adrian Furnham (1985). "Why do people save? Attitudes to, and habits of, saving money in Britain," ***Journal of Applied Social Psychology***, 15(4): 354-373. Beverly continues: "In part, individual saving-related aspirations and expectations will be determined by past experiences, including past asset accumulation experiences. According to aspiration theory (citation omitted), an individual's aspirations are raised (lowered) according to her success (failure) in achieving them. Applying this proposition to economic behavior, Katona (1975) suggests that an individual who makes progress toward a savings goal is more likely to raise that goal. Conversely, those whose attempts to save money are unsuccessful are likely to lower their saving aspirations." ***Id.***, at 27, *citing*, George Katona (1975). ***Psychological Economics***, at 369, Elsevier Press: New York.

expected to happen. Strict application of a one-strike-you're-out policy may be unreasonable in light of this aspect of ability to pay.

Unquestionably, a change in the structure and operation of payment plan processes to account for the fragile income of the working poor must accommodate the capabilities of the customer information systems of the affected utility. Some utility information systems, for example, are structured so that if payments on deferred arrangements are missed, the arrangement is automatically canceled. A utility need not avoid such a cancellation. However, in deciding upon the utility's credit action subsequent to such a cancellation, regulatory policy that would refuse to allow a revised payment arrangement to account for any changes in income that might have led to the initial default, as well as any policy that would fail to account for the fragility of income in considering the "why" behind a prior arrangement default,[23] should be modified.

SUMMARY AND CONCLUSIONS

In applying payment plan policies, utilities and their regulators should take into account the income fragility of hourly wage employees who face unstable incomes and who lack paid leave time and flexible work schedules. The failure to comply with agreed-upon deferred payment arrangements may frequently be due to this fragility rather than due to an unwillingness to maintain agreed-upon payments. As utilities face another round of winter-end arrears this spring, utilities and their regulators should adopt policies and procedures that will reasonably allow working poor families to communicate, and have considered, *all* aspects of their ability to pay in an effort to negotiate and successfully maintain deferred payment arrangements.

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[23] Some utilities, for example, use decision trees to determine if a new arrangement will be granted. Such decision trees take into account previous credit behaviors in deciding whether to grant a new arrangement. These decisions should consider not only the *fact* of prior credit behavior, but the reasons for such behavior as well.