How Utilities and Cities Can Develop CAPs and Rate-based Solutions to Affordability

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Making Ends Meet: A Workshop on Water Affordability
Philadelphia, PA
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Dedicated to enhancing the ability of governments and other organizations to provide environmental programs and services in fair, effective, and financially sustainable ways through:

• applied research
• teaching and outreach
• program design and evaluation

How you pay for it matters.
Objectives

• To look at designing a CAP program
• To suggest ways to measure customer affordability
• To highlight some of the legal barriers (or opportunities) to funding customer affordability programs across the states
• To suggest ways to reach Hard-to-Reach Customers
Current Debates Around Customer Assistance Programs (CAPs)

• What metrics should be used:
  – To convey general concern
  – For regulatory relief
  – To qualify for funding assistance as a community
  – For assisting individual customers

• How should customer level assistance be funded and administered?
  – What legal framework changes are needed
  – How do you reach “hard to reach”
DESIGNING CAPS TO ADDRESS AFFORDABILITY CONCERNS

CAPS = Customer Assistance Programs
Some Elements of Designing a CAP

• Deciding who gets assistance
• Deciding what types of assistance to provide
• Planning for program outreach and monitoring
• Determining how much the CAP will cost
• Devising a plan to fund the CAP
Who Gets Assistance? - Common Practices in Eligibility Verification

• Partnering with another organization that focuses on low-income
• Proof of eligibility in related programs, such as:
  – LIHEAP (Low Income Home Energy Assistance Program)
  – AFDC (Aid to Families with Dependent Children)
  – SSI (Supplemental Social Security Income)
  – Medicaid
  – SNAP (Supplemental Nutrition Assistance Program)
  – Local property tax assistance; and
  – Other utilities (electric, natural gas, telephone, offer discount programs based on income)
Everyone Gets Assistance? - Concept of Lifeline Rates

• “Providing a minimal amount of water, at a reduced cost to all customers, regardless of income level or ability to pay”
  – Source: AWWA Manual M1

• Often some consumption is included in the base charge
Business Case for Creating Affordability Programs or “Customer Assistance Programs” (CAPs)

• When customers have trouble paying utility bills, costs to the utility include:
  – increased arrearages
  – late payments
  – disconnection notices, and
  – service terminations
• Buyers of utility bonds also get nervous
Does the Utility Have an Affordability Problem?

Measuring Affordability
Downsides of “percent MHI”...

- Most used and most critiqued metric
- Historic focus on what the “median” person pays for water as a percent of income
- Metric has been used beyond what it was meant to be used for....
Looking Beyond Median Household Income (MHI) … A Tale of 3 Communities

<table>
<thead>
<tr>
<th>Community 1</th>
<th>Community 2</th>
<th>Community 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>MHI: $34,582</td>
<td>MHI: $29,483</td>
<td>MHI: $29,679</td>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>Community 1</th>
<th>Community 2</th>
<th>Community 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployment Rate</td>
<td>8.4%</td>
<td>10.8%</td>
<td>4.2%</td>
</tr>
<tr>
<td>Not in labor force</td>
<td>35.5%</td>
<td>42.9%</td>
<td>59.9%</td>
</tr>
<tr>
<td>With Social Security</td>
<td>24.4%</td>
<td>20.4%</td>
<td>52.5%</td>
</tr>
<tr>
<td>With SSI</td>
<td>14.9%</td>
<td>16.5%</td>
<td>11.7%</td>
</tr>
<tr>
<td>With Cash Assistance</td>
<td>7.0%</td>
<td>15.6%</td>
<td>5.5%</td>
</tr>
<tr>
<td>With SNAP Benefits</td>
<td>42.0%</td>
<td>22.9%</td>
<td>20.8%</td>
</tr>
<tr>
<td>Percentage below poverty line</td>
<td>28.4%</td>
<td>35.9%</td>
<td>26.1%</td>
</tr>
</tbody>
</table>
Water and Wastewater Residential Rates Affordability Assessment Tool

On the EFC Website
Go to
http://efc.sog.unc.edu
and search for
“Affordability Assessment Tool”

Free, simplified Excel tool allowing you to examine several metrics to assess how affordable your rates are in your community
Example: Affordability in Birmingham, AL

The table below shows key socioeconomic indicators for Birmingham, with the state and national averages available for comparison. Values in red indicate that the indicator is “most stressed,” as compared to both the state and national average.

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Median Household Income</td>
<td>$46,346</td>
<td>$44,758</td>
<td>$55,322</td>
</tr>
<tr>
<td>% Unemployment</td>
<td>7.0%</td>
<td>4.8%</td>
<td>4.7%</td>
</tr>
<tr>
<td>% Not in the labor force</td>
<td>40.2%</td>
<td>42.1%</td>
<td>36.5%</td>
</tr>
<tr>
<td>% of all people with income below</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>poverty</td>
<td>29.4%</td>
<td>18.4%</td>
<td>15.1%</td>
</tr>
<tr>
<td>% with Social Security income</td>
<td>31.6%</td>
<td>35.0%</td>
<td>30.2%</td>
</tr>
<tr>
<td>% with Supplemental Security income</td>
<td>10.3%</td>
<td>6.7%</td>
<td>5.4%</td>
</tr>
<tr>
<td>% with cash public assistance income</td>
<td>2.7%</td>
<td>1.8%</td>
<td>2.7%</td>
</tr>
<tr>
<td>% with Food Stamp/SNAP benefits</td>
<td>25.2%</td>
<td>15.6%</td>
<td>13.0%</td>
</tr>
</tbody>
</table>

To access the tool that generated this chart and table see: [http://www.efc.sog.unc.edu/reslib/item/water-wastewater-residential-rates-affordability-assessment-tool](http://www.efc.sog.unc.edu/reslib/item/water-wastewater-residential-rates-affordability-assessment-tool)
Excluding households living in rental homes or apartments, which may or may not have water & wastewater services included in their rent, 25.8% of homeowners (assumed to be paying the utility directly) are estimated to have had less than $25,000 in annual income. These homeowners will have spent more than 3.62% of their income under the current rates for water & wastewater bills at 3000 gallons/month. 6.9% of homeowners will have spent more than 9.04% of their income.
Excluding households living in rental homes or apartments, which may or may not have water & wastewater services included in their rent, 25.8% of homeowners (assumed to be paying the utility directly) are estimated to have had less than $25,000 in annual income. These homeowners will have spent more than 4.58% of their income under the current rates for water & wastewater bills at 5000 gallons/month. 6.9% of homeowners will have spent more than 11.44% of their income.
How to Fund an Affordability Program

• What if Your Community Does Not Like the Results Above?
• How can you fund a new (or enhanced) Customer Affordability Program?
Funding Sources for Affordability Programs

• Revenue generated directly from customer rates (not an option in some states)
  https://efc.sog.unc.edu/project/navigating-legal-pathways-rate-funded-customer-assistance-programs
• Voluntary contributions (e.g. bill round-up)
• Rental income from cell phone and internet providers that rent use of the water utility’s towers/tanks
• Service line protection programs
Navigating Legal Pathways to Rate-Funded Customer Assistance Programs

Alabama

Water and wastewater utilities in Alabama fall under several rate-setting regulatory systems.

Commission-Set Rates (CSR)

The Alabama Public Service Commission (APSC) regulates private water and wastewater companies in Alabama. The Code of Ala. § 48-20-1-2(a) states that the APSC sets rates for these utilities. However, under the Code of Ala. § 48-20-1-2(a), utilities are split into two categories: commission-set utilities and non-commission-set utilities.

Commission-set utilities are those firms that are subject to the rate-setting authority of the APSC. Utilities that are not subject to the APSC’s rate-setting authority are considered non-commission-set utilities. Non-commission-set utilities include municipalities, water and sewer districts, water authorities, and governmental entities.

Non-commission-set utilities are not subject to the APSC’s rate-setting authority. However, these utilities must comply with the Uniform Statewide Water and Sewer Program (USWWP) regulations in order to receive state funds.

Based on the state’s regulations, non-commission-set utilities appear to have very few rate-setting authority (CSR) and thus are subject to very minimal regulation.

https://efc.sog.unc.edu/pathways-to-rate-funded-customer-assistance
Funders/Steering Committee

Independent Legal Experts
Scott Rubin, Advisor
Roger Colton, Advisor
Can a Utility Use its Primary Revenue Source (Rate Revenue) to Fund a Customer Assistance Program?

- 52 state/territory legal snapshots
- Nine case studies of well-funded customer assistance programs
- Analysis of other sector approaches
- Analysis of international approaches
Confusing and Ambiguous Legal Framework

• Utilities must navigate a complex, confusing and ambiguous legal framework that varies significantly from state to state

• In many cases, different types of utilities are subject to different rules that result in some utilities within a given state being able to design programs in a way that is prohibited for other types of utilities. e.g. in California:
  – Government owned utilities = CAPs curbed by restrictive statutory and constitutional provisions
  – Investor owned utilities = CAPs encouraged
Navigating State Frameworks: Confusing, ambiguous and subject to interpretation....
Can the Utility Use its Primary Revenue Source to Fund a CAP?

• Silence, ambiguous or restrictive language leave many utilities unsure if they can use their rate revenues

• Without the use of rate revenues, most of the CAPs across the country are small and can’t address the total customer need

Categorizing States by Level of Authorization for Affordability Programs Using Rate Revenue

<table>
<thead>
<tr>
<th>Icon</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>🟢GO</td>
<td>Explicitly Authorized</td>
</tr>
<tr>
<td>🟡!</td>
<td>No Express Authority</td>
</tr>
<tr>
<td>🟢!</td>
<td>Potential for Challenges</td>
</tr>
<tr>
<td>🔴STOP</td>
<td>Specifically Prohibited</td>
</tr>
</tbody>
</table>
Authorization to Create Affordability Programs Using Rate Revenues

<table>
<thead>
<tr>
<th>GO</th>
<th>Explicitly Authorized</th>
<th>Commission Regulated Utilities</th>
<th>Non Commission Regulated Utilities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>No expressed authority, but nothing in the statutes or case law seems to limit an entity from implementing a program</td>
<td>9</td>
<td>28</td>
</tr>
<tr>
<td></td>
<td>Something in the statutes or case law, such as ambiguous language, limiting terminology, cost of service requirements, etc., suggests the potential for challenges</td>
<td>28</td>
<td>19</td>
</tr>
<tr>
<td>STOP</td>
<td>Specifically prohibited</td>
<td>4</td>
<td>3</td>
</tr>
</tbody>
</table>
Commission Regulated Utilities: Ability to Implement CAPS Funded by Ratepayer Revenues by State
Non Commission Regulated Utilities: Ability to Implement CAPS Funded by Ratepayer Revenues by State
When State Law is Ambiguous: Options for Implementing CAPs Successfully

• **Option 1.** At the state level, introduce statutory language that addresses affordability programs in clear, unambiguous terms

• **Option 2.** Develop an argument for why a CAP conforms to existing statues and is not affected by perceived limitations

• **Option 3.** Develop an alternative program that does not rely on direct customer rate revenue to fund the assistance to low-income individuals
“Clear Examples”
Example: Washington State

Wash. Rev. Code § 80.28.068

• Utilities can request approval from the Commission to provide reduced rates to “low-income senior customers and low-income customers.” Under the same provision, “expenses and lost revenues as a result of these discounts shall be included in the company’s cost of service and recovered in rates to other customers.”
Example: Indiana (2017 Amendment)

SECTION 9. IC 8-1-2-46

- (c) Upon request by a water or wastewater utility in a general rate case, the commission may allow, but may not require, a water or wastewater utility to establish a customer assistance program that:
  
  1) uses state or federal infrastructure funds; or (2) provides financial relief to residential customers who qualify for income related assistance.

- A customer assistance program established under this subsection that affects rates and charges for service is not discriminatory for purposes of this chapter or any other law regulating rates and charges for service. In considering whether to approve a water or wastewater utility's proposed customer assistance program, the commission shall determine that a customer assistance program established under this subsection furthers the interests set forth in section 0.5 of this chapter and is in the public interest.
The Final Hurdle: Hard to Reach (H2R)

- Many households do not have relationship with their service provider
- Multi-family tenants
- Providing them direct assistance requires different strategies

Table 1.1: H2R households by household type

<table>
<thead>
<tr>
<th>Household type</th>
<th>Households (Millions)</th>
<th>Pay bill directly to utility (%)</th>
<th>Pay bill through rent (as a fee, %)</th>
<th>Do not pay for water (self-supply, %)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family homes  (attached and detached)</td>
<td>89.4</td>
<td>81%</td>
<td>4%</td>
<td>14%</td>
</tr>
<tr>
<td>Multi-family: 2-unit building</td>
<td>4.3</td>
<td>42%</td>
<td>41%</td>
<td>18%</td>
</tr>
<tr>
<td>Multi-family: 3-8 units</td>
<td>10.7</td>
<td>28%</td>
<td>57%</td>
<td>16%</td>
</tr>
<tr>
<td>Multi-family: 10-19 units</td>
<td>5.1</td>
<td>30%</td>
<td>57%</td>
<td>13%</td>
</tr>
<tr>
<td>Multi-family: 20 or more units</td>
<td>9.9</td>
<td>19%</td>
<td>62%</td>
<td>19%</td>
</tr>
<tr>
<td>Mobile home or trailer</td>
<td>6.7</td>
<td>55%</td>
<td>17%</td>
<td>29%</td>
</tr>
<tr>
<td><strong>Total households (Millions)</strong></td>
<td><strong>117.1</strong></td>
<td><strong>77.0</strong></td>
<td><strong>21.6</strong></td>
<td><strong>18.6</strong></td>
</tr>
</tbody>
</table>

*Source: Data from PUMS 2014*
What are the Available Options for H2R Customers?

- Work **DIRECTLY** with the H2R and their landlords
  - Discounts to landlords
  - Vouchers
  - Discounts through energy utility
  - Discounts for affordable housing
  - Conservation
  - Target housing units rather than households

**Shrink the H2R population**
- Sub-metering
- Make single-family renters establish an account

- Provide **INDIRECT** assistance
  - Raise awareness/support existing assistance programs
  - Partner with community organizations to support low-income households
Other EFC Resources on Affordability

• Blog:
  – http://efc.web.unc.edu/tag/water-affordability/
  – 9 posts, and counting, on this topic

• Compilation of Affordability Resources:
  http://www.efc.sog.unc.edu/water-affordability-tools, examples:
  – Tool - Water Utility Customer Assistance Program Cost Estimation Tool
  – Water Research Foundation report - Defining a Resilient Business Model for Water Utilities – Chapter 4

• Rates dashboards – affordability dial
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(#wateraffordability)