A WATER AFFORDABILITY PROGRAM FOR THE DETROIT WATER AND SEWERAGE DEPARTMENT (DWSD)

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Part 1: An Overview of Affordable Water Rates

This proposal is presented to the Detroit Water and Sewerage Department (DWSD) on behalf of the Michigan Poverty Law Program/Michigan Legal Services and their clients. In recent years, the unaffordability of water/sewer bills in the City of Detroit has become a substantial problem. Not only have customers been disconnected, and gone without service, but even households that *pay* their bills incur substantial hardships because of the unaffordability of their bills.

While the unaffordability of water/sewer service certainly poses a social problem, it manifests itself as a business problem as well. The unaffordability of water/sewer service contributes to unpaid bills and the associated collections expenses associated with such unpaid bills. In addition, the unaffordability of water/sewer service contributes to increased costs such as uncollectible accounts and the working capital associated with arrears.

The affordability program contained in the narrative discussion below reflects the social need for affordable water/sewer bills and the business need for affordable water/sewer bills. The proposal contains three components:

- An explicit water/sewer affordability program, consisting of rate affordability, arrearage management, and water conservation;

- A proposal for basic consumer protections to be afforded low-income customers; and

- A proposal for innovative collections activities to be directed toward customers with an ability-to-pay.

Before turning to the affordability program proposal, however, the discussion below provides an overview of what constitutes "affordable" service.

Defining "Affordable" Service

The affordability of home utility bills, whether they be home energy or water/sewer bills,[1] is generally measured in terms of the "burden" which those bills impose on low-income customers. The "burden" of a water bill is measured in terms of the bill as a percentage of income. If a household has an income of $5,000, for example, along with a water bill of $500, the household has a water burden of 10% ($500 / $5,000 = 0.10).

The affordability of water bills can be determined based on this information. In implementing the federal Safe Drinking Water Act (SDWA), the Environmental Protection

[1] Water/sewer bills will sometimes be collectively referred to as "water" bills. Whenever used, the term "water bill" is intended to refer to combined water/sewer bills.

Agency (EPA) is required to evaluate the affordability of water service when it proposes new regulations. EPA bases its affordability determination on its assertion that a household with the median (50th percentile) income should be able to pay 2.5% of its pre-tax income for water. Others place the affordable water burden at 2% of household income.[2] Indeed, a national assessment of whether water rates were becoming unaffordable found that anywhere from one-in-four to one-in-six water customers were paying more than two percent of their household income for water service.

Given an affordable water burden of 2% of income, a recipient of Supplemental Security Income (SSI) in Detroit would pay $132 toward his or her water bill ($6,624 x 0.02 = $132). A recipient of Temporary Assistance to Needy Families (TANF) in Detroit would pay $110 toward his or her water bill ($5,508 x 0.02 = $110). Compared to these affordable bills, an annual water/sewer bill for a typical household taking metered residential water/sewer service from DWSD reaches $536.

THE AFFORDABILITY OF DETROIT WATER/SEWER BILLS

Low-income Detroit households incurring a typical water bill face unaffordable water/sewer burdens. DWSD provides a comparison of the monthly cost of water and sewer service for a typical residential customer for the current and past three years:

Table 1: Average Water/Sewer Bills for Detroit Water and Sewerage Department (DWSD)

	2001/2002	2002/2003	2003/2004	2004/2005
Water subtotal	$10.72	$12.98	$14.15	$15.26
Sewer subtotal	$17.50	$22.67	$24.06	$29.41
Total monthly	$28.22	$35.65	$38.21	$44.67
Total annual	$338.64	$427.80	$458.52	$536.04

Given an average residential bill of $536 for DWSD customers at current rates, it is possible to calculate a water burden for DWSD low-income customers. Calculations of water bill burdens are presented for four different income levels, ranging up to $20,000 per year. Given an average residential water bill of $536, the bill burdens range from 21.4% to 3.1%. The bill burdens are set forth below.

[2] As with energy bills, a water "burden" is simply the water bill as a percentage of income.

Table 2
Detroit Water/Sewer Burdens by Income for Average Residential Customer

Income Range	Average Bill	Average Burden /a/
$0 – 5,000	$536	21.4%
$5,001 - $10,000	$536	7.1%
$10,001 - $15,000	$536	4.3%
$15,001 - $20,000	$536	3.1%

Burdens calculated by using mid-point of income range.

A $536 bill would represent a water burden of 8.1% for an SSI household receiving a monthly income of $552 and 9.7% for a three-person TANF household receiving the maximum benefit of $459 per month. As can be seen, these bills thus range from nearly 400% to 500% higher than the affordability threshold.

THE EXTENT OF UNAFFORDABILITY

The presence of households with these income levels in Detroit is substantial. While DWSD provides some service to communities outside Detroit, this proposal is confined to the City of Detroit only. Accordingly, Table 3 shows the number of households by annual income level for the City alone as reported by the 2000 Census.

Table 3: Number of Households by Annual Income: Detroit (MI)

Income Range	Number of Households
Less than $10,000	64,304
$10,000 to $14,999	27,914
$15,000 to $19,999	26,758
$20,000 to $24,999	27,375
$25,000 to $29,999	23,762
$30,000 to $34,999	21,301
$35,000 to $39,999	18,696
$40,000 to $44,999	17,138
$45,000 to $49,999	14,096
$50,000 to $59,999	24,597
$60,000 to $74,999	25,835
$75,000 to $99,999	23,430
$100,000 to $124,999	10,843
$125,000 to $149,999	4,448
$150,000 to $199,999	2,887
$200,000 or more	3,098
Total:	336,482

Table 3 documents that nearly 65,000 households in Detroit had incomes less than $10,000; nearly 28,000 had incomes between $10,000 and $15,000, and nearly 27,000 had incomes between $15,000 and $20,000. It is clear, therefore, that substantial numbers of low-income DWSD customers are facing unaffordable water bill burdens.

Moreover, to the extent that Detroit reflects the state of Michigan as a whole, low-income households in Detroit are having difficulty in keeping up. Since the late 1970s (through the late 1990s), the poorest fifth of households in Michigan gained only $1,210 in purchasing power when incomes are adjusted for inflation (7.7%). In contrast, the middle fifth of households gained $9,000 in purchasing power from the late 1970s to the late 1990s (18.5%). The richest fifth of households gained $51,520 in annual income during that same time period (49.7%).

In sum, there are significant affordability problems facing low-income households in Detroit. Moreover, the problem is likely to get worse before it gets better. The Detroit Water and Sewerage Department (DWSD) would be well-served by adopting an affordability program.

PART 2: A WATER RATE AFFORDABILITY PROGRAM[3]

This discussion below outlines the necessary components of an effective and efficient rate affordability program. These components include:

- A rate affordability component;
- An arrearage management component; and
- A water conservation component

THE RATE AFFORDABILITY COMPONENT

A rate affordability program is proposed for DWSD. The rate affordability program will be directed toward reducing water/sewer bills to an affordable percentage of income while at the same time generating business benefits for the DWSD. The rate affordability program is designed to reduce water/sewer bills to an affordable burden set at 2% of household income.

This level of discount has an empirical basis. The level of a low-income discount should be set so that it helps to advance some pre-established program objective. Providing a discount is not an end unto itself. It is instead merely a means to an end. The objective for a low-income rate discount is to increase the affordability of rates to participating customers. Providing a discount at insufficient levels does not advance the objective of increasing the affordability of home water service.

The Eligible Population

The proposed rate affordability program is directed to households with income at or below 175% of the Federal Poverty Level. Table 4 sets forth income at various levels of Poverty (2004) for households with from one to three members.

Table 4: Income by Federal Poverty Level (2004)			
Household Size	100% FPL	150% FPL	175% FPL
1	$9,310	$13,965	$16,293
2	$12,490	$18,735	$21,858
3	$15,670	$23,505	$27,423

The affordability of Detroit water bills can be tested by examining bills that are equal to 100% of the average bill. The affordability is then further tested by comparing bills, also, at 120% of the average bill. Bills reflecting consumption at 120% of the average are considered to be "high" bills. The average DWSD bill is $536, while a bill at 120% of the average is $643.

[3] As noted above, the term "water" is intended to refer to both water and sewer bills.

As Table 5 shows, bills reflecting average consumption levels for a three person household tend to reach the affordable burden of 2% of income when incomes reach 175% of the Federal Poverty Level. At 175% of Poverty, even bills reflecting 120% of the average consumption generate a burden of only 2.3%.[4]

Table 5: Water/Sewer Burdens at Different Levels of Poverty Given Bills at 100% of Average and 120% of Average						
Household Size	100% of Average			120% of Average		
	100%	150%	175%	100%	150%	175%
1	5.8%	3.8%	3.3%	6.9%	4.6%	3.9%
2	4.3%	2.9%	2.5%	5.1%	3.4%	2.9%
3	3.4%	2.3%	2.0%	4.1%	2.7%	2.3%

As can be seen, extending program eligibility to households with incomes higher than 175% of FPL offers a false sense of program expansion. Few, if any, of these higher income households would benefit from a burden-based rate affordability program.

Within the income eligible population, however, assistance should be provided irrespective of payment troubled status. Non-income eligibility criteria should not be included as program prerequisites. Specifically, rate affordability program participation should not be contingent upon a customer being "payment troubled."

In the energy arena, ample research has found that many low-income customers pay their home energy bills at significant personal sacrifice to themselves and the members of their households. Low-income consumers may forego buying medicine, food, insurance, and dental care. Low-income consumers have been reported to heat their homes with "alternative fuels" including used tires, newspapers, clothing and furniture in order to pay for their heating bill. Low-income consumers have been reported to pawn their possessions, abandon their homes for days or weeks at a time, and reduce their heating to unsafe levels in order to pay their heating bills. These consumers are no less "payment troubled" than their counterparts who simply do not pay their bills.[5]

The same results would arise with water bills. In sum, payment troubles are a manifestation of the affordability problem. They are not the problem itself.

The Distribution of Assistance through Fixed Credits

[4] While burdens are higher at smaller household sizes, in fact, consumption would decrease with smaller household sizes. In this simplified Table 5, consumption levels (and thus bills) are held constant irrespective of household size.
[5] See, notes 21 – 23, infra, and accompanying text.

Rate affordability assistance should be distributed on a percentage of income basis. Using a percentage of income approach to targeting provides an efficient use of scarce rate affordability resources. A percentage of income approach delivers those benefits, but only those benefits, needed to bring low-income bills into an affordable range; an across-the-board discount does not.[6]

Although a variety of percentage-of-income based approaches exists, the delivery of rate affordability assistance should use a fixed credit approach. The fixed credit approach begins as an income-based approach. In order to be eligible for the rate, a household must meet *both* eligibility criteria: (1) that the household income is at or below 175% of the Federal Poverty Level; and (2) that the household water burden[7] exceeds the burden deemed to be affordable.

Providing a fixed credit involves calculating what bill credit would need to be provided to the household in order to reduce the household's bill to the designated percent of income. To calculate the fixed credit involves three steps: (1) calculating a burden-based payment; (2) calculating an annual bill; and (3) calculating the fixed credit necessary to reduce the annual bill to the burden-based payment.

There are substantive advantages to the fixed credit approach. The fixed credit provides a strong conservation incentive to the low-income customer. Under the fixed credit model, DWSD provides a fixed credit to the low-income household irrespective of the household's actual bill. If the household increases its consumption, and thus has a higher bill, the household pays the amount of the increase. If, in contrast, the household conserves water and thus lowers its bill, the household pockets the savings.

In addition, there are administrative advantages to the fixed credit approach. The fixed credit program allows a program to work within a fixed operating budget. Once a low-income customer is enrolled in the rate affordability program, the maximum possible financial exposure for the time of the enrollment is established. At no time, can the maximum financial exposure exceed the budgeted program revenues. Systems can be easily designed to track funds that are obligated and expended to ensure that the budget is not exceeded.

In addition to this budgeting advantage, the fixed credit approach makes the billing less complicated as well. Using the same process which currently exists to establish a levelized budget billing plan, fixed credits can be subtracted from a customer's levelized annual bill. The monthly bill is then rendered based upon this one-time annual adjustment.

Enrolling Customers in the Assistance Program

[6] Using an across-the-board discount, the rate affordability program would pay some customers *more* than is necessary to bring bills into an affordable range while paying other customers *less* than is necessary to bring bills into an affordable range.

[7] Remember, again, that the term "water" is a collective reference to water and sewer bills.

Enrollment of customers should occur through a process called "adjunctive eligibility." It is sometimes referred to as "express lane eligibility." Detroit would not be unique in allowing such adjunctive eligibility for a utility rate affordability program. Adjunctive eligibility is a well-accepted doctrine for enrolling income eligible households in particular programs. Adjunctive eligibility was pioneered as a mechanism to increase enrollment in children's health insurance programs. One evaluation of the use of such an intake approach in the children's health arena stated:

> Express Lane Eligibility. . .accelerates enrollment for the hundreds of thousands of uninsured children already enrolled in other income-comparable publicly funded programs such as Head Start or school lunch. The simple notion is that children who have met the income test for these income-comparable programs should have their eligibility expedited and do not need to provide duplicative income information to qualify for health care coverage. Express Lane Eligibility can cut administrative red tape while streamlining the application process. . .[8]

This, of course, is *precisely* one of the goals of the adjunctive eligibility approach: to cut red-tape while streamlining the application process.

Adjunctive eligibility would be operationalized in Detroit in two ways. After taking direct applications from customers for the DWSD rate affordability program, DWSD would accept verification of participation in the designated programs directly from the agency administering those programs. Through this process, families are truly required to fill out and submit information only once. A number of states, including Illinois, Maryland, Michigan, California and Ohio, use joint applications for their TANF, Medicaid and Food Stamp programs. Other states use the same application for their supplemental nutrition program for Women, Infants and Children (WIC) and Medicaid programs.

According to the Children's Partnership "the greatest potential for reaching large numbers of children most simply is to allow eligibility for one program to be used to fulfill some or all of the eligibility requirements for health care." This "full Express Lane Eligibility" has already been adopted to link SSI with Medicaid. Federal law now authorizes that enrollment in SSI will automatically establish a person's eligibility for Medicaid. In addition, in 1989, Congress authorized WIC agencies to begin to accept an applicant's documented participation in Medicaid, Food Stamps and AFDC (now known as TANF) as evidence of income eligibility for WIC. Today, fully two-thirds of WIC participants are enrolled through the adjunctive eligibility process.[9]

Other regulators have approved such an enrollment process for utility rate affordability programs. For example, the Pennsylvania PUC has specifically said within the context of Customer Assistance Programs (CAPs) for natural gas and electric utilities that "we have

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[8] The Children's Partnership, ***Express Lane Eligibility: How to Enroll Large Groups of Uninsured Children in Medicaid and CHIP***, Children's Partnership: Washington D.C.

[9] U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis and Evaluation, ***Study of WIC Participant and Program Characteristics 1996: Final Report***, at 47.

found that automatic referrals to CAP when a customer calls to make a payment arrangement and intake certification by government agencies are simple to administer and cost-effective." (1999 CAP Policy Statement, at 6, codified at 52 Pa. Code section 69.261, et seq.; Order, Re. Revisions to the Customer Assistance Program Made Pursuant to 52 Pa. Code, Chapter 69, Docket No. M-00991232). DWSD should incorporate into its low-income rate discount program a process that obtains customer income certification from third parties. Upon receipt of verification that a customer is a low-income customer, the customer will be placed in the rate affordability program.

THE ARREARAGE MANAGEMENT COMPONENT

The arrearage management component to the recommended rate affordability program will reduce pre-program arrears to a manageable level over an extended period of time. An arrearage management program component is necessary to help get low-income customers "even" so they have a chance at future success in making payments. It does not help to have current bills be affordable if the household is subject to service termination for preprogram arrears. In addition, it does not help to have current bills be affordable if the *total* bill is unaffordable due to payment obligations required to retire past arrears.

Through an arrearage management program, a customer earns credits toward his or her preprogram arrears over a period of time, so long as the customer remains on the rate affordability program. By the end of the time period, the household's preprogram arrears will be reduced to $0. The time period over which to provide credits needs to be selected so as to stay within the reasonable planning horizon of the customer. To suggest, for example, that arrears will be reduced to $0 over a period of four or more years is outside the horizon within which low-income households do their planning. This proposal is for an arrearage management period of two years. Arrearage credits are earned on a monthly basis. They can be credited to the account, however, on a quarterly or semi-annual basis.[10]

THE WATER CONSERVATION COMPONENT

DWSD should use water conservation investments as a supplement to its rate affordability discount on low-income water bills. The use of water conservation investments in this manner is a reasonable approach, conditioned on the provision of a sufficient budget to make water conservation measures available to those low-income rate discount participants who would most benefit from the investments.

The Benefits of a Water Conservation Component

Even the rate affordability program outlined above will not reduce water bills to affordable levels for *all* low-income customers. Water conservation can be an effective supplement to this type of discount for low-income customers. Water conservation measures are of particular value because, in addition to generating water use reductions (and thus water bill

[10] The point at which earned preprogram arrears credits are actually credited is often a matter of billing system programming rather than a program policy question.

savings), water conservation efforts can generate corresponding bill reductions on low-income customer natural gas and electric bills as well. Consider the water conservation kits distributed by the Pennsylvania American Water Company (PAWC). These kits, distributed by mail, are used to supplement that company's low-income discount program. The Impact Evaluation for the program reported that if all kit items were installed, a two person household using natural gas water heating would have combined water and gas savings of $116 per year; a three-person household would have combined water and gas savings of $168 per year.

The PAWC Impact Evaluation recommended:

> The Pennsylvania-American Water Company should expand the "H_2O– Help to Others" effort. This service is very effective in reducing customer cost, in particular because it functions on a volumetric basis. Its virtue is that it increases savings as family size increases, so that (usually) for homes in which the need for savings is higher – it produces higher savings. The other special feature of the "H_2O– Help to Others" kit is that the savings it produces are about 70% on electricity, gas and sewer bills (when the sewer bills are volumetric and not flat fees).

The combination of efficiency/conservation investments with the negotiation of deferred payment agreements has been recognized throughout the Pennsylvania utility industry in particular. Consider what the Pennsylvania Public Utility Commission (PUC) said in adopting its Low-Income Usage Reduction Program (LIURP). The PUC stated the purpose of LIURP as follows:

> [LIURP] requires covered utilities to establish fair, effective and efficient energy usage reduction programs for their low-income customers. The programs are intended to assist low-income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.

The Pennsylvania PUC subsequently found that its low-income usage reduction program has had precisely the impacts called for in this statement of purpose. The results of the Pennsylvania program are summarized in Table 6. A review of the Low-Income Usage Reduction Program (LIURP) by the Pennsylvania Public Utilities Commission found such benefits in all but one of that state's utilities. In Pennsylvania, all major gas and electric utilities operate a LIURP program. The results in Pennsylvania are noteworthy both because of the universality of the results *and* because of the magnitude of the improvements across-the-board. The significance of a bill payment in excess of 100 percent is that the customer is not only paying the entire current bill, but is making payments toward arrears as well. A payment of less than 100 percent means that the customer is not paying the entire current bill. There is no reason that the experience of Pennsylvania's gas and electric utilities would not also transfer to the DWSD.

Table 6: Bill Payment Impact for Customers with Arrearages: LIURP: Pennsylvania					
1992 LIURP	Heating Jobs		Water Heating Jobs		
	Percent of Bill Paid Pre-Period	Percent of Bill Paid Post-Period	Percent of Bill Paid Pre-Period	Percent of Bill Paid Post-Period	Percent of Pre-Pe
Duquesne	Not Applicable		91%	100%	78%
Met Ed	78%	107%	79%	107%	
Penelec	92%	95%	96%	99%	
Penn Power	Not Applicable		95%	93%	
PP&L	51%	95%	55%	105%	
PECO Electric	74%	118%	78%	109%	
UGI Electric	95%	105%	Not Applicable		
West Penn	126%	102%	129%	106%	
Columbia Gas	69%	133%			
Equitable	Not Applicable				
NFG	96%	125%			
PECO Gas	68%	133%			
PG&W	96%	106%			
Peoples	99%	106%			
T.W. Phillips	Not Available				
UGI Gas	89%	115%			
SOURCE: Pennsylvania PUC Evaluation of 1992 LIURP Program Results (1995).					

The Importance of Water Conservation for Low-Income Customers

It is important to direct water conservation efforts to low-income customers in particular. High water consumption in low-income households is often preventable. High consumption is often driven by leaks, particularly in low-income households. According to the American Housing Survey, performed by the Census Bureau and the U.S. Department of Housing and Urban Development (HUD), while only 13 percent of all occupied units in the country were occupied by households living below the Poverty Level, nearly 20 percent of all households with leaking pipes were in low-income homes.

In addition, the AHS reports, nearly one-quarter of all leaks that were "unreported" but discovered upon inspection of the housing being surveyed were in homes occupied by households living below the Federal Poverty Level. Overall, nearly one in six low-income households (16%) had water leaks. The AHS reports that 22 percent of the occupied households experiencing "severe" physical problems with their plumbing were low-income households, while in addition, 34 percent of the occupied households experiencing "moderate" physical problems with their plumbing were low-income households.

A low-income conservation program will be an important supplement to the rate affordability program component.

PART 3: RATE AFFORDABILITY COST RECOVERY

The discussion below will outline the cost recovery for the rate affordability program recommended above. The discussion below will accomplish three tasks:

- It will document a proposed budget for the rate affordability program;
- It will propose a specific cost recovery mechanism.
- It will explain the cost offsets that can be expected to arise to mitigate the bill impacts on DWSD customers.

A RATE AFFORDABILITY BUDGET

The rate affordability budget developed below consists of three specific components: (1) the rate affordability component; (2) an arrearage management component; and (3) a water conservation component. Each will be addressed separately. The total program budget is $13.5 million.

Rate Affordability

The unadjusted costs of reaching 40% of low-income households in Detroit with rate affordability assistance would reach $9.4 million.

Calculation of the affordability assistance budget is set forth in Table 7. The budget assumes that the number of low-income DWSD customers reflects the percentage of low-income households in Detroit as a whole. Of the 260,000 DWSD residential customers, in other words, roughly 43% will have income at or below 175% of the Federal Poverty Level. The program budget is based on a 40% participation rate, a rate that is consistent with standard assumptions used in designing utility rate affordability programs.

The affordable DWSD burden is set on a sliding scale with three thresholds. Customer payments are tied to a percentage of income as follows:

- Below 50% of Poverty: 2%
- 50 – 100% of Poverty: 2.5%
- 100 – 175% of Poverty: 3.0%

Customers are distributed across Poverty ranges consistent with the actual distribution of population across poverty ranges in Detroit.

As can be seen, on average, the percentage of income payment required of households with incomes above 125% of the Federal Poverty Level will exceed the average residential DWSD bill. These households will not participate in the program.

Table 7: Cost of DWSD Rate Affordability Program
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			Affordable burden			
			0-50%	50-100%	100-175%	
			2.0%	2.5%	3.0%	
Poverty Range	Customers	Participants	Income	Affordable Burden	Affordable Payment	Bill
0-50%	35,034	14,014	$5,088	2.0%	$102	$536
51-74%	16,968	6,787	$9,086	2.5%	$227	$536
75-99%	15,908	6,363	$12,721	2.5%	$318	$536
100-124%	16,388	6,555	$16,355	3.0%	$491	$536
125-150%	15,547	6,219	$19,989	3.0%	$600	$536
150-175%	13,907	5,563	$23,624	3.0%	$709	$536
Total	113,752	45,501				

Table 7: Cost of DWSD Rate Affordability Program
(page 2 of 2)

	Total Cost	Notes
Water/sewer benefits	$9,865,712	
Total adjusted benefits	$9,372,427	Adjusted for 5% bad debt offset
Administrative	$1,405,864	15% Administrative costs
Arrearage forgiveness	$1,336,272	Two year forgiveness period
Start-up (amortized)	$0	Paid through ramp-up savings
Conservation	$1,401,353	$100 cost per kit x 10,186 kits distributed
Total annual cost	$13,515,916	

Arrearage Management

DWSD does not track arrears by socio-economic status. Accordingly, the estimate of arrearage management costs is based on the best available information available from experience with a wide variety of similar programs. That information counsels that low-income customers in arrears will, on average, be roughly four "bills behind." An estimated arrears level is then derived from DWSD data.

A customer copayment of one-half percent (0.5%) per year is subtracted from those arrears. If a customer would pay two percent (2%) of income as an affordable payment, in other words, without arrears, that same customer would pay 2.5% of income with arrears. Since arrears credits are provided over two years, a customer copayment of one percent of income (0.5% per year x 2 years = 1%) is subtracted from the preprogram arrears. Finally, the program budget estimates that roughly 35% of participating customers will have arrears at the time they enter the program. The total annual cost of the arrearage management program is thus $1.336 million.

Water Conservation

The proposed DWSD rate affordability program will reach roughly 14,000 customers with income at or below 50% of the Federal Poverty Level each year. The Company should distribute water conservation kits by mail to these lowest-income rate affordability participants. While DWSD cannot *assure* that the measures will be installed, in a similar program, Pennsylvania American Water Company found a high installation rate. Of the 1,000 kits distributed in its first year, a subsequent impact evaluation found that 650 (65%) had been installed.

The PAWC Impact Evaluation reported a "forward looking cost of $80 per customer provided with a conservation kit." Rounding that PAWC cost up to $100, the estimated cost of the conservation program is $1.401 million.

Administrative and Start-Up Costs

Based on prior experience with low-income assistance programs, an administrative cost cap equal to 15% of total program costs is reasonable. The 15% administrative cost cap is applied to the sum of the rate affordability benefits and the arrearage management credits.

Start-up funding is separate from ongoing administrative costs. No separate funding stream to fund program start-up costs is provided, however. Just as the start-up of the rate affordability program will generate one-time costs, the start-up will generate one-time expense savings as well. In initiating the proposed program, it is necessary to recognize that the program will not be fully subscribed starting on Day 1 of the program operation. Even setting aside the fact that the physical act of enrolling customers will take time, it is reasonable to assume that not all eligible customers will enroll in the program on Day 1.

As a result of this ramp-up of the program, there will be a certain sum of budgeted funds (given full enrollment) that will not be spent in the first year of program operation. As a matter of arithmetic, for example, if applications come in at a constant rate over the course of one year, the program will spend exactly one-half of its program budget in that first year.

The significance of this, for purposes of discussing cost recovery for program start-up costs, is that the unexpended program funds resulting from the ramp-up of the rate affordability program provide a sum of money that can be devoted to program start-up costs without increasing the total program budget.

Given the total program budget recommended above, the ramp-up savings should be sufficient not only to fund the program start-up costs, but should be sufficient to fund other non-recurring expenses as well. The preprogram arrearage credits represent one such non-recurring expenditure that could be partially funded through these ramp-up savings. While not reflected in the budget in this narrative, the cost of the arrearage management net of these payments is substantially less than that presented.

Bad Debt Offsets

One cost adjustment that needs to be made to the program costs to be included in the program's cost recovery involves a bad debt offset. This bad debt offset is appropriate because some portion of the *ongoing* bills for *current* consumption would, in the absence of the new low-income rate, already be included in current rates as bad debt in any event. To allow DWSD to collect the entire program cost on a going forward basis, and in addition to collect all of the bad debt that would have been associated with bills for current usage on a going forward basis, would be to allow it to collect the same dollars twice. Stated another way, the entire amount of fixed credits is not an incremental cost. Some portion of those credits is already in rates. To ensure that those costs are not double recovered, an adjustment needs to be made to credit against the reallocation of costs those costs that are already in rates as bad debt associated with ongoing billed revenue.

Stated another way, this offset is necessary to prevent DWSD from double-collecting the same costs. When DWSD collects its universal service costs, along with the customer payments obtained from bill payments from customers taking service under the affordable rate tariff, it collects 100% of the revenue it would have received if all universal service customers had been on the standard residential tariff. However, already included in rates are cost elements that assume that it will *not* collect 100% of its billed revenues. DWSD, in other words, already has, as part of its revenue requirement, a certain level of uncollectibles. A failure to calculate an offset for this cost component would allow DWSD to collect those bad debt costs twice. The bad debt offset (set at 5%) eliminates this impact.

COST RECOVERY THROUGH A METERS CHARGE

The costs of the proposed rate affordability program should be collected as an undifferentiated meters charge in base rates. In this fashion, while the meters charge generates a liquidated and earmarked stream of revenue, it will not appear as a separate line item on the customer's bill.

The Level of a Meters Charge

A meters charge cost recovery structure imposes a fixed charge on customers varying by customer class. The fee within any given class, however, does not vary between customers. A residential customer using 1,200 CCF each month pays the same fee that a residential customer using 1,000 CCF pays.

Allocating the rate affordability program budget as a meters charge results in a cost recovery as set forth in Table 8.[11]

The Rationale for a Meters Charge

The difference between a fixed meters charge and a volumetric cost recovery approach is easy to conceptualize. A volumetric approach imposes a charge that varies for each customer based upon the magnitude of the customer's consumption and bill. There can be variations within this volumetric approach: a per CCF charge and a percent of revenue charge are the two most common. At their heart, however, these charges are the same. They begin with the amount of funds needed to be collected and allocate that amount amongst customers based upon the amount of commodity consumed. A residential customer using 12,000 CCF a year pays *more* than a residential customer using 7,000 CCF each year.

In contrast to the volumetric approach is a fixed fee structure. This approach imposes a fixed charge on customers varying by customer class. The fee within any given class, however, does not vary between customers. While a commercial customer pays an amount that is different from a residential customer, a residential customer using 12,000 CCF annually pays the same fee that a residential customer using 10,000 CCF annually pays.

A meters charge is structured to obtain a customer class payment from each customer class, while at the same time protecting high use customers within any given class from bearing a disproportionate burden of the program costs. Moreover, by assigning costs on a per-customer basis rather than on a volumetric basis, the bulk of the program costs remains with the residential class.

As one can see in Table 8, each customer is charged a fixed amount of money each month. DWSD collects $1.00 per month from residential customers, while it collects

[11] Calling such a charge a "meters" charge is perhaps a misnomer. The intent is to collect on a fixed fee basis per customer. If one customer has several meters at a single facility, a single charge is imposed.

$20.00 per month from commercial customers. The fixed monthly charge is designed to generate a contribution from each customer class while not having the payment from any particular class member become burdensome.

The Rationale for an Undifferentiated Charge

Several reasons lead to the conclusion that the meters charge should be an undifferentiated part of rates. First, there is no reason why the expenditures on low-income programs should be segregated out for greater scrutiny than the collection activities directed towards other ratepayers. Since not all collection expenditures appear as a separate line item, the low-income expenditures should not so appear either.

Even more importantly, however, little question exists but that, as discussed in the section immediately below, responses to low-income nonpayment will generate not only expenses, but will generate expense offsets as well. The current proposal does not recommend that the total expenditures on rate affordability programs be passed through the meters charge on only a net basis. To the extent that expense offsets occur, those offsets will be recognized and passed through to ratepayers in routine base rate proceedings. Even during the interim period between base rate cases, to the extent that such offsets keep total company expenditures down, they contribute to pushing the need for a new base rate case further into the future, thus benefiting all consumers.

Given this treatment of the expense offsets, however, it would be inappropriate to include the meters charge as a separate line item on a customer's bill. To do so would be misleading to the consumer. It would identify the expenditures, but it would not identify the expense offsets.

EXPENSE SAVINGS

The costs that DWSD passes through the meters charge described above are not the net costs that will be paid by ratepayers. This is true because there are expense savings generated by the program that would offset (in whole or part) the total program costs. As the Pennsylvania Public Utility Commission has provided for its Customer Assistance Programs (CAPs):

Table 8: Detroit Water/Sewer Meters Charge per Customer

	Number of Customers	Monthly Meters Charge	Months in Year	Annual Meters Cha
Residential	260,439	$1.00	12	$12
Commercial	16,182	$20.00	12	$240
Industrial	1,506	$275	12	$3,300
Municipal	510	$80	12	$900
School	587	$80	12	$900
Housing	612	$80	12	$900
Total revenue				
Total program cost				
Annual Excess/(Shortfall)				

> Cost recovery. In evaluating utility CAPs for ratemaking purposes, the Commission will consider both revenue and expense impacts. Revenue impact considerations include a comparison between the amount of revenue collected from CAP participants prior to and during their enrollment in the CAP. CAP expense impacts include both the expenses associated with operating the CAPs as well as the potential decrease of customer utility operating expenses. Operating expenses include the return requirement on cash working capital for carrying arrearages, the cost of credit and collection activities for dealing with low income negative ability to pay customers and uncollectible accounts expense for writing off bad debt for these customers.[12]

The PUC provided that "program funding" should be derived from the following sources:* * *(iii) operations and maintenance expense reductions." (CAP Policy Statement, at Section 69.265(1)).

The Kinds of Expense Savings that will be Generated

The offer of an affordable rate to low-income customers will generate three broad types of expense savings to DWSD. These include: (1) credit and collection savings; (2) cash working capital (CWC) savings on a going-forward basis; and (3) bad debt savings on a going-forward basis.

- The affordability program will generate a "going forward" bad debt savings for DWSD. These savings recognize that some portion of the *ongoing* bills for *current* consumption would, in the absence of the program, result in bad debt. There is a documented relationship between the level of bad debt and unaffordable bills. Addressing the inability to pay giving rise to these payment problems, to the resulting disconnection of service, and to the write-off of billed revenue (whether or not associated with service terminations) will result in cost savings that will redound to the benefit of all customers.

- One of the most significant aspects of the cost savings generated by the rate affordability program involves the reduction in working capital associated with the arrears that would arise in the absence of the program. Again, there is a documented relationship between low-income status and the existence of both an increased incidence and increased level of arrears. Moreover, there is a documented relationship between high and unaffordable bills and both the incidence and level of arrears. Addressing these payment troubles through the affordability program will unquestionably reduce the incidence and level of arrears and generate corresponding working capital savings for DWSD.

[12] Pennsylvania PUC, *Order Re. Revisions to the Customer Assistance Program Policy Statement Made Pursuant to 52 Pa. Code Chapter 69*, at Section 69.266, Docket No. M-00991232 (March 31, 1999).

> These working capital savings are significant because the savings arise by definition. When DWSD bills for revenue that it does not collect, it must replace that unpaid revenue. This replacement must, by necessity, happen in one of two alternative ways. Either DWSD will procure money from an external source (thus paying a rate of return on that procurement), or DWSD will use internal cash (thus incurring an opportunity cost for the return not generated by the investment of the diverted cash). Either way, DWSD will incur an expense at the rate of its weighted rate of return.

Credit and collection savings are discussed in more detail in the section immediately below.

Beyond the direct reduction in credit and collection expenses, the rate affordability program will generate benefits for ratepayers through a reduced cost of service obtained by directing collection efforts toward non-low-income customers. Providing rate affordability assistance to low-income customers is not simply a social welfare program. It is also a way to help DWSD rationalize its overall collection efforts. No utility has the ability to direct collection efforts to all customers in arrears. There simply is not the staff and resources to do so. Whether it involves field collection visits or personal collection contacts, reducing the extent to which collection efforts need to be directed at low-income customers will allow DWSD to redirect those collection efforts to other accounts in arrears, residential or otherwise. As a result, DWSD will experience a decreased cost of service that will be passed on to all ratepayers.

The additional accounts that can be worked for credit and collection purposes need not be low-income accounts. Indeed, they need not even be residential accounts. The benefits that flow from the implementation of the affordability program go far beyond the direct benefits that flow to the participating customers. The benefits go far beyond the reduction in costs that directly flow from the reduction in the costs of nonpayment by those program participants.

In addition to the direct reduction of expenses associated with nonpayment, these expense reductions help postpone future base rate cases. Each month and year for which such a rate case is postponed, even before savings are quantified and allocated among customer classes, yields substantive benefits to all customers, irrespective of their class.

The Basis for Concluding Expense Savings will Arise

A low-income affordability program can reasonably be expected to generate expense savings that will offset, at least in part, the cost of the revenue loss attributable to the proposed rate discount. Unfortunately, due to the unavailability of data, those offsets cannot be calculated for the DWSD program.

Nonetheless, we know with reasonable certainty the types of offsets that will arise as an incident to increased affordability through a discount such as that offered by DWSD. DWSD will experience a decrease in bad debt expense (and, even if the bad debt does not decrease, the bad debt already embedded in rates would need to be offset against the revenue lost to the discount). DWSD will experience a decrease in the frequency, size and age of arrears, each of which will have an independent effect on reducing working capital. DWSD will experience decreased credit and collection expenses as well as more constant revenues due to a reduced loss of customers as a result of nonpayment. Each of these savings, while not quantifiable for this proceeding due to the unavailability of data, would offset the lost revenue associated with the discount.

The observation that rate schedules, themselves, can in fact improve collections and generate a range of savings to the utility offering the rate has been confirmed by impact evaluations of other rates. For example, the impact evaluation of the Columbia Gas Company (Pennsylvania) Customer Assistance Program (CAP) found that the company's CAP customers had 61% fewer disputes, 53% fewer *new* payment agreements, and 67% fewer credit hold requests. In addition, the Columbia Gas impact evaluation found further that, for CAP customers, cancellation of payment plans was reduced by 69%, termination notices declined by 48%, and shutoff orders were printed 74% less often.[13]

National Fuel Gas Distribution Company (New York) found similar results. NFG operates what it calls its Low-Income Rate Assistance (LIRA) program.[14] The impact evaluation of the NFG program developed a mathematical model for calculating whether the program was cost-beneficial to the company (and thus to nonparticipants). The impact evaluation refers to the fact that "the cost effectiveness model measured cash in-flows and out-flows with and without the LIRA program over time." The impact evaluation stated further that: "cash flows were computed using collected revenue, billed revenue, collection expenses, and carrying charges for both the participants and the nonparticipants."

According to the National Fuel Gas evaluation: "Several indices were selected as robust measures of the impact of the program. These included change in the number of payments made, change in the percentage of bill paid, change in the amount paid, change in the number of disconnections, and change in the amount of outside aid received by participants. . .The program has been successful in moving most of the indices in the *right* direction." (emphasis in original). The impact evaluation reported the following "list of changes in the right direction":

- The number of payments made by the participants increased by 30% (an average of 2.2 payments per participant);
- The percentage of the bill paid per participant increased by 10%;
- The number of service disconnections decreased by "slightly over 80%."

[13] ***Final Pilot Evaluation, Columbia Gas (PA) Customer Assistance Program (CAP)***, at 13, A&C Enercom Inc. (November 1996).
[14] ***National Fuel Gas (PA) Low-Income Rate Assistance (LIRA) Program***. Barakat & Chamberlin (March 1999).

The Clark County (Washington) Public Utility District offers its low-income customers an income-based rate. According to the Clark County PUD, its discount rate reduced delinquencies for program participants up to 74% .

Finally, Niagara-Mohawk Power Company (New York) also offers its low-income customers a rate discount program. According to the evaluation of the Niagara-Mohawk program, program participants almost doubled the total number of payments to the utility during the post-treatment period compared to the pre-treatment period while untreated low-income customers "actually decreased the number of payments made." [15]

Despite the reasonable expectation that these cost savings will arise, this proposal does not take them into account in this rate proceeding. Instead, these cost savings, to the extent that they occur, will be captured in DWSD's next base rate proceeding. Because of the difficulty in isolating these savings, and in quantifying them in this proceeding, due to the unavailability of data, this proposal acknowledges that such savings will arise on a policy level, but allows DWSD to keep whatever savings might accrue from the program as an incentive to fully and aggressively implement the proposed rate affordability program. At the time of the next base rate case, the savings will be captured in a lower revenue requirement than would otherwise exist, and will be passed on to all ratepayers.

[15] Harrigan, M. (1992). ***Evaluating the Benefits of Comprehensive Energy Management for Low-Income, Payment-Troubled Customers***, at 47 – 48, Alliance to Save Energy: Washington D.C.

PART 4: BASIC CONSUMER PROTECTIONS

This section of the narrative outlines proposed consumer protections to mitigate the disproportionately adverse impacts that certain DWSD collection practices impose on low-income customers. The proposed consumer protections do not detract from the effectiveness of DWSD collections. The section examines three specific collection practices:

- The imposition of late payment fees;
- The issuance of notices of the disconnection of service for nonpayment; and
- The negotiation of deferred payment plans for arrears.

Each of these will be examined in more detail below.

LATE PAYMENT CHARGES

DWSD imposes a late payment fee that disproportionately (and adversely) affects low-income customers and which explicitly lacks any cost basis. DWSD imposes a monthly late fee of 5%. This fee disproportionately and adversely affects low-income customers. Not only do higher proportions of low-income customers (compared to all customers) incur arrears (against which a late fee will be charged), but the level of arrears incurred by low-income customers is higher as well. These arrears are largely due to an inability-to-pay rather than to conscious choices to pay other bills prior to paying DWSD bills. Increased bills attributable to high prices are associated with increases in low-income payment troubles.

The Level of the Late Fee Relative to Its Purpose

The primary purpose of a utility late payment charge is to compensate the utility for expenses associated with delinquent payments. A customer's delinquent payment of her utility bill can result in two types of expenses to the company. The utility may first experience out-of-pocket collection expenses. A second expense involves the carrying charge associated with delinquent payments. A utility is entitled to compensation for each.

Late payments by utility customers can create out-of-pocket collection expenses for the utility. These expenses might include, for example, the postage associated with delivering reminder notices or shutoff notices, the costs of telephone calls to make "personal contact" prior to a shutoff, and the cost of fuel used in making a premise visit to disconnect service.[16]

[16] Some portion of collection costs, of course, are reimbursed to DWSD through the imposition of tariffed collection fees.

A late payment charge designed to compensate a utility for out-of-pocket collection expenses should be based on the decremental cost of collection to the utility. In this fashion, the utility will be compensated for those costs, but only for those costs, that are incurred as a result of the late payment. A decremental cost is the cost that the utility would save should one late payment instead be made in a timely fashion. Use of a decremental cost analysis is necessary to prevent a double compensation to the utility. Without a decremental cost analysis, DWSD would collect its costs first through its base rates and then again through the penalty and/or late payment charge.

In this case, since DWSD uses existing staff for collection, the late payment imposes no decremental cost to the utility. Paying the staff salary in this instance is not caused by the need to engage in collection activity. If collection efforts were not required, this customer service staff would be assigned other company responsibilities. The number of staff, as well as the financial resources committed to this staff, are not driven by the amount of collection effort in any sense. As a result, the late payment charge should include only the truly decremental expenses: items such as postage, envelopes and the like.

DWSD overcharges its late payment charges, also, by imposing such charges prematurely. Given the fact that late payment charges are intended only to compensate for out-of-pocket expenses, the imposition of such a charge must be triggered by some event that also triggers the incurrence of the expenses. DWSD has set a past due date of the 30th day after a bill is rendered, with a penalty and interest charge levied for all unpaid amounts outstanding after that date. With DWSD, however, no collection activity begins at the time the bill first becomes overdue. Customers making payments during that interim period (between the time a bill becomes past due and the time collection activities begin) are paying compensation for collection expenses that were never incurred.

This realization --that payments must be overdue by some time before the utility begins its collection process and thus before the utility begins to incur expenses --is particularly important to ensure that households who pay late, but who do not have collection activities directed against them, are not discriminated against. Discrimination would exist if a late payment fee were imposed on the day after the due date, failing to recognize that collection activity is not initiated until some later date.

In addition to timing, DWSD effectively has a minimum arrears below which it will not begin any collection activity. DWSD begins its collection process with the largest bills first. The smaller bills are not made subject to collection interventions. In such an instance, charging the penalty and interest charges immediately after the bill payment due date charges the customer for expenses DWSD has not yet incurred.

The Level of the Late Fee Relative to Costs

A second cost component that a utility is entitled to collect through its late payment fee is the carrying cost of money. There will be a carrying cost irrespective of whether DWSD has to borrow money as a result of the unpaid bills. If DWSD borrows money, the interest charge will be necessary to generate dollars to pay the interest expense. Even if there is no borrowing, the failure to pay will generate an opportunity cost for DWSD. If DWSD *had* collected the money and not needed to use it immediately to pay expenses, it would have invested that money and received a return on it. The nonpayment thus generates a foregone return.

There are several items that are *not* appropriate to place into a late fee charged on unpaid bills, however. Administrative overhead costs do not go into the late payment charge. These costs are not caused by the late payment; in addition, they have already been collected through base rates. The late payment charge is not to be a profit center or revenue-raising measure. Like other municipal administrative fees, it is to compensate DWSD for actual costs and not to be a de facto tax.

In this respect, a comparison of the interest rate to consumer credit interest rates is inappropriate. It is important to recognize that a late payment fee is ***not*** the equivalent of interest charged in consumer credit transactions. A consumer credit interest rate has cost components that may not be included in a utility late payment late fee. Overhead and depreciation costs, for example, would be included in a commercial interest rate. Those DWSD costs, on the other hand, are already included in base rates. While an interest rate for consumer credit transactions will include a component for uncollectibles, to the extent that DWSD has uncollectibles, those expenses are already included in the bill subject to collection.

The maximum carrying cost of money for a municipal utility such as DWSD will be the short-term borrowing rate incurred by the utility. DWSD has not incurred long-term debt to cover unpaid bills by municipal water customers. A long-term interest rate would thus be an inappropriate measure for an interest charge.

The annual cost of short-term borrowing is likely to range between 2.2% to 2.7% in today's environment. This figure represents the interest rate charged on short-term Treasury bills as reported in the Federal Reserve Board's (January 3, 2005) H15 report. The addition of a reasonable premium (calculated in terms of basis points) would provide adequate compensation for out-of-pocket credit and collection expenses. DWSD annual late payment charges above 6% (0.5% per month) are excessive under these circumstances.

What the non-cost-based late fee <u>*really*</u> does is to generate a stream of revenue by charging low-income customers *more* than it costs to serve them. After charging such a fee, DWSD then takes that money and redistributes it to non-low-income customers by using that money to lower rates on a per unit of commodity basis. The revenue generated by the DWSD late fee, in other words, simply flows into general revenues. Since there are more non-low-income customers than low-income customers, and since those non-low-income customers have higher consumption than do low-income customers, the dollars that have been disproportionately *contributed* by low-income customers will be primarily *returned* to non-low-income customers in the form of reduced rates.

This redistribution is simply exacerbated by the efforts by DWSD to increasingly isolate specific components of the collection process and to charge a separate fee for each collection activity rather than to have the late fee pay for the costs of the late payment. Low-income customers, therefore, who are disproportionately payment troubled thus not only pay the explicitly non-cost-based late fee, but pay the other specific collection fees as well.

The Level of the Late Fee Relative to Incentives

Since low-income customers are substantially more likely to have arrears, and their arrears are likely to be higher than non-low-income customers, low-income customers pay a disproportionate amount of the DWSD late fees. In addition, the policy basis for the lack of cost-basis for the late fee rate was to make utility bill late fees competitive with credit card interest rates so that there would be no incentive for customers to pay their credit cards prior to paying their utility bills. Whatever relationship might have once existed between the late payment fee and credit card interest rates, however, no longer exists.

It comes as no surprise that interest rates in today's economy are hitting historical lows. One additional phenomenon that corresponds to this downward plunge in interest rates is the downward trend in credit card interest rates as well. As of December 2004, the average interest rates on credit card debt were less than 13%.[17] As of that date, it was not difficult to obtain annual credit card interest rates at 10% or below. Despite this decrease in the interest rates with which late payment charges were purportedly designed to compete, the non-cost-based DWSD late payment charges has remained at their previous levels. Whatever policy basis supported the level of the late fee in the past simply no longer exists.

The Disproportionate Impact on Low-Income Customers

This late payment fee disproportionately and adversely affects low-income customers. The basis for reaching this conclusion largely rests with information generated in the energy utility industry. While the notion that payment-troubled customers are disproportionately low-income is commonly accepted conventional wisdom,[18] remarkably little empirical data has been collected to verify or to challenge that conventional wisdom. National data reported by the U.S. Census Bureau indicates that the proportion of households in arrears at any given point in time is substantially higher for the low-income population than for the population as a whole. One 1995 census study, for example, reported that while 9.8% of non-poor families could not pay their

[17]Federal Reserve Board Release G19 (December 7, 2004). Remember, too, that carrying a credit card balance is not an indicator of payment-troubles.

[18] This is not to say that all low-income customers are payment-troubled, nor that all payment-troubled customers are low-income. It is merely to say that low-income customers are disproportionately payment-troubled.

utility bills in full, 32.4% of poor families could not do so. According to the Census Bureau, while 1.8% of non-poor families had their electric and/or natural gas service disconnected for nonpayment, 8.5% of poor families suffered this same deprivation.[19]

Moreover, late payment fees disproportionately affect low-income customers in that these customers do not gain the incentive provided through high fees. The argument often posited in support of high late payment fees is that such fees are necessary to serve as a disincentive for customers paying their credit card bills prior to paying their utility bills. Even accepting this incentive function as a legitimate policy reason to impose non-cost-based late payment fees, the incentive function bears little relationship to the finances of low-income customers.

In January 2003, staff of the Federal Reserve Board (FRB) published its analysis of consumer finances based on the FRB's 2001 Survey of Consumer Finances.[20] According to this FRB staff analysis, few low-income customers have credit cards and fewer still carry credit card balances. The FRB reports that while 44.4% of all households hold a credit card balance, only 30.3% of households in the bottom 20% of income (the bottom quintile) do. This stands in sharp contrast to the proportion of households in the second through fourth quintiles of income (between 50% and 60% of whom hold credit card debt).

This data simply cannot be reconciled with the impact of late fees on low-income customers. These low-income customers are charged a non-cost-based late fee to have those fees be competitive with credit card debt that they do not hold on credit cards that they do not own.

Late Fee Proposal

Late fees should be waived for identified low-income customers. Low-income customers can be identified through the "adjunctive eligibility" process discussed in detail above. Moreover, low-income customers documenting their participation in any one of the following programs should be exempted from late charges:

- The Low-Income Home Energy Assistance Program (LIHEAP);
- The telecommunications Lifeline program;
- The federal free and reduced school breakfast/lunch program;
- Temporary Assistance to Needy Families (TANF);
- Medicaid;
- Food Stamps;
- Supplemental Security Income (SSI);
- Public or subsidized housing (e.g., Section 8);
- Supplemental nutrition program for Women, Infants and Children (WIC); or
- Pharmaceutical Assistance to the Aged and Disabled (PAAD).

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[19] U.S. Census Bureau, ***Extended Measures of Well-Being: 1992***, P70-50RV (November 1995).
[20] Ana Aizcorbe, et al. (January 2003). "Recent Changes in U.S. Family Finances: Evidence from the 1998 and 2001 Survey of Consumer Finances," Federal Reserve Bulletin (January 2003).

A specific determination of income would not be needed to implement the late fee waiver. Documentation of the customer's participation in one of the adjunctive eligibility programs should be sufficient to permit enrollment in the late fee waiver.

DISCONNECT NOTICES

As with any other business, DWSD has the right to expect the bills rendered for its services to be paid. However, also as with any other business, DWSD must operate under limits on how it can seek to collect its unpaid bills. Designated credit and collection practices, because of their unfair and/or deceptive nature, have been found to constitute inappropriate collection practices. Placing limits on these practices does not deny either the existence or the legitimacy of the underlying debt. It merely recognizes that the interest of the vendor in collecting its bills is outweighed by the interest of the customer in being free of unfair and oppressive collection tactics.

For DWSD, the disconnection of service for nonpayment, along with the issuance of notices associated with such service terminations, should be governed by these same principles. The following three recommendations flow from this discussion.

Notices with no Present Intent to Disconnect

Proposed Language

DWSD shall not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited. Notice of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures set forth in DWSD regulations, unless the ratepayer or occupant remedies the situation which gave rise to the enforcement efforts of the utility.

It is common for DWSD to send out shutoff notices when it has no intent to terminate service. DWSD's *Interim Collection Rules and Procedures* provide that a "water shut off—final notice" "will be issued when an account is unpaid thirty-two (32) days after the billing date." (Rule 6(2)(b)).

Either DWSD does not have the staff to effectuate a service discontinuance for each customer receiving a notice of discontinuance or DWSD finds that it is not cost-effective to discontinue service for customers with arrears that are either less than some internally established "treatment amount" or younger than some internally-prescribed threshold.

Most states have labeled actions by debt collectors which involve threatening specified collection activity in the absence of a present intent to undertake the activity an unfair and deceptive act or practice. In these states, such an action would violate state consumer credit laws. It is desirable, nonetheless, to explicitly acknowledge this prohibition.

Aside from the unlawful nature of threatening collection activities when no present intent exists to engage in those activities, the provision of a notice of a service discontinuance when there is no present intent to engage in the discontinuance is counterproductive to the entire purpose of notice with which to begin. One purpose of a notice is to provide a clear and believable warning that a service termination is about to occur. In response to such a notice, the customer must either take the steps necessary to prevent the service termination or take those steps needed to protect himself or herself against the dangers to life, health and property that might result from the loss of service.

It should be noted that providing notice of a pending discontinuance of service, when in fact such discontinuance is not imminent or intended, can be destructive to a customer's life, health and property. This is particularly true for low-income consumers. One study by the Iowa Department of Human Rights (the Iowa LIHEAP agency), for example, found that, with energy bills, Iowa LIHEAP recipients go to extraordinary lengths to pay unaffordable bills.[21] The Iowa study found, for example, that:

- More than 12% of the more than 3,000 Iowa survey respondents reported going without food for at least one meal a week to try to save enough money to pay their utility bills.

- More than 20% reported going without medical care, by either not filling prescriptions, taking prescription medicines in lower than prescribed doses, or by skipping or postponing doctor's appointments in order to save money to pay for utility bills.

- Nearly 10% reported not making their rent or mortgage payments in order to pay their home heating bills.

The presence of these responses to threatened loss of service was confirmed by research completed in June 2004 with respect to Missouri low-income households,[22] as well as by national research completed in April 2004 for the National Energy Assistance Directors Association (NEADA).[23] Low-income customers should not be forced into making these decisions by threats of non-existent collection actions.

Aside from the social cost of empty collection threats, there is a business cost as well. A study by the New York Public Service Commission staff, for example, reported that:

> The effectiveness of Final Termination Notices as a means to encourage payments or to make payment arrangements prior to field action has deteriorated. The rate of customer non-responses to Final Termination

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[21] Joyce Mercier, Cletus Mercier and Susan Collins (June 2000). ***Iowa's Cold Winters: LIHEAP Recipients' Perspective***, Iowa Department of Human Rights: Des Moines (IA).
[22] Roger Colton (June 2004). ***Paid but Unaffordable: The Consequences of Energy Poverty in Missouri***, National Low-Income Energy Consortium: Washington D.C.
[23] Apprise, Inc. (April 2004). ***National Energy Assistance Survey: Final Report***, National Energy Assistance Directors Association: Washington D.C.

> Notices has increased from 33% in 1983 to 46% in 1987. This may result in part from customer perception that utilities threaten to terminate service, but rarely do. In 1983, 16% of the customers who did not make arrangements on their arrears in response to a termination notice had their service terminated; in 1987, only 9% of those customers had their service terminated.[24]

For both these business and social reasons, as well as because it is in violation of consumer credit law in any event, the proposed language makes clear that sending a notice of a pending service termination when there is no present intent to undertake that termination is prohibited.

Time Limit on Efficacy of Shutoff Notices

Proposed Language

A written notice of service termination for nonpayment shall become void if DWSD has not disconnected service within 15 days of the date indicated on the notice for termination. If termination of service is not accomplished within 15 days following the final notice required before a service discontinuance, DWSD shall follow the same procedures for providing new notice.

As discussed above, a notice of discontinuance serves several different functions. As time passes subsequent to the initial issuance of the notice, the efficacy of the notice deteriorates. This recommendation recognizes that at some point after a final notice of discontinuance is issued, if no service termination action has occurred, the purpose of the notice is no longer served. Under these circumstances, a new notice must be issued. Since the passage of time makes the initial notice void, it is as though the initial notice had not been issued in the first place. Accordingly, the new notice must be issued using the same procedures as the initial notice.

[24] David Sawyer and Phillip Teumin, ***Gas and Power Utility Uncollectibles and Collection Activity***, A Report by the consumers Services Division of the New York State Public Service Commission.

Limits on Shutoff Notices Not Acted Upon

<u>Proposed Language</u>

DWSD shall not make a practice of delivering more than two consecutive notices of discontinuance or past due bills without engaging in the collection identified in the notice.

Through a shutoff notice, a consumer should be provided with the information she needs to quickly and intelligently take available steps to prevent the threatened termination of service. The notice should meet sufficiently stringent standards so as to protect all customers, given that customers are of various levels of education, experience and resources. The notice should be made at a meaningful time and in a meaningful manner. It should present truthful information.

To meet these standards, the notice should contain specific information and meet specific standards. In providing information regarding the pending disconnection, the notice should state the reasons for having the utility seek the termination of service. In addition, to fulfill the notion that the notice be "meaningful," it should give a clear and believable warning that termination is about to occur.

The issuance of notices must be read in light of the purpose of a notice. To meet the requirement that the notice be "meaningful," it must give a clear and believable warning that termination is about to occur. The key word in this formulation is that the notice be "believable." One can, for example, consider the case of *Palmer v. Columbia Gas Co.*, where the utility's notice was invalidated when that utility sent out 120,000 to 140,000 shutoff notices each year while actually disconnecting only 6,000 households.[25]

Like Columbia Gas, by sending repeated disconnect notices, with no collection follow-up, DWSD destroys the message contained by the notice. The recommendation above seeks to prevent this situation.

CURING/RENEGOTIATING DEFERRED PAYMENT PLANS FOR ARREARS

This section proposes greater flexibility in renegotiating and allowing for the "cure" of broken payment plans entered into by low-income customers. While not asking for a change in DWSD regulations, the proposal is closely tied to how *existing* regulations relating to the negotiation of Payment Plan Agreements (PPAs) are construed and applied.

In negotiating a PPA with a customer that is "unable to pay the bill in full," pursuant to the *Interim Rules*, "DWSD will consider the following factors. . .(b) ability to pay."

[25] 342 F.Supp. 241, 242 - 243 (N.D.Ohio 1972)

Having negotiated such a plan, however, DWSD has considerable flexibility to make the plan "work" or not if PPA payment terms are breached.

DWSD's *Interim Collection Rules and Procedures* provide that DWSD may, after notice, disconnect service for "failure to comply with the terms and conditions on a [Payment Plan Agreement]." (Rule 24(1)(e)). DWSD states that "DWSD will shut off service provided that the terms of a PPA are not met by the customer." (Rule 27(6)). DWSD regulations state that "DWSD is not required to offer a PPA more than once for the same billing charges." (Rule 28(2)).

The *Interim Regulations* are enabling in nature rather than mandatory. The Regulations provide that DWSD *may* disconnect service for failure to comply with the terms of a PPA (but does not require such a service disconnection). The *Interim Regulations* further provide that DWSD is not *required* to enter into a second PPA for the same billing charges, but neither do the rules *prohibit* such a second (or renegotiated) PPA.

Three recommendations are advanced with respect to the renegotiation of PPAs with low-income customers.

- If a customer's economic or financial circumstances change during the effective period of a deferred payment agreement, and not more than 14 days has elapsed since the customer defaulted on the deferred payment agreement, DWSD shall be obliged if the customer so requests, to renegotiate the terms and conditions of the deferred payment agreement, taking into consideration the changed economic and financial circumstances substantiated by the customer. The reinstatement of a previously defaulted deferred payment agreement shall not prevent the renegotiation of a deferred payment agreement.

- If a customer defaults on a deferred payment agreement but has not yet had service discontinued by DWSD, DWSD shall permit such customer to be reinstated on the deferred payment agreement if the customer pays in full the amounts which should have been paid up to that date pursuant to the original payment agreement (including any amounts for current usage which have become past due).

- An installment payment plan agreement shall consist of regular monthly installments. The terms shall be extended if, and to the extent necessary, to ensure that average monthly installment payments toward the arrears do not exceed a one-month average bill for current consumption.

The Basis for the PPA Recommendations

These proposals prevent DWSD from falling into the classic error of equating the term "ability to pay" of a customer with the "income" of a customer. The need to avoid this error was explained in a study performed for the National Fuel Funds Network (NFFN) in

2002.[26] That study examined reasonable payment plan practices for working poor households in particular.

That NFFN study reported that 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."[27] The phrase "ability to pay," however, is often treated as being synonymous with "level of income." If a household's income is sufficiently high, 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 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 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."[28] One major barrier to savings and asset accumulation by working poor households involves their "irregular incomes."[29] 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.[30] 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.[31]

[26] National Fuel Funds Network (March 2002). ***A Fragile Income: Deferred Payment Plans and the Ability to Pay of Working Poor Utility Customers***, National Fuel Funds Network: Washington D.C.
[27] *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).
[28] Dianne Lazear (September 1999). ***Implementation and Outcomes of an Individual Development Account Project***, at 12, Center for Social Development, Washington University: Saint Louis (MO).
[29] S*ee 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.
[30] 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.
[31] 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.

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. Even aside from the level of wages,[32] the presence of hourly wages and unpredictable hours mark occupations that are the province of the working poor.[33]

The NFFN study finally reported 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 that are 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 quartile are more likely than other workers to lack *both* sick leave *and* vacation leave.

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.

One of the primary recommendations of the NFFN report was to avoid the one-strike-you're-out payment plan structures allowed by DWSD's *Interim Regulations*.

Finally, the third recommendation above, which is allowed but not mandated by existing DWSD regulations, and is certainly consistent with existing DWSD regulations, eliminates any *requirement* that payments be made in "equal" installments. The change *allows* for equal monthly installments, but does not require that installment payments be in equal amounts. While a customer should be required to make *some* payment each month (and is required to do so under the proposed language), DWSD and the customer have the option to negotiate a payment agreement to match the customer's anticipated income and expenses, even if the amount of the arrears payment may vary by month.

In addition, the proposed language caps monthly installment payments toward arrears at a level equal to a one-month average bill for current consumption. Keeping total bills at an affordable level increases the likelihood that the bill will be paid and the installment payment agreement will be maintained. If an arrears is large enough that its retirement would require a payment in excess of a one month average bill, there has not only been nonpayment by the customer, but non-collection by DWSD. The burdens of such non-action on the part of each party to the transaction should be shared in such instances.

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[32] 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).
[33] 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.

This approach is certainly consistent with the DWSD regulation providing that DWSD may shut off service for nonpayment of a delinquent balance “provided that DWSD has notified the customer of the delinquency and made diligent effort to have the customer pay the outstanding or delinquent balance, either in whole or through a reasonable PPA.” (Rule 24(1)(a)).

PART 5: INNOVATIONS IN COLLECTION FOR ABILITY-TO-PAY

In addition to the rate affordability program and consumer protections proposed above, the narrative discussion in this section proposes a series of four collection initiatives designed to improve both the effectiveness and the efficiency of DWSD efforts to collect past due bills. The collection initiatives described below are directed toward customers identified as having an income in excess of 175% of the Federal Poverty Level. Customers with lower incomes should be participating in the rate affordability program. The four initiatives described below are designed to ensure that customers enter into agreements to pay past due bills, as well as to ensure that those agreements are successfully completed once entered into.

The discussion below proposes the following four collection initiatives to be adopted in conjunction with the rate affordability program advanced above.

- The increased use of electronic funds transfer protocols for payment plans by ability-to-pay customers;
- The increased use of receiverships for rental housing;
- The increased use of cross-servicing of non-residential accounts amongst municipal departments; and
- The increased use of cross-servicing of residential accounts amongst municipal departments.

Each of these proposals will be described in greater detail below.

INCREASED USE OF ELECTRONIC FUNDS TRANSFER.

DWSD should position itself to use e-commerce technology to help improve payment outcomes amongst that group of customers having an ability to pay. Electronic Funds Transfer (EFT) systems are widely used by various commercial institutions to receive and transfer money. Institutions ranging from banks to credit unions to insurance and mortgage companies –as well as public utilities—use EFT both to make payments and to collect payments from their consumers. Not only does EFT result in lower transaction costs (such as processing and mailing), it has been found to be useful in reducing delinquencies and defaults.

The Use of EFT to Collect Delinquent Payments

The EFT process has been specifically used as a mechanism through which to collect delinquent bills. For example, Minnesota and California changed their installment agreement programs for delinquent taxes to promote tax payments by EFT. Minnesota has required taxpayers entering into new installment agreements since July 1995 to pay by EFT. In April 1997, California initiated procedures to let taxpayers make installment agreement payments by EFT. As of mid-November 1997, EFT usage was about 90 percent in Minnesota and about 60 percent in California.

Both Minnesota and California have seen a sharp decrease in their installment agreement default rates, in part due to EFT, according to state officials. In Minnesota, officials said that default rates were reduced from about 50 percent to between three and five percent. In California, officials said that default rates were reduced from about 40 percent to about five percent. Officials in both states have said that the lower default rates have resulted in collecting revenues from installments *faster* as well.

EFT transactions involve the paperless transfer of funds between accounts in financial institutions, which allows for transactions such as the direct deposit of payroll checks, mortgage payments, and installment payments. In today's technology-rich environment, nearly every financial institution can both make and receive EFT transactions.

Because of the advantages that EFT payments offer to the commercial institutions, most institutions provide incentives for customers to make their current bill payments electronically. States such as Minnesota and California, however, *require* persons who owe back taxes, and who enter into installment agreements through which to pay those taxes, to make those installment payments through EFT transfers (with some exceptions). One exception in Minnesota, for example, is for taxpayers who do not have bank accounts. A bank account is necessary for an electronic transaction to occur. In addition, in Minnesota, payment agreements of fewer than four months in duration can be exempt from the EFT requirement.

So, too, does California require taxpayers who enter into installment agreements to pay their installments through EFT. Like Minnesota, California allows exceptions, including for taxpayers who do not have bank accounts, taxpayers for whom an EFT transaction would represent a particular hardship, or tax liabilities that are small in nature. By the end of the first six months of the program, 60% of the agreements, and 90% of the value of outstanding taxes subject to new installment agreements, were arranged as EFT transactions.

How an EFT Payment Plan would Work

The proposal here is for DWSD to make EFT agreements a precondition of deferred payment plans, with hardship exceptions akin to those promulgated by the Minnesota and California tax agencies. Agreements that would impose undue hardship, low-income agreements, agreements with customers lacking checking accounts, and agreements for arrears that are below designated threshold limits (to be determined by DWSD), could be exempt.

An EFT payment agreement for DWSD arrears would likely be arranged as an ACH debit transaction. In such a transaction, the DWSD's financial institution would originate the transaction by sending a request for funds to the customer's financial institution. The customer's financial institution then transfers the funds in order to settle the transaction. ACH transactions generally settle the next day after they are originated. Settlement means that the funds are actually transferred and made available to the requesting institution.

DWSD would need a prior authorization from the customer to make the payment request each month. However, the payment agreement entered into with the customer could contain the prior authorization needed for DWSD to make such a direct call on the customer's funds. DWSD would not be required to gain customer approval in each subsequent month.

The Rationale for an EFT Payment Plan System

Through a deferred payment agreement, the customer is agreeing to make monthly payments toward an arrears in any event. The e-commerce aspect of the agreement merely reduces costs as well as the possibility that the customer will breach the agreement.

The Proposal for an EFT Payment Plan System

This narrative recommends the mandatory use of an EFT payment process for all Payment Plan Agreements with customers having incomes exceeding 175% of the Federal Poverty Level subject to hardship exceptions as discussed above.

LANDLORD RECEIVERSHIPS

DWSD should take advantage of its ability to use receiverships as a means to collect overdue landlord utility bills. Receivership can be sought in any situation that involves rental units in which the units are not individually metered. When a landlord is in arrears in his/her utility payments, the affected utility has the right to petition the court in the county in which the leased premises are located to appoint a receiver to collect rent payments otherwise due the landlord ratepayer directly from the tenants and to pay all overdue and subsequent utility bills therefrom.

The Use of Receiverships

A receivership has multiple powers. The receiver has not only the *power*, but the *duty* to:

- collect all rents directly from the tenants;

- pay the utility bills equal to the amount due for periods prior to the tenant receiving notice of the appointment of the receiver and all future bills as they become due;

- after payment of those amounts, any excess moneys shall be applied pursuant to further order of the court; and

- return the remainder to the landlord ratepayer, less the costs of the notification made to the tenants, plus an administrative fee.

The receiver may continue to collect the rents and make disbursements as outlined above until: (1) the landlord ratepayer deposits in escrow with the utility a sum equal to the utility charges from the two highest monthly periods in the preceding 12 months; and (2) the landlord ratepayer demonstrates to the satisfaction of the court that it has the financial resources necessary to resume its obligations to the utility and the tenants.[34] The cost to DWSD of initiating receivership proceedings can be passed on to customers through a tariffed charge, just like the cost of obtaining a lien.

Seeking a receivership is not difficult. Petitions for a receiver can be standardized. Moreover, courts have held that the utility is entitled to a hearing on its petition. At such a hearing, the only issue is whether the landlord owes the money that the utility alleges to be due. In states where these receivership statutes are routinely used, most such hearings, to the extent that they are contested at all, result in a consent decree in which a payment plan is agreed upon with the receivership becoming automatically effective only in the event of a default upon the payment plan.

Precedent for the Use of Receiverships

There is precedent for the use of receiverships to collect unpaid utility bills owed to a municipal water utility. Several states have similar statutes. Most notably, the jurisdictions of Connecticut, Washington D.C. and New York all have statutes that are used by local utilities.

The process used by the South Central Connecticut Regional Water Authority, which has historically used receiverships to collect on delinquent landlord utility bills, is illustrative of how the process works. Indeed, according to personnel at that company, the water company seeks from five to seven receiverships each week. Most of those customers for whom receiverships are sought involve single metered multi-unit buildings. The Regional Water Authority seeks a receivership whenever arrears reach a minimum of $500. In addition to collecting the arrears, the Authority charges the $100 court filing fee, the sheriff's cost of $38, and attorney's fees.

[34] In the event more than one utility company is affected by any landlord ratepayers' failure to pay utility bills, the court shall appoint the same receiver to function for all aggrieved utilities.

CROSS-SERVICING ACCOUNTS

This section considers how to get DWSD customers to pay their arrears, or to enter into reasonable deferred payment plans, before bills become substantially behind. A subsidiary question involves how to motivate nonpaying customers without resort to the disconnection of service. Service termination is expensive, as well as often ineffective or even counter-productive, as a collection device. One general approach that is available to DWSD (acting through itself and the City of Detroit) is the suspension of some benefit or service which the City would otherwise provide to the customer.

Residential Cross-Servicing: City Permits

In implementing this alternative to shutoffs, the collection process should involve the suspension of services that the City (rather than DWSD) would otherwise provide to consumers. In an urban setting such as Detroit, one such service might be the issuance of *Resident Only* parking permits. While outstanding permits could not practically be confiscated, a list of permits to withhold could be periodically issued. If an individual's name appeared on such a list, in order for that person to renew a permit, he or she would be required to document that his or her most recent DWSD bill was free of arrears.

The impact of a resident permit program would be two-fold. First, parking permits are prized possessions. The mere denial of the permit may be sufficient to bring revenue into DWSD. It lets the City "terminate service" without having adverse financial consequences to DWSD and without creating the life-threatening consequences of the loss of utility service. Second, and just as importantly, the lack of a resident parking permit may easily create an economic incentive for customers to retire DWSD arrears. Parking fines for parking in *Resident Only* zones without a current permit, may quickly become more expensive to pay than would paying the underlying DWSD arrears.

The key to the use of a parking permit program lies in its marketing. The message to convey is "do you want to disrupt your life by losing your parking permit over a 90-day arrears on your water/sewer bill?" Someone who owes a $1,000 bill may well say "I'll take my chance on getting a $50 ticket (or a series of $50 tickets)," while someone who owes $350 would not.

Detroit should use its status as a municipal utility to greater effect with respect to its collection efforts. The cross-servicing of DWSD accounts with other municipal offices should offer substantial collection advantage to a municipal utility such as DWSD.

Non-Residential Cross-Servicing: License and Permit Conditions

Finally, Detroit should take advantage of its power to condition the grant of permits and licenses upon the payment of past due water bills. Such an effort would require cooperation between DWSD and the City's department charged with issuing licenses and performing inspections. Once a system has been developed, however, the cooperation should not be difficult.

Under such an initiative, DWSD would generate a list of all arrears exceeding a predetermined amount. DWSD would make this list available, either in hard copy or on computer disk, to each City department, commission, board, agency or other administrator that has the authority to grant municipal licenses and permits. Upon application for such a license or permit, the administrating body would determine whether the applicant for the permit had an outstanding water bill of sufficient size and duration to merit placement by DWSD on this list. If such an arrears existed, the burden would be placed on the applicant to demonstrate that the arrears had been satisfied prior to the grant of the license or permit.

In deciding upon what types of permits and/or licenses to make subject to the payment of past due water bills, there must be some rational relationship between the withholding of the permit or license and the nonpayment of a water bill. Such a relationship could be found between nonpayment of the water bill and the following local licenses or permits: (a) the grant of a license for a public eating place; (b) the grant of a license for a lodging house; (c) the grant of a liquor permit; (d) the grant of a permit for a mobile home park; and (e) the grant of a certificate of habitability for rental properties.

Moreover, it is reasonable for the City to make payment of outstanding water bills a precondition for satisfying any "license tax for revenue purposes" enacted by the City.

This proposal creates an active cross-servicing collection process for DWSD. Before any entity could obtain a license or permit from the City, that person would be required to ensure that past water bills are paid. While a person or entity could, perhaps, choose *not* to obtain necessary licenses or permits, or *not* to pay other city-imposed taxes, there are established enforcement schemes to handle such transgressions of law.

Other cities use this or similar actions as a collection practice. For example, the City of Dayton, Ohio predicates the grant of certain city licenses and permits on payment of all unpaid water bills. The City of Boston, Massachusetts predicates renewal of auto registrations on the payment of all outstanding parking tickets. The City of San Diego predicates the extension of driver's licenses and auto registrations on the payment of all outstanding auto liabilities to the City.

To operationalize this procedure, DWSD would be required to provide all relevant City agencies and departments with an annual listing (either in hard copy or on computer disk) of water/sewer accounts for which an arrears of the designated amount exists. DWSD would not update this list within the year. If a customer's name appears on the list, it would become the obligation of the customer to demonstrate that the arrears has been paid. It would *not* be the obligation of DWSD to constantly compare bills to payments and to provide an updated list within the year.

PART 6: SUMMARY

Unaffordable water/sewer bills pose substantial problems to low-income Detroit residents. Not only do unaffordable bills impede the ability of low-income customers to make their water/sewer payments, but such bills also impose substantial physical, emotional and social hardships even on low-income customers that make their payments.

Beyond the impacts on low-income customers, water/sewer bills that are unaffordable to low-income Detroit residents pose a business problem for the Detroit Water and Sewerage Department (DWSD). Increased financial costs to the DWSD result from increased credit and collection expenses arising from the need to "chase" bill payments; increased working capital expenses associated with higher arrears, and increased bad debt/uncollectible expenses associated with long-term nonpayment.

This proposal contains three sets of recommendations to address these social and business problems associated with the unaffordability of water/sewer bills. The proposal recommends:

- Adoption of a rate affordability program, consisting of a rate discount component, an arrearage management component and a water conservation component.

- Adoption of designated fundamental consumer protections involving late fees, service disconnections, and payment plans; and

- Adoption of designated collections initiatives directed toward customers having an ability-to-pay.

The combined effect of these three sets of recommendations will not only be to address the unaffordability problems facing low-income Detroit water/sewer customers, but also to rationalize the overall collections efforts undertaken by DWSD.

Each set of recommendations should be adopted.