STATE OF VERMONT
PUBLIC SERVICE BOARD

MEMORANDUM

To: Electric Affordability Collaborative Participants

From: Deena Frankel, Executive Director

Re: PSB staff draft of affordability legislation

Date: December 15, 2006

A Public Service Board staff draft of the electric affordability bill is posted for comment on Electric Affordability webpage under "legislative proposals."
www.state.vt.us/psb/document/ElectricInitiatives/Act208/Act208Main.htm

This draft has not yet been reviewed and approved by the Board and is being circulated now for any participants who wish to comment at this stage. Any comments received by December 29 will considered by the Board before it adopts a Board draft. The Board will issue its full draft report, including a bill, in early January and, as set out in the memo of October 19, participants will have ten working days to comment on that draft.

The purpose of adding this step – circulating the staff draft – is that there are several proposed components that differ from the AARP and CVPS drafts in the mechanisms they use for achieving certain outcomes. Staff is particularly interested in feedback that will help ensure these components are workable.

The following memo provides an explanation of key differences between the staff comment draft and the CVPS and AARP drafts. Subsection numbers in this document refer to the staff draft and do not necessarily cross-reference to the CVPS and AARP drafts.

Bill title

The title has been changed to more closely track the way the bill actually works, track the language used for low income heating and cooling assistance, and avoid the term "universal service," which has specific meaning in the context of telecommunications.

Deletion of existing language from 30 V.S.A. § 209c

The existing language from 30 V.S.A. § 209c, which required this bill to be drafted, has been added to the draft and shown as strike-out text.

Section (a): Purposes

The purposes section has been modified to focus on three concepts: the recognition of electricity as a basic necessity; the target group stated in terms of electric burden on household income and income qualification; and the importance of conservation and energy efficiency. The proposed inclusion of statements about limiting administrative cost and compensating electric companies are valid design principles for the program, but are not statements of purpose.

Section (b): Definitions

The definition of "administrator" has been eliminated and two new definitions have been added – "fiscal agent" and "program administrator." The fiscal agent is defined as an entity selected by the Board to receive and disburse funds, while the program administrator is identified as the Agency of Human Services. These changes are intended to clearly differentiate the two roles, and to present the legislature with a clear opportunity to discuss the Agency of Human Services' role in the program, since this is not a responsibility that is within the Board's authority to assign, as implied by the participants' drafts.

The definition of "eligible customer" has been modified in several ways. The initial subsection has been modified to make clear that a person who does not have service now but "seeks to establish" residential service is eligible if he or she meets the subsequent conditions. This language is intended to further clarify that persons who are disconnected and might, absent this program, be ineligible to obtain service based on past-due bills, may be eligible to obtain service under this program. Subsection (A) has been modified to make clear that qualification by virtue of enrollment in a means-tested program is limited to those programs with a means test at or below 150 percent of the federal poverty limit.

The definition of "pre-program arrears" has been modified slightly to clarify that all prior overdue residential electric bills owed by the customers constitute pre-program arrears. Previous wording implied that debts other than for electric bills could be included. The language concerning transfer to the customer's account has been deleted as it does not appear to be necessary with the new wording.

"Residential customer" has been redrafted to clearly include persons applying for residential service, as well as those receiving it.

Section (c): Program framework

The original subsection (c)(1) has been deleted as it appears to be partially redundant with section (d), and seeks a commitment to future funding that the Board cannot guarantee within the provisions of the Board's draft, which includes the possibility of a cap on program funding.

Subsection (c)(2) clearly delineates the program implementation role of the Agency of Human Services.

New language has been added to subsection (c)(3) that delineates how utilities will pay gross receipts tax and fuel gross receipts tax on the affordability charge and benefits in order to avoid the utilities paying taxes on the same funds twice. The subsection specifies that the gross receipts taxes will be paid on the funds when received in payment of participant electric bills, but not when collected as the affordability surcharge. This provision will avoid the payment of gross receipts taxes on money that will ultimately be used to fund administrative expenses of the program administrator and fiscal agent.

Subsection (c)(4) requires a tiered discount program with at least two tiers. The draft slightly modifies for clarity the language requiring calculation of an affordable payment without modifying the intent. The mention of arrears forgiveness was deleted from this section as it is addressed later. The language concerning terms for collection activity on pre-program arrears has been eliminated since the draft contemplates total forgiveness of pre-program arrears. The staff has adopted this approach in part because of its administrative simplicity, as well as its effectiveness in giving participants the enhanced likelihood that the program will allow them to stay current with electric bills. As the Board previously indicated its intent to do, the percentage of income to be used for calculating an affordable payment has been left blank. The Board will provide several illustrative funding scenarios to the legislature.

Subsection (c)(5) has been rewritten to state the calculation of benefits in annual terms. A later section, (c)(6) of the draft, makes budget billing mandatory for participants. The intent is to allow a household's monthly usage to fluctuate from the average on which the calculation is based without reducing the total available annual benefit should monthly usage fall below the average in some months, while exceeding it in others. This adjustment will have particular value for customers who have seasonal fluctuations in usage. The provision requiring that any LIHEAP payment be subtracted from the LIEAP payment has been deleted on the assumption that the formula for calculating the affordability benefit includes very little electric heat (since so few Vermont households have electric heat), therefore a seasonal LIHEAP benefit does not duplicate the LIEAP credit for electric service. Eliminating the deduction of the LIHEAP credit amount will also simplify program administration, as CVPS has pointed out. Eliminating reference to seasonal LIHEAP obviates the need to address crisis assistance.

Subsection (c)(6) makes budget billing mandatory, rather than permissive, as discussed above. The language has been simplified to refer only to budget billing (not levelized payment) since Board rules use the term "budget billing."

Subsection (c)(7) defines the pre-program arrears forgiveness program component. Language has been added to enable customers to obtain arrears forgiveness only once <u>within any given utility service territory</u>, but the forgivable arrears remain limited to the

arrears that existed at the time of the customer's first enrollment in LIEAP. This will enable people who move while they are on the program back to a service territory where they owe an electric bill to obtain service. Reference to sunset has been removed. A payment assistance program without an arrears forgiveness of some kind has limited value where arrears make the bill unaffordable regardless of the program benefit. A customer who gets into payment difficulty months or years from program inception should not necessarily be denied the full opportunity the program provides at the time of inception. We are interested in comment on whether other jurisdictions have included sunset provisions in their arrears forgiveness, and, for those that have not, what their experience has been.

In subsection (c)(8) we have accepted the recommendation that, if demand-side management measures are available to the customer that could lower electric usage, the customer must accept these measures as a condition of program participation, unless the customer is a renter and the landlord withholds consent.

Subsection (d): Assistance not counted as income.

Subsection (d) provides a statement of legislative intent that LIEAP not be counted as income for other means-tested programs. In previous proposals, this subsection appeared under the program framework that the Board must implement, although this is not an area of Board authority.

Subsection (f): The affordability charge

The staff draft includes four alternative versions of subsection (f). All versions show the affordability charge separately on the customer bill. The funding alternatives include:

- Volumetric charge apportioned equally among customer classes based on usage.
- Fixed, per-meter charge apportioned unequally across customer classes. (Alternatives for apportionment will be provided to the legislature as illustrative scenarios.)
- Charge based on percentage of utility revenue charged across customer classes.
- Volumetric charge on residential customers and per-meter charge on commercial and industrial customers.

The intent is to provide all four alternatives to the legislature for consideration without a recommendation of preferred alternative.

Subsection (g): Cap on program funding

The draft provides for a cap on total program revenue (and therefore costs), but does not recommend the amount of the cap.

Subsection (h): Data to be maintained by electric distribution companies

The only change to this section is to clarify that the reference to tracking customer contacts and disputes concerns contacts and disputes with LIEAP participants.

Subsection (j): Fiscal agent

This subsection has been added to specifically delineate the process for engaging the fiscal agent and the term of the fiscal agent contract.

Subsection (k): Tracking of funding, benefits and expenses

This subsection has been modified to delineate separate tracking responsibilities for the program administrator and the fiscal agent, and establishes monthly reporting requirements for the fiscal agent, as well as an annual report to the legislature. Reference to performance measurement has been deleted from this section and moved to a separate subsection (o) on evaluation.

Subsection (l): Reimbursement of administrative expenses

This subsection conforms the administrative reimbursement provisions to the responsibilities delineated in the draft.

Subsection (o) : Program evaluation

This is a new subsection that requires and funds an independent, third-party evaluation every two years.

Subsection (q): Applicability of other policies to program recipients

The previous draft provided [in subsection (b)(4)] for the development of special policies related to the collection of pre-program arrears for program participants. The staff draft obviates the need for any special policies by providing for full arrears forgiveness. Subsection (q) provides, threfore, that all billing and collections policies otherwise applicable to residential customers, remain applicable to program participants.