

**STATE OF MAINE**  
**PUBLIC UTILITIES COMMISSION**

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UTILITIES COMMISSION**

**RE: Inquiry Regarding Temporarily  
Expanding Low-Income Assistance  
Plan Eligibility**

**Docket No. 2023-00175**

**COMMENTS OF THE OFFICE OF  
THE PUBLIC ADVOCATE**

**July 27, 2023**

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**Introduction**

On July 11, 2023, Governor Janet Mills signed L.D. 258 (131st Legislature, First Special Session)<sup>1</sup> which, *inter alia*, provides one-time funding of \$15 million for Maine’s statewide Low-Income Assistance Plan (LIAP): \$7.5 million in Fiscal Year 2023-2024 and another \$7.5 million in Fiscal Year 2024-2025. On July 13, 2023, the Public Utilities Commission (the PUC or the Commission) initiated an inquiry to seek public comment on how to allocate this additional funding, setting a Comment due date of July 27, 2023.<sup>2</sup> The Office of the Public Advocate (the OPA) provides the following Comments.

This temporary funding is a welcome development for LIAP. Mainers are facing significant increases in the cost of electricity, but this will not meet the need. The intent of the LIAP program is to make electricity affordable. The definition of affordability that has been used is that low-income customers should not pay more than 4% of their household income on electricity (the “affordability target”). The current LIAP funding<sup>3</sup> is insufficient

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<sup>1</sup> P.L. 2023, ch. 412, § A-21 (emergency, effective \*\*).

<sup>2</sup> Notice of Inquiry (Me. P.U.C. July 13, 2023).

<sup>3</sup> The current annual funding amount is \$15,000,000 for the 2023-2024 Program Year. *Maine Public Utilities Commission*, Establishment of Assessment and Apportionment Amounts for Low-Income Assistance Plan and

to meet the affordability target because, (1) it does not provide sufficient funding for those currently enrolled in LIAP to reduce their electricity costs to 4% of their income, and (2) it does not include sufficient funding to expend benefits to those ratepayers who need financial assistance to meet the affordability goal but have not yet enrolled in the LIAP program.

The Commission has raised two possible ways to spend the additional funding: (1) expand eligibility by raising the federal poverty level (FPL) eligibility threshold, and (2) moderately increasing the amount of the benefit. With the information on hand, the OPA recommends using the temporary extra funding to do both, for the following reasons. In addition, we recommend using a portion of the funding to promote participation in LIAP.

We also recommend that the Commission match the Legislative funding by increasing the ratepayer funding of LIAP by \$7.5 million beginning in PY 2023-2024. This combined with the Legislative appropriation will approximately double LIAP funding from \$15 million to \$30 million.

The OPA has consulted with AARP Maine in the development of these Comments and has been authorized to state their agreement with our recommendations.

### **Increase the Permanent LIAP Funding**

The LIAP program was not fully funded to meet the affordability target at the time the current budget was set.<sup>4</sup> If all currently eligible customers enroll in LIAP, the required

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Assessment Amounts for Oxygen Pump and Ventilator Programs Pursuant to Chapter 314, No. 2023-00056, Order (Me. P.U.C. Mar. 30, 2023).

<sup>4</sup> *Maine Public Utilities Commission*, Amendments to Statewide Low-Income Assistance Plan Rule (Chapter 314), Docket No. 2021-00400, Order Adopting Rule and Statement of Factual and Policy Basis (Me. P.U.C. May 3, 2022).

funding would far exceed \$15,000,000. DHHS reported that the total number of potentially qualifying customers as of March 2022 was 58,072.<sup>5</sup> The Electric Ratepayer Advisory Council estimated that there are 60,000 to 80,000 electric ratepayers needing assistance.<sup>6</sup>

In the 2022-2023 PY LIAP apportionment case, part of the Commission’s reason for not increasing the budget was anticipation that there would be unspent money in the 2022-2023 PY, due to lower-than-expected enrollment, that could be applied in the 2023-2024 PY.<sup>7</sup> But as of the 2<sup>nd</sup> Quarter of PY 2022-2023, the utilities have already expended a total of \$7,654,941.12. Even if only these customers participating at the end of the 2<sup>nd</sup> Quarter all receive a second lump-sum bill credit equal the first, the utilities will have overspent the \$15 million budget.<sup>8</sup> And it is very likely that by the end of the current PY, even more customers will have signed up for LIAP. In April 2023, United Way has seen a 125% increase over April 2022 in 211 calls seeking electric ratepayer assistance and is calling this a “widespread utilities crisis.”

To achieve the twin goals of expanding both eligibility and the benefit size, the OPA recommends that the Commission match the Legislative funding with a permanent increase in the annual ratepayer funding of LIAP by \$7.5 million beginning in the 2023-2024 PY.

**Expand the LIAP Eligibility to Customers in DHHS Means-Tested Programs <=150%**

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<sup>5</sup> LIHEAP customers and “Estimated DHHS Participation under 75% FPL Allocation Based on March 2022”; Docket No. 2022-00037.

<sup>6</sup> Electric Ratepayer Advisory Council Initial Annual Report – December 1, 2022 at 28.

<sup>7</sup> No. 2023-00056, Order (Me. P.U.C. Mar. 30, 2023) at 2.

<sup>8</sup> As of July 26, 2023, only EMEC, Kennebunk, Madison, and Houlton have submitted their 3<sup>rd</sup> Quarter LIAP reports.

Currently, LIAP eligibility includes participants in Department of Health and Human Services (DHHS) means-tested programs whose income is at 75% or less of the Federal Poverty Level (FPL), and Low Income Home Energy Assistance Program (LIHEAP) eligible households. The decision to use 75% was based on the program expansion that would result, not the need of customers above 75% FPL for assistance.<sup>9</sup> This is an opportunity to reach some of those customers. As of the 2nd quarter of PY 2022-2023, there were 8,133 LIAP participants with  $\leq 75\%$  FPL, and then 18,271 LIAP participants with 76%-100% FPL, 2,760 LIAP participants with 101%-125% FPL, 4,561 LIAP participants with 126%-150% FPL, and 291 LIAP participants with  $\geq 151\%$  FPL (the latter 4 categories who only could have qualified because they are LIHEAP-eligible.) In the 2022-2023 apportionment case (No. 2022-00037), DHHS was able to provide an estimate of the number DHHS participants under 75% FPL.<sup>10</sup> It would be helpful in this case if DHHS could provide a similar estimate, this time of DHHS participants in all 5 of these FPL categories. Then it would be possible to estimate how much this would expand the cost of the program to extend means-tested eligibility to these groups.

It should be noted that the Social Security cost of living adjustment (COLA) was 8.7% for 2023, the largest increase since 1981. While this helped Mainers catch up with inflation, it also sent some ratepayers who are used to receiving LIAP assistance just over the  $>75\%$  threshold, reducing their LIAP benefit dramatically. For example, one consumer the OPA spoke with received around \$300 in LIAP assistance last year and, due to the COLA, received \$50 this year. These ratepayers could be assisted by expanding eligibility

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<sup>9</sup> 2021-00400 order.

<sup>10</sup> 2022-00037.

through DHHS up to 150% FPL. Similarly, it needs to be explored how the newly expanded<sup>11</sup> Medicare Savings Program which provides a \$115 offset of Medicare insurance premiums will impact current LIAP participants. It is possible they will become ineligible for LIAP under the current rule.

### **Increase the Maximum Benefit Amount**

First, the maximum annual LIAP benefit per customer<sup>12</sup> is currently based on the apportionment for their utility, not the customer's affordability target. For example, in the default LIAP model provided for Versant BHD for PY 2023-2024, it was estimated that it would cost \$4,589,800 to meet the affordability target for 3,200 LIAP-eligible customers. But, Versant BHD's apportionment was only \$2,690,220, or 59%<sup>13</sup> of that amount. Therefore, a customer with income  $\leq 75\%$  FPL needing a LIAP credit of \$1,619.72 to meet their affordability target will only be receiving a maximum credit of \$949.37.<sup>14</sup> The actual LIAP credit they will receive is probably even lower because the number of LIAP participants has increased. In PY 2021-2022 there were 29,724 LIAP participants, whereas as the 2nd Quarter of PY 2022-2023, there were already 34,016 LIAP participants.

Second, the data so far confirm that the LIAP benefits funded by the current \$15,000,000 LIAP budget are far below the affordability target. According to the 2023-2024 PY model, customers between 0-150% of FPL need a LIAP benefit between \$728.38-\$1,619.72 in order to pay 4% of their income for electricity. But, as of the 2nd

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<sup>11</sup> The eligibility cap for the Program will be raised from those earning up to 185% of the federal poverty level to those earning 250% of the poverty level, or \$33,975 for a single person.

<sup>12</sup> Typically spread over two lump-sum bill credits.

<sup>13</sup> \$2,690,220/\$4,589,800.

<sup>14</sup> 59% of the target (\$949.37/\$1,619.72).

Quarter of PY 2022-2023, the average LIAP benefit so far ranged from \$69.97 (Van Buren) to \$366.81 (Fox Island).<sup>15</sup> Even if these customers get an identical 2nd lump payment, on average only the poorest customers will have affordable electric bills. However, we have received calls to our office saying that the second payment is much smaller than the first.

### **Use Part of the Funds to Boost Participation**

Pursuant to Chapter 314 § 6(B), DHHS will send a notification in September of each year to all households participating in a DHHS means-tested program whose income level is at or below 75% of the FPL notifying the household of the existence of the LIAP and the household's eligibility to participate in the program. This should be updated to at or below 150% of the FPL. For the current LIAP Year, the cost associated with this mailing was approximately \$20,000,<sup>16</sup> but based on the distribution of customers in the various FPL categories as of the 2nd Quarter of the current PY, the cost will be closer to \$100,000. Further, there is no dispute that participation is well below the actual number of customers who qualify. At a minimum, the OPA suggests for DHHS to send a second letter, and include this in the budget for the new funds. Where this method does not reliably generate participation, the OPA suggests seeking input from the CAP agencies as to how to reach qualifying customers.

The OPA looks forward to working with the Commission and other participants on this case.

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<sup>15</sup> For CMP, Versant BHD, and Versant MP, the average LIAP benefit as of the end of the 2nd Q of the 2022-2023 PY was \$190.81, \$308.63, and \$339.49, respectively.

<sup>16</sup> LIAP Apportionment case for PY 2023-2024, No. 2023-00056, Order (Me. P.U.C. Mar. 30, 2023) at 4.

Respectfully submitted,

*/s/ William S. Harwood*

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