

# Historical

## Low-Income and Energy Efficiency Fund

The Customer Choice and Electricity Reliability Act of 2000 (Act 141), authorized the creation of a Low-Income and Energy Efficiency Fund (LIEEF) administered by the Michigan Public Service Commission via grants to qualifying organizations. The purpose of the LIEEF was to provide shut off and other protection for low income customers and promote energy efficiency by all customer classes.

Initially, the LIEEF was funded through securitization savings that exceeded the amount needed to achieve a 5% electric rate reduction for residential and business customers. Section 10d(6), MCL 460.10d(6) of Act 141 specifies the use of a portion of the savings:

If securitization savings exceed the amount needed to achieve a 5% rate reduction for all customers, then, for a period of 6 years, 100% of the excess savings, up to 2% of the electric utility's commercial and industrial revenues, shall be allocated to the Low Income and Energy Efficiency Fund administered by the Commission. The Commission shall establish standards for the use of the Fund to provide shut-off and other protection for low-income customers and to promote energy efficiency by all customer classes.

At inception, the Detroit Edison Company was the only electric utility whose securitization savings exceeded the amount necessary to fund the rate reduction required in Act 141 and was the only company contributing to the LIEEF. On September 28, 2001, Governor John Engler signed the Department of Consumer and Industry Services appropriations bill for 2001-2002 (Public Act 119 of 2001), which authorized \$60 million for the LIEEF and required that the Commission report by June 1, 2002, on the distribution of funds. The \$60 million appropriation reflected an estimate of the annual revenues that could accrue to the LIEEF. Actual remittance, which occurred monthly, totaled approximately \$3.6 million per month or about \$44-46 million annually.

The Commission was granted spending authority from the Fund by the legislature through its yearly budget appropriations.

### Procedural Framework

In its November 20, 2001 order in U-13129, the Commission set the procedural framework to administer the LIEEF. Based on Act 141, the Commission stated it expected the annual disbursement for each of the six program years to fall into three broad categories:

1. Energy assistance for low-income customers;
2. Conservation and energy efficiency measures targeted toward reducing the energy use and energy bills of low-income customers; and
3. The development of energy efficiency programs that benefit all customer classes.

The Commission determined that approximately 75% of the grant monies awarded would be allocated to providing low-income energy assistance and low-income energy efficiency programs and 25% would be allocated to the development of energy efficiency programs to benefit all customer classes. The Commission also stated it intended to set aside a portion of the proceeds to create an endowment to finance programs that assist low-income customers and support energy efficiency projects beyond the six-year existence of the Fund. The Commission stated that it would follow the procedures established by the Department of Management and Budget and the Department of Consumer and Industry Services in issuing requests for proposals, making disbursements, and managing the grants.

## **Subsequent Orders**

On February 20, 2004, the Commission issued an order in Case No. U-13808 granting interim rate relief, rolling securitization savings into base rates for Detroit Edison's electric customers and funding the LIEEF as part of the utility's cost of service. The funding mechanism for the LIEEF was affirmed in the Commission's final order issued on November 23, 2004, authorizing Detroit Edison to provide approximately \$39.9 million annually to the LIEEF.

On December 22, 2005, the Commission issued an order in Case No. U-14347 authorizing Consumers Energy to provide approximately \$26.5 million annually to the LIEEF from its electric customers. On November 21, 2006, the Commission issued an order in Case No. U-14547 authorizing Consumers Energy to provide approximately \$17.4 million annually to the LIEEF from its natural gas customers.

On January 13, 2009, the Commission issued an order amending the LIEEF's procedural framework set forth in a November 20, 2001 order to allow up-to 10% of the monies in the LIEEF to be used directly for funding contractual services that are related to low-income assistance, energy efficiency, energy technology, and the objectives of 2008 PA 295, including renewable energy, energy optimization, and distributed generation projects.

On June 3, 2010, the Commission issued an order in Case No. U-15985 authorizing Michigan Consolidated Gas Company to provide \$5,069,000 annually to the LIEEF from its customers.

On June 29, 2010 the Association of Businesses Advocating Tariff Equity (ABATE) filed a Claim of Appeal with the Michigan Court of Appeals appealing the Commissioner's June 3, 2010 order. *In re Application of Michigan Consolidated Gas Company to Increase Rates*, Court of Appeals No. 298830.

On July 21, 2011, the Court of Appeals issued its decision in *In re Michigan Consolidated Gas Company*, 293 Mich App 360; \_\_\_ NW2d \_\_\_ (2011) determining that "administration of a Low-Income and Energy Efficiency Fund does not fall within the scope of the PSC's general statutory powers." On September 1, 2011 the MPSC filed an Application for Leave to Appeal with the Michigan Supreme Court appealing the Court of Appeals decision.

Subsequently all active grants and contracts awarded from the LIEEF in 2009, 2010 and 2011 were terminated as of September 30, 2011, and on December 20, 2011 the Commission issued three orders vacating its June 16 and June 28, 2011 orders in Case No. U-13129 awarding one LIEE grant totaling \$5,000,000, nine LIEA grants totaling \$58,000,000, and one MIEE grant totaling \$5,000,000.

## **Vulnerable Household Warmth Fund**

Public Act 274 of 2011 authorized the creation of the Vulnerable Household Warmth Fund (VHWF) within the State Treasury to be administered by the Michigan Public Service Commission (Commission). The purpose of the VHWF was to provide payment or partial payment of bills for electricity, natural gas, propane, heating oil, or any other type of fuel used to heat the primary residence of a vulnerable customer during the 2011-2012 heating season. The Act sets forth provisions for distributing money from the VHWF and provided guidelines for determining the eligibility of vulnerable customers.

Public Act 275 of 2011 authorized a one-time appropriation of \$23,000,000 to the VHWF and directed the Commission to award grants to all entities except the Department of Human Services, on a pro rata basis consistent with the Commission's June 28, 2011 order awarding low-income energy assistance grants in Case No. U-13129. The Department of Human Services also received a one-time appropriation of \$35,000,000 for state emergency relief energy services to fund grants as provided in Public Act 274.