

**REPORT ON THE
LOW-INCOME AND ENERGY EFFICIENCY FUND
FISCAL YEAR 2011**

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MICHIGAN PUBLIC SERVICE COMMISSION
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Table of Contents

The Low-Income and Energy Efficiency Fund	1
Introduction.....	1
Initial Framework	1
Subsequent Orders	2
Sources of Funding	3
Michigan Court of Appeals Decision	3
Evaluation	4
Fiscal Year 2011	5
Low-Income Energy Assistance Grants	6
Low-Income Energy Efficiency Grants	6
Michigan Energy Efficiency Grants	7
Renewable Energy and Energy Efficiency Programs for Schools.....	7
Contracts	8
Uniform Energy Code Compliance Assessment.....	8
Energy Optimization and Customer-Site Renewable Energy Potential Study	9
Historical Information.....	10
Awards & Allocations	10
Additional Information	10

The Low-Income and Energy Efficiency Fund

Introduction

The Michigan Public Service Commission respectfully submits this report to the appropriate legislative subcommittees, the state budget office, and the appropriate fiscal agencies pursuant to Sec. 361(2) of Public Act 130 of 2009. This report details the distribution of funds appropriated to the Low-Income and Energy Efficiency Fund for fiscal year 2011.

The purpose of the Low-Income and Energy Efficiency Fund (LIEEF or Fund) administered by the Michigan Public Service Commission (MPSC or Commission) in the Department of Licensing and Regulatory Affairs (DLARA) is to provide shut-off and other protection for low-income customers and promote energy efficiency by all customer classes.

Initial Framework

The Customer Choice and Electricity Reliability Act of 2000 (2000 PA 141 [Act 141]), authorized the creation of a Low-Income and Energy Efficiency Fund administered by the Michigan Public Service Commission via grants to qualifying organizations. The purpose of the LIEEF is 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 five percent electric rate reduction for residential and business customers. Section 10d(6), MCL46010d(6) of Act 141 specified 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.

In a November 20, 2001 order, 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 percent of the grant monies awarded would be allocated to providing low-income energy assistance and low-income energy efficiency programs and approximately 25 percent 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, continuing funding of the LIEEF as part of the utility's cost of service, and authorizing Detroit Edison to provide approximately \$39.9 million annually to the LIEEF. The funding mechanism for the LIEEF was continued in the Commission's final order issued on November 23, 2004.

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 Attachment A of its order dated November 20, 2001, to allow up to 10 percent 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 Public Act 295 of 2008, 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 (MichCon) to provide \$5,069,000 annually to the LIEEF from its customers.

Sources of Funding

The legislature grants the Commission spending authority from the fund through its yearly budget appropriation. The LIEEF's total annual revenue is approximately \$88,890,000. This figure is derived from contributions from the following sources:

The Detroit Edison Company (electric)	\$ 39,858,000
Consumers Energy Company (electric)	\$ 26,536,000
Consumers Energy Company (gas)	\$ 17,427,000
Michigan Consolidated Gas Company (gas)	\$ 5,069,000

Michigan Court of Appeals Decision

On July 21, 2011 the Michigan Court of Appeals issued an Opinion in *In re Application of Michigan Consolidated Gas Company to Increase Rates*, Court of Appeals Nos. 298830, 298887, reversing the MPSC's order approving more than \$5 million in funding for the Low-Income and Energy Efficiency Fund (LIEEF). The Court of Appeals found that the "administration of a LIEEF does not fall within the scope of the PSC's general statutory powers, but depends in every instance on specific statutory authorization."

The court based its decision on the fact the Michigan Legislature omitted obsolete references to the fund in 2008 PA 286, even though subsequent legislation, 2009 PA 172, referred to the fund and despite continued recognition by the Legislature through its yearly appropriation to the LIEEF.

In late August, DLARA mailed letters to all current 2009-2011 grantees providing 30-days advance notice of termination of Grant Agreements pursuant to Section 3.4(b) and (c) of the Agreements. In early September, Department of Technology, Management & Budget mailed letters to vendors providing 30-days advance notice of termination of Contracts pursuant to Section 2.153 of the Contracts. Subsequently, due to the Court of Appeals decision, formal amendments to the grant agreement were not issued incorporating the Commission's June 16, 2011 award of additional funding to the Michigan Community Action Agency Association, and contracts for the fiscal year 2012 grants awarded by the Commission on June 28, 2011 were not issued to grantees.

On September 1, 2011 the MPSC filed an Application for Leave to Appeal with the Michigan Supreme Court appealing the Court of Appeals decision of July 21, 2011.

On September 22, 27 and 29, 2011, respectively, Michigan Community Action Agency Association, The Heat and Warmth Fund, *et al*, and Newaygo County Community Services filed Motions to File Amicus Brief and an Amicus Brief in support of the MPSC's Application for Leave to Appeal.

Evaluation

The Commission requires selected applicants to provide programmatic and financial data for all grants and contracts awarded through the Low-Income and Energy Efficiency Fund. This information is used to determine if the selected applicant accomplished the objectives stated in the proposal, conformed to the provisions of the grant agreement or contract, and disbursed the funds as outlined and approved by Commission staff. The information collected is also used to assess if and how the distribution of funds from the LIEEF should be modified in the future. To enhance the Commission's oversight of the LIEEF grant program, staff continues to conduct financial and process audits of awarded grants.

Fiscal Year 2011

The Department of Energy, Labor & Economic Growth appropriations bill for fiscal year 2011 was approved by Governor Jennifer M. Granholm on September 20, 2010, as Public Act 186 of 2010 (PA 186). PA 186 appropriated \$95 million for disbursement from the Low-Income and Energy Efficiency Fund for the period October 1, 2010 to September 30, 2011.

During fiscal year 2011, the Commission awarded 16 new grants totaling \$81,000,000 and two contracts totaling \$957,700.50. The Commission also awarded an additional \$5,000,000 to the Michigan Community Action Agency Association for use in its 2010 Low-Income Energy Efficiency Grant to complete Phase II of its Low-Income Energy Affordability Demonstration Project. In addition, the Commission awarded The Cadmus Group an additional \$7,100 for use in its 2010 Baseline Energy Study contract.

The following chart provides a summary of the awards and allocations made during fiscal year 2011:

2011 AWARDS & ALLOCATIONS	AMOUNT	% OF TOTAL	# AWARDED
GRANTS			
Low-Income Energy Assistance	58,000,000.00	66.69%	8
Low-Income Energy Efficiency	18,000,000.00	20.70%	6
Michigan Energy Efficiency	5,000,000.00	5.75%	2
GRANTS SUBTOTAL	\$81,000,000.00	93.14%	16
OTHER ALLOCATIONS			
Additional MCAAA allocation	5,000,000	5.75%	N/A
Additional Cadmus Group allocation	7,100	0.01%	N/A
Legislative Allocations	0	0.00%	0
Contracts	957,700.50	1.10%	2
OTHER ALLOCATIONS SUBTOTAL	\$5,964,800.50	6.86%	2
TOTAL	\$86,964,800.50	100%	18

The Commission awards grants by soliciting proposals through a competitive bid process. Proposals are reviewed, scored, and awarded based on criteria set forth in a Request for Proposal (RFP). During fiscal year 2011, the Commission received 29 proposals from organizations requesting grant funding from the LIEEF. The following sections provide a detailed summary of LIEEF projects, awards, and allocations.

Low-Income Energy Assistance Grants

The purpose of the Low-Income Energy Assistance (LIEA) grant program is to provide energy assistance to low-income customers confronted with energy shut-off and maintain or develop preventative programs to reduce the number of customers experiencing energy shut-off. Grants may be used to serve additional clients under existing eligibility guidelines, increase the amount of assistance available to eligible households, or revise existing eligibility guidelines to serve clients otherwise unable to obtain assistance through current programs. Eligible organizations include non-profit and public organizations,¹ and grants typically last less than one year.

The Commission received eight proposals from organizations requesting funding for this program. On August 30, 2010, the Commission issued an order awarding \$55 million in Low-Income Energy Assistance grants to eight organizations. On November 19, 2010, the Commission issued an amendatory order to award an additional \$3 million in Low-Income Energy Assistance grants to the organizations awarded grants on August 30, 2010. The additional \$3 million was allocated based on the proportion of the \$55 million each organization received on August 30, 2010. The following chart outlines the LIEA awards for fiscal year 2011:

	ORGANIZATION	ORIGINAL AWARD	ADDITIONAL AWARD	TOTAL
1	Department of Human Services	35,000,000	1,909,200	36,909,200
2	Downriver Community Conference	1,000,000	54,600	1,054,600
3	Lighthouse Emergency Services	300,000	16,500	316,500
4	Michigan Community Action Agency Association	3,000,000	163,500	3,163,500
5	Newaygo County Community Services	3,000,000	163,500	3,163,500
6	Society of St. Vincent de Paul	500,000	27,300	527,300
7	The Heat and Warmth Fund	6,000,000	327,300	6,327,300
8	The Salvation Army	6,200,000	338,100	6,538,100
		\$55,000,00	\$3,000,000	\$58,000,000

Low-Income Energy Efficiency Grants

The purpose of the Low-Income Energy Efficiency (LIEE) grant program is to improve energy efficiency and reduce energy consumption of Michigan low-income residents. Organizations will work to implement energy efficiency projects that can include all of the following components: weatherization, energy education, and replacement of furnaces, water heaters, and other appliances. Appliance replacement programs must demonstrate participation in appropriate recycling programs for replaced appliances. Projects should complement existing programs by allowing low-income household eligibility up to 250 percent of the federal poverty

¹ Public organizations include governmental agencies and educational institutions.

level. A portion of grant funds may be used for house repairs to improve energy efficiency by repairing roofs, windows, and doors.

The Commission received 14 proposals from organizations requesting funding for this program. On August 30, 2010, the Commission issued an order awarding \$18 million in Low-Income Energy Efficiency grants to the following six organizations:

ORGANIZATION		AWARD
1	Department of Human Services	10,000,000
2	Michigan Community Action Agency Association	1,000,000
3	Michigan Saves, Inc.	5,000,000
4	Newaygo County Community Services	500,000
5	Urban Options, Inc.	1,000,000
6	WARM Training Center, Inc.	500,000
		\$18,000,000

Michigan Energy Efficiency Grants

The purpose of the Michigan Energy Efficiency (MIEE) grant program is to develop or improve the quality or application of energy efficient technologies in all customer classes. Preference is given to projects that have a significant impact on both the energy efficiency and economy of Michigan. The primary intent of the Michigan Energy Efficiency Grant program is to benefit Michigan residents, businesses, educational institutions, and/or government agencies through the development and marketing of advanced energy efficient technologies. The Commission awarded two MIEE grants totaling \$5,000,000. RFPs were issued to solicit proposals for one unique project as discussed below.

Renewable Energy and Energy Efficiency Programs for Schools

The Renewable Energy and Energy Efficiency Programs for Schools grants funded projects that continue and expand currently operating programs developed by the applicant. The funded projects design and facilitate the installation and operation of small scale, on-site energy systems using renewable energy sources and manage energy efficiency upgrades at multiple Michigan public and private K-12 schools, community colleges, junior colleges and universities. The selected grantees used grant funds to provide educational institutions with the opportunity to offset traditional fossil fuel use with renewable energy system generation and savings realized through energy efficiency measures. The recipients of these three year grants were expected to achieve widespread familiarity with such installations, thus helping Michigan citizens understand the value and importance of making similar investments in all residential, commercial, and institutional facilities in the state.

The Commission received seven proposals from organizations requesting funding for this program. On November 19, 2010, the Commission issued an order awarding \$5 million in Renewable Energy and Energy Efficiency Programs for Schools grants to the following three organizations:

ORGANIZATION		AWARD
1	Energy Works Michigan	4,400,000
2	Great Lakes Energy Service	600,000
		\$5,000,000

Contracts

The Commission may use up to 10 percent of the monies in the Low-Income and Energy Efficiency Fund to directly fund 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.

During fiscal year 2011, the Commission entered into contracts with two organizations to provide services as outlined in the following sections.

Uniform Energy Code Compliance Assessment

The Commission retained the services of Michigan State University for \$524,358 to conduct an assessment of the rate and nature of compliance with the 2003 Michigan Uniform Energy Code (MUEC) (or newer standards if the MUEC is amended during the period of the resulting contract). This assessment was be a comprehensive, statewide effort that included determination of approximate baseline compliance within both the commercial and residential construction sectors; identification of areas of non-compliance; development or expansion, promotion, and delivery of training programs throughout the state for a variety of audiences; developing policy options to remove barriers and improve adoption of energy conservation and efficiency in buildings; working with various collaborating agencies and stakeholders to begin adoption and implementation of such policies. These efforts built long-term understanding of the code requirements and lasting capabilities of the construction marketplace to meet or exceed all required MUEC standards in building designs, approved plans and constructed buildings. In addition, this effort sought to determine the current rate of compliance and to establish a road map for 90% or better compliance with the MUEC by 2017 in order to meet requirements of the American Recovery and Reinvestment Act of 2009.

Energy Optimization and Customer-Site Renewable Energy Potential Study

The Commission retained the services of GDS Associates, Inc. for \$433,342.50 to conduct an Energy Optimization and Customer-Site Renewable Energy Potential Study to assess the technical, economic and achievable potential for reducing electric and natural gas use and peak electric demand in the State of Michigan through energy efficiency measures and customer-sited renewable resources. The three major sectors: residential, commercial and industrial were included in the study. The primary goal of the study was to provide critical data for the design of policies and programs to increase, to optimal levels, the investment in energy efficiency and customer-sited renewable resources.

Historical Information

Awards & Allocations

Since the LIEEF's inception in 2001, the Commission has issued orders awarding 235 grants from the Low-Income and Energy Efficiency Fund totaling \$636,285,771. Additionally, \$25 million has been specially allocated by the Legislature, and five contracts have been awarded for \$2,839,353.58. In total, \$664,125,124.58 has been encumbered for distribution from the Low-Income and Energy Efficiency Fund.

AWARDS & ALLOCATIONS	AMOUNT	%	# AWARDED
GRANTS			
Low-Income Energy Assistance	452,402,771.00	68.12%	93
Low-Income Energy Efficiency	113,222,675.00	17.05%	72
Michigan Energy Efficiency	70,660,325.00	10.64%	70
GRANTS SUBTOTAL	\$636,285,771.00	95.81%	235
OTHER ALLOCATIONS			
Legislative Allocations	25,000,000.00	3.76%	2
Contracts	2,839,353.58	0.43%	5
OTHER ALLOCATIONS SUBTOTAL	\$27,839,353.58	4.19%	7
TOTAL	\$664,125,124.58	100%	242

Additional Information

Additional information about the Low-Income and Energy Efficiency Fund is available at the Michigan Public Service Commission's website: www.michigan.gov/mpsc.