

BUILDING “PROJECT STAY CONNECTED”

A Case Study in How to Protect Low-Income Utility Consumers

By Charles Harak, Esq.

Individuals and organizations throughout the country working to assist low-income utility consumers are continually looking for new ways to help them to achieve their goals. This article describes how the National Consumer Law Center (NCLC) was able to successfully launch one such tool: “Project Stay Connected” in Massachusetts. The project has resulted in the training of over 1,200 front-line human services staff in the basic rights of utility customers; distribution of over 2,000 copies of the project’s handbook, *Utilities Advocacy for Low-Income Households*; establishment of an e-mail list-serve that now has over 300 subscribers; and numerous advocacy successes in terms of protecting individual customers from termination, enrolling 60,000 new low-income customers onto discount rates and establishing better payment policies for customers in arrears.

While the success of Project Stay Connected can be attributed to factors that are somewhat unique to Massachusetts and to the fortunate convergence of various favorable circumstances, there is still reason to believe that similar projects could be launched in other states with very favorable results.

To understand the thinking that gave rise to Project Stay Connected, it is important to understand that each of the 50 states has its own set of rules regarding billing and termination of regulated gas and electric services and its own methods for enforcing compliance with those rules. But fully 44 states provide some form of protection against termination, or allow for deferred payments, when there is a serious illness in the customer’s household. Some 40 states also provide termination protections during periods of extreme cold or heat, with reference to specific calendar dates or actual outside temperature. A dozen states limit terminations of service to households where there are seniors. An overview of each state’s rules and protections can be found in the NCLC publications *Access to Utility Service* and *Guide to the Rights of Utility Consumers*. For more information see, <http://www.nclc.org/publications>.

Actual billing and termination practices often vary quite significantly, however, from what the formal rules appear to require. For example, in one state where NCLC recently made a presentation, the commissioners were largely unaware of their own rules that require companies to offer payment plans in specified circumstances. In almost every state, many customers will be denied payment plans or threatened with termination of service even when the customer has the absolute right to a payment plan or a termination protection, if only the customer knew the rules. There is the opportunity in almost any state to enhance the welfare of low-income utility customers simply by educating them about their existing rights and advocating for better compliance with existing rules. There are often also opportunities to improve existing rules and policies by shedding light on the plight of low-income households who struggle to pay their bills.

To start at the beginning, during 2004, the lieutenant governor's office hosted a series of meetings on homelessness around the state of Massachusetts. At one such meeting in the Merrimack Valley, it became clear to the lieutenant governor and others that there was a connection between families losing their utility service and non-payment, and that Massachusetts had several under-utilized rules that could protect low-income households against termination and the consequent risk of homelessness.

One advocate who attended that Merrimack Valley meeting was Michelle Lerner, who had worked for a number of legal services programs in Massachusetts and New Jersey and is the primary author of *Utilities Advocacy for Low-Income Households*. Ms. Lerner contacted NCLC to discuss the idea of training front-line staff at agencies that serve low-income households in the rights of utility consumers; developing materials to assist staff in handling utility problems; and building a network of advocates and back-up capacity to educate customers about their rights with respect to utility companies. Largely as a result of Ms. Lerner's initiative, "Project Stay Connected" was born.

Ms. Lerner approached NCLC at a particularly opportune moment, as we had recently received a modest grant from a local charity, the Tomfohdre Foundation, to carry out exactly the type of utility project she was suggesting. In addition, Ms. Lerner was aware that the Boston Foundation had just launched a major Homelessness Prevention Initiative (HPI) which the Fireman Foundation also supported, and that the lieutenant governor's office was very supportive of the HPI.

When NCLC approached the two foundations for additional funding, we quickly received a favorable response. Other funders of the Project include the Boston Bar Foundation, the Massachusetts Legal Assistance Corporation (which funded a proposal that allowed us to make small grants to five legal services programs around the state, to ensure adequate back-up for those who attend the basic utility training), the Mifflin Foundation, and the Proskauer Rose law firm.

At the outset, the project's efforts were focused on: publishing a how-to manual, *Utilities Advocacy for Low-Income Households*, that would be given to all those who attended the trainings on the basic rights of utility consumers; delivering the training to as many people as possible; and advocating for new policies and programs for low-income utility consumers.

As of now, NCLC has distributed 2,000 copies of the how-to manual to those who attend the trainings and to many others who have learned of the book through word-of-mouth. NCLC will be publishing a revised edition in 2007 that will reflect what we have learned through delivering the trainings as to which information is most important and useful.

At the outset of the project, the trainings ran one to two hours, but the trainees consistently commented on evaluation forms that the "training was too short." Trainings now run three to four hours. Despite the length, many of the agencies that host trainings ask for a second training within the next 12 months because trainees find that they can put the information to practical use and help keep their clients connected to utility service. To date, we have trained more than 1,200 front-line staff in locations all over the state. We also established an e-mail list-serve that has

over 300 subscribers that allows advocates to ask questions, share successes and suggest new areas for advocacy.

The trainees include staff from several state government agencies that administer social service programs, from a wide variety of non-profits that provide energy assistance, subsidized housing, housing search services, transitional housing, and shelters, from various non-profits that help people in need such as Salvation Army and United Way, and from agencies that work with seniors, veterans, people with AIDS and victims of domestic violence.

The City of Boston, which is the state's largest city and also has the largest low-income population, has been very supportive of the trainings and has contracted with NCLC to deliver more than one dozen trainings to agencies located in Boston. The director of the city's Emergency Shelter Commission credits those targeted trainings with reducing the number of calls his office gets from families in crisis due to loss of utility service.

The project also has enjoyed a number of policy and advocacy successes. NCLC was able to reach agreements with each of the state's regulated electric and gas companies to *retroactively* apply their discount rates to the accounts of eligible low-income customers on a case-by-case basis when requested to do so by advocates. Under state law -- Mass. Gen. Laws Ch. 164, § 1F(4) -- utilities are required to offer discount rates to low-income households, but are not required to apply the discounts prior to the date of application and enrollment. The agreements reached between NCLC and the companies are completely voluntary, although the companies were aware that the lieutenant governor's office and state utilities commission were eager to see these agreements reached.

Companies are willing to go back and apply the discount to bills up to one year prior to the date of actual application, if the advocate can demonstrate that the client was income-eligible for that period of time but did not apply. Retroactive application of the discount can result in a credit of hundreds of dollars to a customer's bill, which, in some cases, will stave off a threatened termination for non-payment or allow a customer who had been homeless to get service at his or her new residence, by wiping out an old arrearage that otherwise would have barred the customer from getting new service.

The project has also worked closely with the Department of Telecommunications and Energy to implement automatic enrollment of eligible households onto the discount rates, by computer matching of utility company residential customer data files against files at the state's Department of Transitional Assistance (DTA). Through the computer match, DTA informs each company which of its customers are income-eligible for the discounts, and the companies then automatically enroll the customers on the discount rates. To date, this automatic enrollment process has added 60,000 households to the discount rate, for an annual, recurring benefit of \$10 million in the aggregate.

Finally, the project has had two important successes regarding payment plans on arrearages. NCLC drafted successful legislation (2005 Mass. Acts, Ch. 140, § 17) that clarified the obligation of utilities to offer customers in arrears payment plans of *no less* than four months. Previously, many companies had not been complying with a utility commission regulation that

mandated payment plans of at least four months' duration. Another provision of that same legislation, which NCLC also helped draft, required each regulated utility to adopt an arrearage management program (AMP), defined as "a plan under which companies work with eligible low-income customers to establish affordable payment plans and provide credits to those customers toward the accumulated arrearages where such customers comply with the terms of the program." While these AMPs have been in existence for less than a year, many advocates are finding them very helpful for customers who otherwise would face the certainty of termination.

Clearly, Project Stay Connected has been a big help to many Massachusetts residents. It has resulted in the training of 1,200 people and in the writing and distribution of 2,000 how-to handbooks. It has played a role in adding 60,000 households to the discount rates and helped move companies to agree to retroactive application of the discount rates. It has contributed to the passage of legislative clarifying customers' right to payment plans and mandating the adoption of arrearage management programs.

Project Stay Connected can in part be attributed to factors unique to Massachusetts and to fortuitous circumstances, but there is every reason to believe that at least some of those successes can be replicated elsewhere. NCLC's staff would be pleased to work with organizations interested in launching similar projects.

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