

**ADDRESSING UNAFFORDABLE HOME ENERGY IN MASSACHUSETTS:
WINTER HEATING SEASON 2008/2009**

STATEMENT OF:

**BELMONT HOUSING TRUST, INC.
Belmont Town Hall
455 Concord Ave.
Belmont, MA 02478**

PRESENTED TO:

**Commonwealth of Massachusetts
Winter Energy Costs Task Force**

September 2008

The Belmont Housing Trust, Inc. (hereafter, Housing Trust) is a quasi-public nonprofit corporation charged with promoting and developing affordable housing in the Town of Belmont (MA). The Housing Trust is a statutorily-created nonprofit corporation whose Board of Directors is statutorily-charged to:

exercise its powers and perform its duties for the purpose of investigating and implementing alternatives for the provision of and providing affordable housing for persons of low, moderate and middle income, and others whose needs may be identified from time to time in the town of Belmont.

In furtherance of these powers and duties, the Housing Trust has engaged in the production of newly constructed rental and homeownership housing in the Town of Belmont and supported the production of such housing by others. The Housing Trust has used public and private funding ranging from accessing federal Low-Income Housing Tax Credits; to using federal Home Investment Partnership (HOME) funds; to working with private nonprofits such as the Local Initiatives Support Corporation (LISC) and the Habitat for Humanity—Greater Boston affiliate to produce new affordable housing units in the Town of Belmont. The Trust's most recent development—the 40-unit Waverley Woods development built using federal Low-Income Housing Tax Credits (LIHTCs)—is expected to be completed this December.

The Interest of the Belmont Housing Trust in Home Energy Affordability

The interest of the Housing Trust in home energy affordability is grounded in the Home Energy Affordability Gap.¹ The Home Energy Affordability Gap presents an annual analysis of the dollar difference between actual home energy bills facing low-income households and affordable home energy bills.² In 2007, the most recent year for which the Affordability Gap has been released,³ the Affordability Gap facing Massachusetts residents reached nearly \$1.2 *billion* dollars. According to that 2007 analysis, the Affordability Gap facing low-income Massachusetts households has increased by nearly \$780 million simply from 2002 to 2007. The 2002 Home Energy Affordability Gap in Massachusetts (released in April 2003) had been \$435,822,130.

The Affordability Gap is of concern to the Housing Trust as a developer of affordable housing. The calculation of the Affordability Gap is based on a determination of the dollar amount by which actual home energy bills exceed 6% of gross household income. Home energy bills as a percentage of household income are referred to as the “home energy burden,” with a 6% burden determined to be “affordable.” In Massachusetts, the 2007 Affordability Gap reports, home energy burdens for households at various levels of the Federal Poverty Level⁴ ranged up to more than 80% of household income. Even for the highest income bracket studied in the Home Energy Affordability Gap (from 150% to 185% of Federal Poverty Level), the home energy burden in 2007 was more than 13%. Table 1 below presents the 2007 home energy burdens by Poverty Level for Massachusetts.

From the perspective of a developer of affordable housing, these home energy burdens are viewed in the context of overall shelter burdens. The generally-accepted definition of an affordable *total shelter* burden (which includes rent/mortgage payments, plus all utilities except telephones) places the upper limit on affordable burdens at 30% of income. Whether using

¹ The Home Energy Affordability Gap, by state, can be found at www.HomeEnergyAffordabilityGap.com.

² Throughout this Statement of the Belmont Housing Trust, unless the context clearly indicates otherwise, any reference to “utilities” is intended to encompass all home energy vendors (including, for example, fuel oil vendors). Any reference to a “utility bill” is, unless the context clearly indicates otherwise, intended to encompass home energy bills.

³ The annual Home Energy Affordability Gap is released each spring for the prior year. The 2007 Affordability Gap was released in April 2008.

⁴ The generally accepted measure of “being poor” in the United States today indexes a household's income to the “Federal Poverty Level” published each year by the U.S. Department of Health and Human Services (HHS). The Poverty Level looks at income in relation to household size. This measure recognizes that a three-person household with an annual income of \$6,000 is, in fact, “poorer” than a two-person household with an annual income of \$6,000. The federal government establishes a uniform “Poverty Level” for the 48 contiguous states. Since 100 percent of Poverty Level is generally considered to be too low to be a reasonable demarcation of “being poor,” other estimates range from 150 to 200 percent of Poverty or more. A household's “level of Poverty” refers to the ratio of that household's income to the Federal Poverty Level. For example, the year 2005 Poverty Level for a two-person household was \$12,830. A two-person household with an income of \$6,415 would thus be living at 50% of Poverty. A two-person household with an income of \$19,245 is said to be living at 150% of Poverty.

program funds such as federal HOME dollars, or Low-Income Housing Tax Credits (LIHTC), or some other generally-available funding source, households with total shelter burdens exceeding 30% of income are considered to be over-extended.⁵

At even the highest level of Federal Poverty Level studied by the Home Energy Affordability Gap (150% to 185% of FPL), it is virtually impossible to absorb existing energy bills and to meet that 30% shelter affordability standard. Low-income households cannot pay between 10% and 25% of their income simply for home energy and have any reasonable expectation that they will be able to limit their total shelter costs to 30% of income.

Table 1: 2007 Home Energy Burdens by Federal Poverty Level: Massachusetts

| Poverty Level | Home Energy Burden |
|---------------|--------------------|
| Below 50% | 87% |
| 50 – 74% | 35% |
| 75 – 99% | 25% |
| 100 – 124% | 20% |
| 125 – 149% | 16% |
| 150% - 185% | 13% |

2007 Home Energy Affordability Gap: Massachusetts State Fact Sheet (April 2008).

Despite these burdens flowing from 2007 home energy prices, the U.S. Department of Energy's most recent Short Term Energy Outlook (August 2008) reported:

Residential heating oil prices during the upcoming heating season (October through March) are projected to average \$4.34 per gallon compared with \$3.31 during the last heating season, an increase of about 31 percent. Residential natural gas prices over the same period are projected to average \$15.58 per Mcf

⁵ Throughout HUD's affordable housing programs, the term "cost burden" is a term of art. It is defined as the percentage of household income spent for mortgage costs or gross rent. According to HUD programs, households spending more than 30 percent of income for these housing costs are considered to be "cost-burdened." Households spending more than 50 percent are considered to be "severely cost-burdened." See, e.g., 24 CFR Subtitle A, Section 91.5 (definition of "cost burden"). This 30-percent standard is generally accepted. Consider, for example, the annual survey of housing affordability published by the National Low-Income Housing Coalition (NLIHC) ("Out of Reach: Why Everyday People Can't Afford Housing"). NLIHC describes the contents of its report as follows: "For each jurisdiction, the report calculates the amount of money a household must earn in order to afford a rental unit at a range of sizes (0, 1, 2, 3, and 4 bedrooms) at the area's Fair Market Rent (FMR), based on the generally accepted affordability standard of paying no more than 30% of income for housing costs." <http://www.nlihc.org/oor/oor2008> (accessed September 1, 2008).

compared with \$12.72 per Mcf, during the last heating season, an increase of about 22 percent.

The high home energy burdens, and accompanying problems documented for past years in Massachusetts, will be exacerbated even further in the coming 2008/2009 home heating season. To do nothing would be irresponsible.

The Interests of the Commonwealth in Unaffordable Home Energy

While perhaps most people think of the primary problem associated with unaffordable home energy bills as flowing from the accrual of arrears, and the risk of the disconnection of service for nonpayment (even should that disconnection not occur until next Spring), the Housing Trust notes the *immediate* public dangers arising from home energy affordability during the winter: In fact, the dangers arising from unaffordable home heating bills arise whether or not a bill is actually paid. Indeed, frequently, the dangers arise from those actions that households are forced to take in their efforts to continue paying their bills in a full and timely fashion.

PUBLIC HEALTH IMPLICATIONS

The unaffordability of home energy represents a distinct public health threat, particularly to low-income households with children. The impact of unaffordable home heating on the public's health and safety can hardly be debated in light of recent research. According to a 2005 survey by the National Energy Assistance Directors Association (NEADA), the loss (and threatened loss) of home heating service has significant health consequences to low-income households with children.⁶ NEADA found that survey respondents reported becoming ill because their homes were too cold in the winter heating months. Nearly 1-in-6 of all energy assistance recipients reported that someone in the home became sick because their home was too cold. These illnesses were frequently severe enough to require medical treatment. In both 2003 and 2005, 11% of the surveyed energy assistance recipients reported that someone in the home had become ill enough to require going to a doctor or hospital because their home was too cold.

A variety of reasons may contribute to the overall rate of illness, as well as to the rate at which illnesses required medical treatment within the low-income energy assistance recipient population. The primary contributing factor to the adverse health outcomes involves the tendency of low-income households to keep their homes at unsafe or unhealthy temperatures with which to begin, given the unaffordability of home energy to the household. Of the households with children under age 18, between 20% and 25% kept their homes at "unsafe or unhealthy temperatures" because they did not have enough money to pay their home heating bills.

⁶ David Carroll, et al. (September 2005). *2005 National Energy Assistance Survey*, Apprise, Inc.: Princeton (NJ).

PUBLIC SAFETY IMPLICATIONS

In addition to these public health issues, the unaffordability of home heating service represents a distinct public safety threat as well. The NEADA survey, for example, reports significant safety-related problems associated with the unaffordability of home heating service. According to NEADA, nearly 30% of energy assistance households with children, and nearly 40% of energy assistance households with income at or below 50% of the Federal Poverty Level, were forced to use their kitchen stove or kitchen oven to provide heating due to the household's inability to afford their primary heating fuel.

It is not simply the use of appliances not intended for space heating that presents the public safety problem, however. The move to auxiliary heating sources (e.g., electric space heaters) opens up the possibility of an associated fire risk for low-income households. While home heating equipment is no longer the single most substantial cause of home fires, it remains one of the leading factors contributing to fires, as well as to fire-related injuries and deaths. In particular, according to the National Fire Protection Association (NFPA), portable and fixed space heaters present a risk of harm.⁷ While portable space heaters are not the major cause of home heating fires, they play a much more substantial role in deaths and injuries. Portable and fixed space heaters (and their related equipment such as fireplaces, chimneys and chimney collectors) accounted for roughly two of every three (65%) home heating fires in 1998 and three of every four (76%) associated deaths.⁸ Each of these devices has a higher death rate per million households using them than do the various types of central heating units or water heaters.

The National Fire Protection Association (NFPA) reports that “not being able to afford utilities” is one of the “major factors of increased fire risks” for low-income households. “In poor homes, small portable heaters or space heaters may be used to heat areas much too large for their capacity, and some households supplement heating equipment by turning on their ovens and leaving the door open.”⁹

HUNGER AND NUTRITION IMPACTS

One primary impact of unaffordable home energy this winter will be that these costs will take food out of the mouths of low-income children. This is an empirically-established fact, not a political slogan. A November 2006 article published in *Pediatrics*, the journal of the American Academy of Pediatrics, reports that “convergent evidence suggests that the periodic stress of home heating and cooling costs may adversely impact the health and nutritional status of

⁷ According to the NFPA, “The causes of fires involving portable or fixed space heaters are dominated by human errors, such as placing them too close to combustibles and lack of maintenance.”

⁸ Marty Ahrens (June 2001). *The U.S. Fire Problem Overview Report: Leading Causes and Other Patterns and Trends*, at 55, National Fire Protection Association: Quincy (MA).

⁹ “Burning Issues,” *NFPA Journal*, at 104 (January/February 1996).

children and other vulnerable populations.”¹⁰ According to this *Pediatrics* article, a study of children 6 to 24 months of age in Boston (MA) found higher proportions of children with weight-for-age below the 5th percentile in the three months after the coldest months, compared with all other months of the year. The article reports further that “there is also evidence that hunger and food insecurity are associated with high utility costs and cold weather. In the United States, data show that families reporting unheated days or threats of utility turnoff are more likely to report that their children were hungry or at risk for hunger than families without either experience.” A related study reported that:

findings from the Consumer Expenditure Survey and the Third National Health and Nutrition Examination Survey also suggest a “heat or eat” effect in low-income families with children. Although both rich and poor families increased their expenditures on home fuel in unusually cold months, in poor families, this expenditure was associated with a decreased expenditure on food. The “winter resource shift” was confirmed by the finding that adults and children in poor households reduced their caloric intake by 10% in the winter months, whereas there was no reduction among members of wealthier families.

(emphasis added).

It is, however, not just kids that are at-risk. A November 2006 article in *The Journal of Nutrition* examined the association between household food insecurity and seasonally high heating and cooling costs for low-income elderly Americans as well.¹¹ The study “examined the extent to which greater proportions of poor households, especially poor elderly households, experienced very low food security (the more severe range of food insecurity) during times of the year when home heating and cooling costs were high, controlling for important covariates.” “Very low food security” is a severe range of food insecurity, which the U.S. Department of Agriculture referred to as “food insecurity with hunger” in its pre-2006 reports. The study found that “the odds of very low food security were 27% higher in the summer than in the winter in a high-cooling state. In a high-heating state, the odds of very low food security were 43% lower in the summer than in the winter. . .”

Five Strategies to Address Unaffordable Home Energy this Winter.

In light of the extraordinary problems identified above flowing from unaffordable home energy, the Belmont Housing Trust, Inc. recommends that the following strategies be adopted for the

¹⁰ Deborah Frank, et al. (November 2006). “Heat or Eat: The Low Income Home Energy Assistance Program and Nutritional and Health Risks Among Children Less than 3 Years of Age,” *Pediatrics: Official Journal of the American Academy of Pediatrics*, 118(5):1293-1302.

¹¹ Mark Nord and Linda Kantor. “Seasonal Variation in Food Insecurity is Associated with Heating and Cooling Costs Among Low-Income Elderly Americans.” *Journal of Nutrition*. 2006; 136:2939-2944.

2008/2009 winter heating season and beyond. Each strategy can be implemented immediately by administrative or regulatory action, without need for legislative authorization:

STRATEGY #1: ELIMINATE BARRIERS TO BUDGET BILLING.

Budget billing is one of the primary strategies to use in responding to high winter heating bills. Consider, for example, that in the autumn of 2005, Tennessee's three natural gas utilities proposed an automatic budget-billing program for that state's payment-troubled customers. The proposal by the Tennessee utilities with respect to budget billing allowed customers to enter into budget billing during the winter heating season. In addition, the Tennessee proposal allowed customers in arrears to enter into budget billing, with repayment of the arrears added to the levelized monthly bills. So long as the customer was current on his or her monthly budget-billing amount, the customer was free from collection activity. The Tennessee gas utilities also agreed to report specified monthly data on nonpayment disconnections and on the enrollment in levelized budget billing.

Enrollment in levelized budget billing plans amongst Tennessee's three natural gas utilities increased by more than 35% from the 2004-2005 winter heating season to the 2005/2006 winter heating season. At the same time, the number of nonpayment disconnections decreased for two of the three gas utilities, with Chattanooga Gas Company decreasing from 1,733 to 1,196 and Nashville Gas Company decreasing from 3,549 to 1,899. Only Atmos Energy Corp. experienced an increase in nonpayment disconnects (from 1,957 to 2,233) between the 2004/2005 and the 2005/2006 winter heating seasons. Overall, statewide the number of nonpayment disconnections decreased by more than 26% (from 7,239 to 5,328) from 2004/2005 to 2005/2006.

This decrease in the number of disconnections occurred despite the fact that, as with the rest of the country, Tennessee experienced a substantial fly-up in natural gas prices from the 2004/2005 to the 2005/2006 winter heating season. Tennessee natural gas prices increased from \$13.64 per MCF in October 2004 to \$21.65/MCF in October 2005. Prices increased from \$13.64 per MCF in November 2004 to \$18.95/MCF in November 2005; they increased from \$11.27 per MCF in December 2004 to \$17.16/MCF in December 2005.

Part of the efficiency of using a Budget Billing plan to improve the seasonal affordability of home energy involves the extent to which such plans are available to those customers who would most benefit from them. If Budget Billing is made available only to persons who have the capacity to pay their bills irrespective of the time-shifting inherent in the levelized payment, the plan, while perhaps a sound money management tool, offers no "energy assistance" benefit for improving affordability.

Despite the proven benefits of budget billing in helping consumers respond to sharp spikes in home heating prices,¹² Massachusetts utilities continue to impose barriers that impede the ability

¹² The Massachusetts Department of Telecommunications and Energy (DTE) also responded to the high fuel prices of 1999 and 2000. In response to "substantial increases in fuel costs which have driven up the price of electric

of residential customers, particularly low-income residential customers, to access this strategy. Three such barriers include:

- **Minimum residency requirements:** Using the reasoning that effective estimates for Budget Billing depend upon a minimum billing history, some utilities limit the availability of Budget Billing only to customers who have a minimum of 12 months of residency at the address for which they seek the Budget Billing. Under such a policy, however, the frequent mobility of low-income customers, particularly low-income *tenants*, would tend to exclude low-income customers from participating in Budget Billing.
- **Limits on arrears:** Some Massachusetts utilities require customers to be free of arrears in order to enter into levelized Budget Billing plans. Unfortunately, it is the *presence* of arrears that may well be the indicator of a need for Budget Billing. Those customers who have a marginal ability to pay, but simply cannot afford the higher winter bills associated with heating load, can be expected to exhibit particular payment patterns. Rather than excluding customers with arrears from Budget Billing, Massachusetts utilities would be well-served to seek out those customers who have seasonal arrears combined with a documented willingness to pay *something* during the winter heating months, even if that “something” is less than full payment.
- **Commencement date:** Some Massachusetts utilities restrict the months in which a customer may enter a Budget Billing plan to the late spring and early summer months. Companies adopting this procedure do not view Budget Billing as a mechanism to levelize high winter bills. Instead, they view Budget Billing as a mechanism through which to obtain prepayment of a customer’s winter bills. Low-income customers needing to shave the spike off of home heating bills may well not *know* of the benefits, or even of the existence, of levelized Budget Billing during a late spring/early summer enrollment period. Indeed, it is likely that it is an unaffordable winter bill that brings the household into contact with the utility,

Finally, one “problem” with the use of levelized budget bills as a mechanism to take the spike off winter heating bills is the reluctance of some low-income customers to forego the lower natural gas bill in the summer non-heating season. These customers face a take-it-or-leave-it proposition, however, and often choose not to participate at all rather than shoulder greater payment burdens during those warm weather months.¹³

generation,” the DTE stated that utilities should “expand their budget billing and consumer payment plans during the winter heating season. . .to lessen the effects of rate increases on consumers this winter. . .” Re. Standard Offer Service Fuel Adjustments, 206 PUR 4th 122, 124, 126 (Mass. DTE 2000).

¹³ The reticence to move additional home energy costs to the summer months is understandable. The fact that summer months might be low-cost heating months does not make those months more affordable. A household with two school-age children, for example, is likely to have less discretionary income during the summer months than during the school year. Not only will this household possibly have child care expenses that did not exist during the

Some non-Massachusetts utilities have responded by offering non-annual budget bills. These budget bills might, for example, levelize payments from October through May. The utility gains up to three months of prepayment toward a winter bill, while the customer gains some time-shifting of the winter spikes so that each of the high-cost winter bills will be somewhat lower, while at the same time maintaining the low gas bills in the summer months.

Based on the above, the Belmont Housing Trust recommends that Massachusetts regulators (and, if need be, legislators) ensure the availability of levelized budget billing to all residential customers, but particularly to low-income customers. This availability should involve not only an aggressive marketing of levelized Budget Billing, but also an elimination of the three primary impediments to the use of Budget Billing: (1) minimum residency requirements; (2) a requirement that accounts be free of arrears prior to enrollment; and (3) restrictions on the enrollment period.

Finally, Massachusetts utilities should make available Budget Billing plans of fewer than 12 months in length, including, at a minimum, a seven -month Budget Billing plan offered for the period of October through April.

STRATEGY #2: ELIMINATE UNNECESSARY AND PUNITIVE LATE FEES.

Local utilities in Massachusetts frequently impose a late payment fee which explicitly lacks any cost basis. These late fees disproportionately and adversely affect low-income customers. Not only do higher proportions of low-income customers (compared to all customers) incur arrears (against which a late fee will be charged), but the level of arrears incurred by low-income customers is higher as well. These arrears result from an inability-to-pay rather than from any choice to pay other bills prior to paying local utility bills. Increased bills attributable to high prices are associated with increases in low-income payment troubles.

The observation that payment-troubled customers are disproportionately low-income is commonly accepted conventional wisdom.¹⁴ National data reported by the U.S. Census Bureau indicates that, in the United States, the proportion of households in arrears at any given point in

school year, but it is virtually certain that the household will have food expenses (lunches) that did not exist during the school year.

Indeed, the lack of summer lunch programs is a substantial concern within the low-income nutrition advocacy community. One nutrition advocacy organization reports that: “When the school bell rings to signal the start of summer vacation, millions of children who receive free or reduced price breakfast and lunch at school during the regular school year no longer have access to those meals. And their working parents, many of whom are struggling with stagnant wages and rising health care, energy and housing costs, must find a way to provide these meals for their children during the summer months.” See, generally, Food Research and Action Center (FRAC) (2006).

Hunger Doesn’t Take a Vacation: Summer Nutrition Status Report, FRAC: Washington D.C.

¹⁴ This is not to say that all low-income customers are payment-troubled, nor that all payment-troubled customers are low-income. It is merely to say that low-income customers are disproportionately payment-troubled.

time is substantially higher for the low-income population than for the population as a whole. One Census Bureau study, for example, reported that while 9.8% of non-poor families could not pay their utility bills in full, 32.4% of poor families could not do so. According to the Census Bureau, while 1.8% of non-poor families had their electric and/or natural gas service disconnected for nonpayment, 8.5% of poor families suffered this same deprivation. Studies in states such as Iowa, Illinois, Indiana, Missouri, Pennsylvania and New Hampshire further document that twice the proportion of low-income customers incur arrears as do non-low-income customers.

Increasing low-income winter arrears have nothing to do with low-income consumers “choosing” to pay other bills before paying their winter heating bills. Low-income winter arrears arise because customers cannot afford their winter heating bills. While Massachusetts utilities do not report data allowing an analysis of winter arrears, Indiana utilities do. In the most recent annual Indiana report, this seasonal arrears was well-documented:¹⁵

Coming out of the 2006/2007 winter season, unlike the small change in the number of accounts in arrears from April to June (from 45,900 to 41,019), the drop in the amount of revenue in arrears was much greater. Compared to the \$11.120 million in March 2007 arrears, Indiana utilities reported a June arrears of \$6.4 million, a drop of roughly 42%.

In Indiana, the average arrears per low-income account in arrears peaked in February at \$183. The average arrears for accounts in arrears then decreased to \$96 in April and to \$68 in June, 35% of its February peak.

Imposing a late fee on these winter arrears, when the arrears are caused by an inability to pay with which to begin, and when the late fee serves no “incentive” function,¹⁶ is punitive in nature. The only impact generated from imposing a late fee on an unaffordable bill is to make the bill even *more* unaffordable. Using a late payment charge is effective when nonpayment occurs as a money management technique. Clearly, however, low-income households do not withhold

¹⁵ Roger Colton (May 2008). *Indiana Billing and Collection Reporting: Natural Gas and Electric Utilities (2007)*, Coalition to Keep Indiana Warm: Indianapolis (IN).

¹⁶ The argument often posited in support of high late payment fees is that such fees are necessary to serve as a disincentive for customers paying their credit card bills prior to paying their utility bills. Even accepting, just for the sake of argument, this incentive function as a legitimate policy reason to impose non-cost-based late payment fees, the incentive function bears little relationship to the finances of low-income customers. In January 2003, staff of the Federal Reserve Board (FRB) published its analysis of consumer finances based on the FRB’s 2001 Survey of Consumer Finances. According to this FRB staff analysis, few low-income customers have credit cards and fewer still carry credit card balances. This stands in sharp contrast to the proportion of households in the second through fourth quintiles of income (between 50% and 60% of whom hold credit card debt). This data simply cannot be reconciled with the impact of late fees on low-income customers. These low-income customers are charged a non-cost-based late fee to have those fees be competitive with credit card debt that they do not hold on credit cards that they do not own. Ana Aizcorbe, et al. (January 2003). “Recent Changes in U.S. Family Finances: Evidence from the 1998 and 2001 Survey of Consumer Finances,” Federal Reserve Bulletin (January 2003).

payments toward their winter utility bills in order to gain a higher return by devoting their resources to alternative uses.

Instead, low-income households do not pay because they cannot afford to pay. Increasing their bill will thus provide no inducement to make prompter payments. Indeed, most utilities have found that they receive more timely payments, and more frequent payments, by reducing bills to affordable levels rather than by increasing bills as a penalty for late payments.

The Belmont Housing Trust recommends that utility late fees be waived for all low-income customers.

Moreover, the Housing Trust recommends that arrears for which customers have entered into deferred payment agreements be exempted from late payment charges, so long as the payments on the deferred payment agreement are current. To the extent that a customer in arrears has entered into a payment plan, and is keeping current on that payment plan, the customer has demonstrated that he or she has sufficient “incentive” to pay his or her bill. To impose a late fee on a balance that is being retired through a deferred payment plan serves no incentive function – the customer is already doing what he or she “promised” to do—but instead is simply punitive.

STRATEGY #3: ENFORCE FEDERAL REQUIREMENTS AS TO PHA UTILITY ALLOWANCES.

The U.S. Department of Housing and Urban Development (HUD) provides energy assistance to tenants of public and assisted housing. “Public housing” refers to housing *owned* by local public housing authorities (PHAs). “Assisted housing” refers primarily to what is called Section 8 housing.¹⁷ In addition, private housing developed with the assistance of the federal Low-Income Housing Tax Credit (LIHTC) program is often governed by the utility allowances promulgated by local housing authorities.

HUD’s energy assistance comes in the form of what is called a “utility allowance.” Under federal law, a utility allowance is supposed to be sufficient to pay a tenant’s entire utility bill (electricity *and* space heating/cooling).¹⁸ Separate utility allowances are calculated for each fuel used by a tenant (and sometimes for each end use). Unlike LIHEAP, the allowance is not paid in cash to the tenant (or directly vendored to the tenant’s utility service provider). Instead, the amount of the allowance is provided as an offset to the tenant’s rent.¹⁹ The effect, however, is to put additional cash in the pocket of the tenant so that the tenant can pay his or her utility bills as they come due.²⁰

¹⁷ While other miscellaneous types of assisted housing exist, as well, to which this analysis applies, the bulk of “assisted housing” is Section 8 housing.

¹⁸ Under the law, a tenant’s shelter costs (including rent plus all utilities other than telephone) is not to exceed 30% of income. Rent is set equal to 30% of income. Accordingly, to comply with the law, utility costs must be covered in their entirety to keep total shelter costs at 30%.

¹⁹ If the tenant has a rent of \$250 and a utility allowance of \$150 per month, the rent is reduced to \$100.

²⁰ If the utility allowance exceeds what the tenant would pay in rent, the excess is, in fact, paid to the tenant in cash.

Nationally, HUD utility allowances provide more energy assistance to low-income households than does the federal LIHEAP program. While fewer households nationwide receive HUD utility allowances, more money is spent in providing utility assistance through the HUD programs. While HUD tenants received \$3.139 billion in utility allowances in 2005, the *total* basic LIHEAP appropriation was somewhat less than \$1.8 billion. LIHEAP energy affordability benefits would have been lower than that figure, however, since the total appropriation would be reduced by block grant transfers to weatherization and the social services block grant programs, as well as dollars used for administration. In 2005, LIHEAP served roughly 4.9 million households, compared to the 3.0 million tenants receiving a HUD utility allowance.

Federal Regulatory Requirements

A utility allowance is set by the local Public Housing Authority. Pursuant to federal regulations, each PHA is supposed to review (and revise where appropriate) its utility allowance on an *annual* basis.²¹ In addition, under federal law, each PHA is supposed to adjust its utility allowance whenever there is a cumulative rate change of 10% or more.²² Local Public Housing Authorities however, frequently fail to comply with these “requirements” (and low-income tenants simply do not have the resources to constantly challenge PHA inaction).

The law does not require that the entire bill of a tenant be paid. Instead, the legal test is whether the utility allowance will be sufficient to cover the utility bill of an “energy conservative household of modest means.”²³ Much can be written about what that phrase means. The basic message, however, is that while there is no guarantee that the entire bill will be paid, PHA discretion is not absolute. If the tenant uses more energy than is paid by the utility allowance, that energy consumption must be *more* than what would be used by an “energy conservative household of modest means.” In addition, federal law provides that a utility allowance is to cover all energy consumption that is not within the ability of the tenant to control.²⁴

Despite the legal constraints identified above, local Public Housing Authorities often set utility allowances so as to substantially *underpay* tenants of public and assisted housing.

²¹ 24 C.F.R. § 965.507(a) (2006) (“The PHA shall review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to the standards stated in §965.505, shall establish revised allowances.”)

²² 24 C.F.R. §965.507(b) (2006). “The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments) and shall be required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based. Adjustments to resident payments as a result of such changes shall be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective.”

²³ 24 C.F.R. §965.505 (2006). “The objective of a PHA in designing methods of establishing utility allowances for each dwelling unit category and unit size shall be to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.”

²⁴ *Dorsey v. Housing Authority of Baltimore City*, 984 F.2d 622, 629 (1993).

As a result of the inadequate and outdated utility allowances, these tenants are required to pay much of what is supposed to be covered by a utility allowance out of their own pocket. These utility costs can be devastating to a tenant of public and assisted housing. An analysis by the U.S. General Accounting Office (GAO) reported that public and assisted housing tenants, on average, live with incomes below 50% of the Federal Poverty Level.²⁵

It is not clear why HUD utility allowances receive so little attention by persons interested in seeing that the government programs designed to help low-income customers pay their home energy bills are adequately funded and appropriately administered. Consider that:

- Unlike LIHEAP, utility allowances are not seasonal benefits, but are year-round;
- Unlike LIHEAP, utility allowances are intended to cover total energy consumption, including electricity and space heating, not simply home heating (or cooling);
- Unlike LIHEAP, utility allowances are intended to pay for all end-uses (e.g., heating, cooling, hot water, appliances, lighting) of a tenant, not merely heating or cooling.

The Proposed State Remedy

The Commonwealth of Massachusetts should take an active role in ensuring that its local Public Housing Authorities comply with federal regulatory requirements regarding the promulgation of utility allowances. Housing Authorities are, after all, creatures of state law. While they are independent local authorities, it is appropriate for the Commonwealth to take an active role in enforcing compliance with federal requirements that adequate and appropriate energy assistance be provided, both to ensure the affordability of housing and to ensure the affordability of home energy.

During these times when many public officials, as well as public and private stakeholders, are concerned about the impact of rising energy prices on low-income households, it is unacceptable that tenants of public and assisted housing are not receiving the federal utility allowance benefits to which they are entitled under federal law. Accordingly, the Belmont Housing Trust recommends that the Commonwealth, through either regulatory or legislative action, adopt the following policies and procedures:

- Each natural gas and electric utility shall, whenever it implements a retail residential rate change, including any rate change attributable to fuel costs or purchased gas costs, notify all Public Housing Authorities within their service territory of the rate change.

²⁵ General Accounting Office (March 1991). *Assisted Housing: Utility Allowances Often Fall Short of Actual Utility Expenses: Volume I*, General Accounting Office: Washington D.C. General Accounting Office (March 1991). *Assisted Housing: Utility Allowances Often Fall Short of Actual Utility Expenses: Volume II*, General Accounting Office: Washington D.C.

- Each PHA shall, by September 1 of each year, submit to the Department of Housing and Community Development (DHCD) each schedule of utility allowances to be in effect for the immediately upcoming year. Each PHA filing shall document the adjustments to be made for changes in home energy prices, including adjustments for rate changes of 10% or more retroactive to the first month in which the rate change became effective.
- If a PHA fails to make its annual filing, or fails to adjust its utility allowances to reflect rate changes during the year, including adjustments for rate changes of 10% or more retroactive to the first month in which the rate change became effective, DHCD shall promulgate utility allowances for the PHA and shall mandate their implementation effective October 1 of the filing year and retroactive, if appropriate, to the first month after a rate change of 10% or more became effective.
- Any tenant affected by the failure of a PHA to promulgate or revise a utility allowance may, upon complaint to DHCD, seek DHCD review of whether a PHA has complied with requirements that utility allowances be adequately promulgated and updated. Upon finding that a PHA has not adequately promulgated and/or updated a utility allowance, DHCD shall promulgate utility allowances for the PHA effective immediately going forward as well as effective retroactive to the date on which such utility allowance should have been placed into effect.

The Special Needs of Tenants in State-Funded Public and Assisted Housing

The discussion above relates to tenant in public and assisted housing that is funded through federal dollars (U.S. Department of Housing and Urban Development, HUD). In addition to these federally-subsidized units, however, are units that are subsidized exclusively with state dollars. The public housing owned and operated by the Belmont Public Housing Authority (BHA), for example, is operated exclusively with state subsidies. The very poor tenants living in state public housing generally pay their own utilities without public assistance. They require special attention. Similarly, tenants receiving rental assistance under the state-funded Massachusetts Rental Voucher Program (MRVP) face similar problems.

STRATEGY #4: PURSUE AGGRESSIVE EARNED INCOME TAX CREDIT (EITC) OUTREACH.

The Earned Income Tax Credit (EITC) is the largest public assistance program serving low-income households in Massachusetts. The EITC delivered more than \$500 million dollars in federal benefits for the Tax Year 2005 (claimed in 2006). The EITC could deliver benefits, in an amount and at a time, that would be most helpful to address winter home heating unaffordability problems. Table 2 below shows that the average EITC amount ranges from \$1,000 to more than \$1,800 depending on the county in Massachusetts. Nearly 310,000 Massachusetts households received the EITC in Tax Year 2005 (returns filed in 2006).

The EITC is particularly helpful, also, because it is a “refundable” tax credit. While a low-income household is required to file a tax return in order to receive the EITC, the household need not have a tax liability in order to receive the credit. The credits can place actual cash in the pockets of households. Under the EITC, if a worker has had taxes withheld, the federal government will return her withheld taxes and pay her an additional amount up to the maximum EITC to which she is entitled. If the household has had no taxes withheld, the federal government will send her a check for the maximum EITC to which she is entitled.

Table 2. 2005 Earned Income Tax Credits by County (Massachusetts)

| County | Number of Returns with EITC | Aggregate Amount of EITC | Average EITC Amount |
|-------------|-----------------------------|--------------------------|---------------------|
| Barnstable | 9,782 | \$14,261,554 | \$1,458 |
| Berkshire | 7,794 | \$12,440,788 | \$1,596 |
| Bristol | 29,235 | \$49,153,369 | \$1,681 |
| Dukes | 890 | \$1,120,241 | \$1,259 |
| Essex | 40,336 | \$72,535,262 | \$1,798 |
| Franklin | 4,017 | \$6,057,800 | \$1,508 |
| Hampden | 34,077 | \$62,134,598 | \$1,823 |
| Hampshire | 6,211 | \$8,927,245 | \$1,437 |
| Middlesex | 48,535 | \$71,185,520 | \$1,467 |
| Nantucket | 407 | \$406,618 | \$999 |
| Norfolk | 18,993 | \$27,574,775 | \$1,452 |
| Plymouth | 20,877 | \$33,482,502 | \$1,604 |
| Suffolk | 49,700 | \$82,851,993 | \$1,667 |
| Worcester | 38,159 | \$64,153,090 | \$1,681 |
| Total state | 309,013 | \$506,285,355 | \$1,638 |

SOURCE: Brookings Institution: (accessed September 1, 2008).

Despite the incredible benefits of the EITC, according to the Internal Revenue Service (IRS), national data suggests that jurisdictions leave between 15% and 25% of available EITC benefits on the table each year. In Massachusetts, this means that between \$76 million and \$126 million in federal EITC benefits go unclaimed each year. The increase in EITC benefits, while not uniformly helping all areas of the state, would nonetheless deliver substantial benefits to all counties within Massachusetts. At the 25% unclaimed rate, the five largest amounts of unclaimed benefits lie in:

- Suffolk County (\$20.7 million)
- Essex County (\$18.3 million)
- Middlesex County (\$17.8 million)
- Worcester County (\$16.0 million); and
- Hampden County (\$15.5 million)

According to the Brookings Institution, few jurisdictions lack the capacity to increase the rate at which EITC benefits are distributed by five percent (5%) or more in a given year. The D.C.-based Center on Budget and Policy Priorities (CBPP), which administers the national EITC Outreach Campaign, reports that populations that are particularly underserved include part-time workers, women workers, and Hispanic workers. A 5% increase in EITC claims in Massachusetts would deliver more than \$25 million in increased federal EITC benefits to the state.

Increasing the rate at which EITC benefits are claimed would deliver important “energy assistance” benefits to low-income households in the following two respects.

- First, coming as part of the federal income tax return process, the money would come at the time when low-income households are most vulnerable to unpaid energy bills. Tax returns filed in January and February would easily put cash in the hands of low-income households during the high bill winter months.
- Second, tax credits coming back to customers in April may well also serve as a source of downpayment on a payment plan to prevent the loss of service at the very time the Massachusetts winter shutoff moratorium is ending.

In addition to these substantive benefits of the EITC, the EITC provides process benefits as well. Perhaps most importantly, the EITC is not a “use it or lose it” proposition. An income-eligible household may make “back claims” for EITC credits within a three-year statutory limit. Claims for Tax Year 2006, in other words, will expire only if not made by April 15, 2009.

It would seem intuitively evident that a home energy supplier would benefit from any increase in financial resources to be brought to bear on low-income living expenses. More than intuition, however, supports the conclusion that increasing EITC claims will help pay home energy bills. An Edison Electric Institute (EEI) staffperson reports, for example, that 90 percent of New Jersey EITC recipients used their tax credit to pay household living expenses. One-third of all recipients used their EITC to pay *past-due* bills and one-quarter used part of their refund to pay utility bills. In addition, according to data provided by the Internal Revenue Service (IRS), which administers the EITC at the federal level, fully one-half of households receiving the EITC use

those dollars to “pay bills” as their first use. More than 70% of EITC recipients use those funds to “pay bills” as either their first or second use.

The Belmont Housing Trust recommends that Massachusetts commit to an aggressive EITC outreach campaign. This outreach campaign should reflect at least two prongs. First, the Commonwealth should engage in a publicly-funded EITC outreach campaign. In addition to generic media-based outreach directed toward working households in general, the campaign should offer grant-based assistance to community-based organizations that demonstrate an ability to reach historically under-served populations (e.g., part-time workers, women workers, Hispanic workers). Second, the Commonwealth should require public utilities to engage in an aggressive EITC outreach campaign. Such utility outreach should extend beyond simply providing bill inserts with EITC information. Utility outreach should be *targeted* to customers who have a demonstrated difficulty in paying their winter home energy bills, including customers with prescribed levels of arrears in the winter heating months.

STRATEGY #5: PROVIDE ADEQUATE CONSUMER PROTECTIONS FOR FUEL OIL CUSTOMERS.

One area of ongoing concern involving unaffordable home heating bills involves the difficulties in generating price support and consumer protections for users of bulk fuels. Bulk fuels include fuels such as propane, fuel oil, liquefied natural gas (LNG), and the like. Vendors of bulk fuels are not subject to comprehensive regulation by any state oversight body. Moreover, given the multiplicity of bulk fuel vendors, it is difficult to negotiate “voluntary” agreements that are sufficiently wide-spread to reach a majority of low-income users. Despite these difficulties, there are specific strategies that could be pursued in Massachusetts to ensure that the issue of affordable home energy is not limited simply to regulated utilities.

"Fuel assistance" for low-income users of bulk fuels need not necessarily take the form of financial assistance. At least two states have adopted proposals that certain winter practices by vendors who sell bulk fuels to residential customers be prohibited pursuant to state consumer protection statutes. Administrative regulations adopted in both Vermont and Maine prohibit the denial of service during cold weather months, during which months such denial may pose a threat to the health, safety and life of the customer.

Vermont Fair Trade Regulations for Propane

Regulations adopted by the Vermont Attorney General’s Office, pursuant to the state’s Unfair and Deceptive Acts and Practices Statute (UDAP), provide a reasonably comprehensive framework of consumer protections for consumers of liquefied petroleum gas (“propane” or “LPG”).²⁶ The Attorney General declared it to be an “unfair and deceptive trade act and practice” for a retail distributor of propane to fail to provide specified protections. Amongst those protections are:

²⁶ Code of Vermont Rules, 06-031 CVR 011.01, et seq. (2008).

- No propane dealer may involuntarily disconnect service without providing notice of not less than 14 days, nor more than twenty days, prior to the disconnection. A “disconnection” of service for a propane dealer is defined as “the deliberate refusal to deliver gas or an interruption or disconnection of service to a consumer previously receiving service” from the company.
- A consumer in arrears to a propane dealer must be given an opportunity to enter into a reasonable payment agreement. The reasonableness of such an agreement is to be based on a consideration of the amount of the delinquency, the consumer’s ability to pay, and the reason the account became delinquent.
- No disconnection may occur if the delinquency to the dealer is less than \$30 and less than 60 days past due, so long as the customer uses propane as a primary source of heat.
- If a dealer wishes to disconnect service to a customer using propane gas as the primary source of heat during the heating season, the dealer must, in addition to providing written notice of the disconnection, also provide oral notice. This oral notice may be by telephone, but if telephone contact cannot be accomplished, a personal visit to the residence must be made.
- A propane dealer may not require a customer to make a minimum purchase of more than 100 gallons at a time, or more than the total capacity of the customer’s existing tank, whichever is less.²⁷
- A propane dealer may not refuse to sell gas if the consumer is ready, willing and able to pay by cash, certified or cashier’s check, commercial money order, or their equivalent. In addition, a propane dealer may not refuse to sell gas if a governmental or private agency has made an unconditional commitment to pay for the delivery.

Other consumer protections apply to propane dealers in Vermont under the Attorney General regulations.

Maine’s Fair Trade Practices Regulations for Fuel Oil

Similar to Vermont’s propane regulations, the Maine Attorney General has promulgated fair trade practice regulations governing the sale of residential heating oil.²⁸ The Maine regulations apply to the sale of number 2 fuel oil, as well as to the sale of kerosene, used to heat the interior of a person’s primary residence. The Maine regulations govern all retail oil dealers.

²⁷ If a consumer has a tank larger than 100 gallons, the gas company may require larger minimum purchases in accord with a prescribed schedule, but must offer the customer an opportunity to enter into a reasonable payment plan or reasonable budget billing plan.

²⁸ Code of Maine Rules, 26-239, Ch. 100, §1, et seq. (2008).

The Maine Unfair Trade Practices Act Regulations on "Sale of Residential Heating Oil" apply to heating sales from October 15 through April 30 of each year. Under these regulations, dealers must sell fuel within their service areas to anyone who pays cash, even if the customer has not paid for a previous delivery, or is not an established customer. Likewise, fuel must be delivered if a government agency (or a fuel assistance sub-grantee) guarantees payment.

In addition, once a Maine household has become an “established customer” of a particular dealer – defined as having made two cash purchases in a row from the dealer—the customer is entitled to certain consumer protections. One such protection, for example, is that a dealer may not discriminate amongst established customers on providing such services as requests for immediate service or unscheduled deliveries. Nor may a dealer discriminate amongst established consumers as to additional charges for deliveries of less than a minimum delivery requirement. In essence, the regulation provides for equal service for all established customers.

Moreover, the Maine regulations provide that a heating oil dealer must sell heating oil to a customer willing to pay cash for the oil, even if the customer is not an established customer and even if the customer has a past-due bill for a previous delivery. As in Vermont, a “cash” payment is defined broadly to include payment by a certified or cashier’s check, a commercial money order, or their equivalent. It also includes situations where a government or community action agency has guaranteed to pay on behalf of the person the cost of the fuel oil sale.

The Maine regulations finally require a fuel oil dealer to make scheduled deliveries of 20 gallons or more. Dealers may, under the regulations, however, add a “penalty” of not to exceed \$5 for deliveries of less than 50% of the customer’s tank, or 100 gallons, whichever is less. No other “penalty” is permitted under the regulations.²⁹

In sum, to the extent that Massachusetts might wish to extend certain consumer protections to households using bulk fuels for home heating, there is ample precedent for the state to do so through its state Attorney General’s office. Regulations promulgated under the state’s Unfair and Deceptive Acts and Practices (UDAP) statute can be used not only to provide winter protections, but to provide more fundamental protections as well.

The Belmont Housing Trust recommends that the Massachusetts Attorney General promulgate emergency regulations under the state’s UDAP statute prescribing basic consumer protections for households using bulk fuels for home heating. The necessary consumer protections are those reflected in the corresponding Maine and Vermont regulations.

²⁹ Other consumer protections are specified in the Maine regulations.

A Longer-Term Need: Fair Market Rents and Home Energy Bills

In addition to the immediate action steps necessary as identified above, the Commonwealth of Massachusetts should take additional steps to address the growing impact of sharply increasing home energy bills on the affordability of total shelter costs.

High energy prices contribute to the growing shelter burden imposed on low-income households. One way to assess this impact is through an examination of the extent to which home energy bills relate to Fair Market Rents (FMRs) in Massachusetts. Fair Market Rents are published annually by the U.S. Department of Housing and Urban Development (HUD) to reflect gross rents (contract rents plus all utilities except telephone) at the 40th percentile level. While FMRs are published for various housing unit sizes (as measured by the number of bedrooms), the examination below considers FMRs for two-bedroom housing units as representative of a typical housing unit.

The discussion below examines the impact of increasing home energy bills in each of 351 Massachusetts local jurisdictions.

Home energy bills are comprising an increasingly large proportion of shelter prices as reflected by the FMRs for Massachusetts jurisdictions. Table 3 below shows the proportion of FMRs for 2-bedroom units that is devoted to home energy bills. As a general rule, utility costs should not exceed 20% of total shelter costs to prevent a household from being over-extended. While in 2003, home energy was 20% or less of FMRs in 210 of Massachusetts's 351 jurisdictions, by 2007, home energy was 20% or less in only 140 jurisdictions. In contrast, while in 2003, home energy was 25% or more of FMRs in 16 Massachusetts jurisdictions, by 2007, home energy was 25% or more in 155 jurisdictions.

As home energy takes up an increasing proportion of the FMR, there is less money "left" to pay for the housing component of total shelter costs. As a result, Massachusetts households are either forced into increasingly lower-priced (and presumably lower quality) housing, or those households face ongoing bill payment problems attributable to the mismatch between household resources and household expenses.

Table 3. Home Energy Bills as a Percent of Fair Market Rents by Jurisdiction: 2003 vs. 2007
(Massachusetts)

| Proportion of Home Energy Bill to FMR | Number of Jurisdictions | |
|---|-------------------------|------|
| | 2003 | 2007 |
| 12% or less | 38 | 0 |
| 12 – 18% | 144 | 116 |
| 18 – 22% | 64 | 65 |
| 22 – 25% | 89 | 15 |
| 25% or more | 16 | 155 |
| Total number of jurisdictions | | |
| SOURCE: Home Energy Affordability Gap, FMR Analysis, 2008, Fisher, Sheehan & Colton (April 2008). | | |

In much of Massachusetts, increases in FMRs have simply not kept up with increases in home energy bills. In 86 Massachusetts jurisdictions, increases in home energy bills from 2003 to 2007 were *greater* than increases in FMRs. In these communities, low-income households could spend less money on housing in 2007 than they could four years earlier. In an additional 48 communities, the increase in FMR was greater than the increase in home energy bills, but the increase was less than \$100. In each of these communities, low-income households are losing ground in their ability obtain decent housing at reasonable prices. Their housing purchasing power has been significantly eroded by sharply increasing home energy bills.

The further dramatic increases in home energy bills subsequent to 2007 will reduce the housing purchasing power of low-income households even further. In addition to being an “affordable energy” problem for Massachusetts, in other words, the ever-increasing home energy bills facing Massachusetts residents, along with the unwillingness of HUD to promulgate FMRs that appropriately reflect those energy bills, also substantially exacerbate the already substantial affordable housing problems facing the Commonwealth.

Summary of Recommendations of Belmont Housing Trust, Inc.

Based on the above data and analysis, the Belmont Housing Trust, Inc. (Belmont, Massachusetts) advances the following recommendations to the Winter Energy Costs Task Force with respect to a proactive response to expected home heating prices in Massachusetts for the 2008/2009 home heating season:

1. State regulators should ensure that levelized Budget Billing is appropriately available to all residential customers, including low-income residential customers in particular. In pursuit of this objective, the Commonwealth should:

- a. Prohibit specific limitations on the offer of levelized Budget Billing, including (a) minimum residency requirements; (b) the requirement that accounts be free of arrears prior to entering into Budget Billing; and (c) commencement date limitations.
 - b. Require the offer of levelized Budget Billing plans for fewer than 12-months, including, at a minimum, a seven month levelized Budget Billing plan for the months of October through April.
2. The Commonwealth should prohibit utilities from responding to nonpayment of unaffordable home energy bills by *increasing* the bill through non-cost-based late payment charges. More specifically, the Commonwealth should:
 - a. Exempt low-income customers from the imposition of late payment fees.
 - b. Exempt all residential arrears that are subject to deferred payment agreement, when payments on the agreement are current, from the imposition of late payment fees.
3. The Commonwealth should take affirmative steps to enforce federal requirements that local Public Housing Authorities provide appropriate utility allowances to HUD-subsidized public and assisted housing. More specifically, the Commonwealth should:
 - a. Impose reporting requirements on natural gas and electric utilities requiring those utilities to inform local housing authorities whenever rate changes, including rate changes attributable to changes in commodity or fuel costs, occur in their service territories.
 - b. Impose reporting requirements on each local PHA requiring each PHA to document its compliance with federal requirements that utility allowances be adjusted annually, or whenever rate changes of 10% or more have occurred, retroactive to the first month in which the rate change became effective.
 - c. Authorize DHCD to promulgate effective utility allowances in the event that the local PHA fails to make its annual filing, or fails to adjust its utility allowances to reflect rate changes during the year, including adjustments for rate changes of 10% or more retroactive to the first month in which the rate change became effective.
 - d. Authorize any tenant affected by the failure of a PHA to promulgate or revise a utility allowance to seek relief from state housing officials.
4. The Commonwealth should fund aggressive outreach promoting the Earned Income Tax Credit (EITC). This publicly-funded campaign should operate through local community-based organizations, and should have specific campaign components directed toward historically under-served populations (part-time workers, women workers, and Hispanic workers). In addition to this publicly funded campaign, Massachusetts utilities should be required to direct EITC outreach toward customers in arrears, particularly prior to the termination of service for nonpayment.

5. The state Attorney General should promulgate Unfair and Deceptive Acts and Practices (UDAP) regulations that articulate necessary consumer protections for bulk fuel customers, including customers using propane, kerosene or fuel oil for residential home heating.

In addition to these five specific recommendations, the Housing Trust requests the Commonwealth to take those steps necessary to challenge HUD's unwillingness to promulgate Fair Market Rents (FMRs) that adequately reflect increasing home energy prices. The Winter Energy Costs Task Force should seek the assistance of the Massachusetts Congressional delegation, if necessary, to respond to HUD's failure to promulgate FMRs that adequately reflect increasing home energy prices.