

Utility-Related Funding Questions

By: Mary Fitzpatrick, Principal Analyst
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Issue

This report addresses questions on (1) utility funding policies in Massachusetts, New York, and Colorado and (2) energy efficiency funding for heat pump dryers in Connecticut. Questions and answers follow.

How does Massachusetts fund its public utility commission?

Massachusetts funds its Department of Public Utilities (DPU) with state funds, most of which are reimbursed through assessments the regulated companies pay. [The enacted state budget for 2022](#) funds DPU as shown in Table 1, which also shows federal grants DPU received.

Table 1: 2022 Enacted State Budget for Massachusetts DPU

Item and Description	Amount
State Funds	
DPU, for operation of the department	\$18,291,197
Transportation Oversight Division, for operation of the division	344,801
Steam Distribution Oversight, for DPU to regulate steam distribution companies	388,894
Transportation Network Company Oversight, for operation of the division	1,910,854
Federal Grants	
Rail Fixed Guideway Public Transportation System Oversight	1,160,339
Pipeline Security	1,845,611

State law authorizes DPU to assess the companies it regulates through three separate assessments (shown in Table 2) and a surcharge. The law requires DPU to collect the General Assessment and credit it to the General Fund to reimburse the state for funds appropriated to operate the department. (This year, budget language allowed the General Assessment to include employee fringe benefits that are otherwise generally excluded.)

Table 2: Statutory Massachusetts DPU Funding Assessments

Assessment	Companies Assessed	FY 22 Amount	Statutes and Orders
General Assessment	<ul style="list-style-type: none"> Electric and gas companies under the department’s jurisdiction Generation companies and suppliers licensed by the department 	\$21,970,204	G.L. c. 25, § 18 ; D.P.U. 22-ASMT-01
Electric Trust Assessment	<ul style="list-style-type: none"> Electric companies under the department’s jurisdiction Generation companies and suppliers licensed by the department 	2,946,108	G.L. c. 25, §§ 18 & 120 ; D.P.U. 22-ASMT-02
Storm Trust Fund Assessment	<ul style="list-style-type: none"> Electric companies under the department’s jurisdiction 	549,577	G.L. c. 25, §§ 18 & 12P ; D.P.U. 22-ASMT-03

The law explicitly prohibits electric companies from recovering the Storm Trust Fund Assessment from ratepayers. However, the law does not explicitly prohibit companies from recovering the other assessments and instead allows them to be credited to each company’s normal operating costs. Therefore, it appears that these two assessments may be recovered from ratepayers.

DPU also assesses a surcharge on Transportation Network Companies (TNCs, e.g., Uber, Lyft) ([Mass. Gen. Laws ch. 25, § 23](#)). By law, the surcharge funds the [TNC Division](#) within DPU. [In practice](#), the funds are distributed to cities and towns, [MassDevelopment](#), and [the Commonwealth Transportation Fund](#). Though the law establishes certain requirements and restrictions on the rates TNCs may charge, DPU does not regulate TNC rates as it does for utilities ([Mass. Gen. Laws ch. 159A1/2, § 2\(h\)](#)). Presumably, TNCs may make business decisions as to whether to pass the cost of the surcharge on to customers or deduct it from company profits. According to [the 2021 Rideshare Data Report](#), the surcharge (a \$0.20 charge per ride) generated \$7.9 million in 2021.

Describe recent legislation in New York on procedures for utility payment of attorney and expert witness fees.

A law recently passed by the New York state legislature ([S3034-a/A873a](#)) allows certain groups representing residential or small business customers to apply to the Department of Public Service (DPS) for reimbursement for costs related to participating in Public Service Commission (PSC) proceedings. New York's governor vetoed the bill on December 23, 2022. Provisions of the vetoed act are described below.

Eligible Participants

Under the act, groups of residential or small business customers, or nonprofit organizations authorized to represent them, are eligible to apply for compensation. A "small business" is one with up to \$250,000 in gross annual revenue. Groups are not eligible if their principal interests are the welfare of (1) public utilities or their investors or employees or (2) businesses or industries that receive utility service for use in connection with profit-seeking manufacture, sale, or distribution of goods or services.

To receive compensation, the participant must demonstrate to DPS that it may make a substantial contribution to a final decision in a proceeding, meaning that the decision may adopt factual contentions, legal contentions, or specific policy or procedural recommendations that the participant presents.

Eligible Proceedings

Under the act, compensation is available for certain proceedings before the PSC, including complaints, investigations, rulemakings, other formal proceedings, or alternative dispute resolution procedures in lieu of formal proceedings. The act generally limits the eligible types of proceedings to those (1) arising under laws related to electricity, gas, or steam prices or electricity submetering, remetering, or resale or (2) in which the PSC finds the public interest requires reimbursement. Participants may apply for compensation for proceedings in which they have sought active party status.

Eligible Costs

Under the act, compensation includes reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs for proceeding preparation and participation. "Other reasonable costs" include "reasonable out-of-pocket expenses directly incurred by a participant that are directly related to the contentions or recommendations made by the participant that resulted in a

substantial contribution to the proceeding.” The DPS may determine whether to reimburse these costs in full or in part.

To calculate compensation amounts, DPS must consider market rates paid to comparably trained and experienced people offering similar services. The act prohibits compensation amounts from exceeding comparable market rates paid by DPS or a utility, whichever is greater.

Process

To receive compensation, participants must apply to DPS and serve a notice of intent to apply for compensation to each party in the proceeding. The act requires DPS to determine appropriate procedures for accepting and responding to applications. Applications must include the following:

1. a statement of the nature and extent of the participant’s planned participation in the proceeding, including its factual and legal basis, to the extent this description is possible with reasonable specificity when the application is filed;
2. a reasonably detailed description of anticipated advocates and expert witness fees and other costs for proceeding preparation and participation that the participant expects to request as compensation; and
3. other information DPS may require.

If DPS finds the participant requesting compensation may make a substantial contribution to the proceeding, the department must determine the amount of compensation to be paid and describe the substantial contribution in its determination. The utility or utilities subject to the proceeding must pay the compensation within 30 days after the proceeding concludes, remitting it to DPS, which then remits it to the participant. The act establishes a utility intervenor account for this purpose.

The act establishes a process for participants with significant financial hardship to receive compensation before the proceeding concludes. These are participants that will be unable to afford to pay the costs of effective participation without undue hardship. Under the act, these participants must include evidence of significant financial hardship in their application for compensation. If DPS determines the participant has a significant financial hardship, it may direct utilities to pay compensation to the department before the proceeding ends. The act authorizes DPS to recover funds and refund them to utilities if the participant discontinues participation in the proceeding without DPS consent.

Recordkeeping and Unused Funds

Under the act, DPS must require participants seeking compensation to maintain an itemized record of all expenditures incurred in the proceeding. DPS may use the record to verify financial hardship claims or determine whether any unused funds remain after the proceeding concludes. Participants must return any compensation awarded but not used to DPS, which must refund it to the utilities.

Other Provisions

If DPS finds two or more participant applications have substantially similar interests, the department may require them to apply jointly to receive compensation. Additionally, DPS must deny awards to a participant who attempts to delay or obstruct the orderly and timely fulfillment of the department's responsibilities.

Describe Colorado's laws and policies on utility payments for nonprofit energy assistance providers (analogous to Operation Fuel in Connecticut).

[Energy Outreach Colorado](#) (EOC) is a statewide nonprofit organization that raises funds to help low-income residents afford their home energy. According to EOC staff, investor-owned utilities are not required to provide shareholder dollars to EOC. EOC primarily receives ratepayer funds through the following means:

1. late payment fees ordered by the Colorado Public Utilities Commission through previous rate cases;
2. voluntary customer contributions, collected by utilities and sent to EOC;
3. an optional charge on all energy bills, required under [House Bill 21-1105](#); and
4. utility contracts for administering various programs (e.g., income-qualified demand side management, transportation electrification, and community solar).

Can Conservation and Load Management (C&LM) funding in Connecticut provide incentives for heat pump dryers?

[The current C&LM plan](#) does not explicitly include heat pump dryers and the [EnergizeCT website](#) does not currently advertise incentives for heat pump dryers, but it does provide information on them ([see "Information & Tips"](#)).

However, heat pump dryers are supported under [the ENERGY STAR Retail Products Platform \(ESRPP\)](#), which is supported by C&LM funds and described in the plan. This program, which the federal Environmental Protection Agency (EPA) administers, provides incentives to retailers to encourage them to increase the energy-efficient products they sell or include in their inventories. [The C&LM plan](#) describes ESRPP as follows (p. 58):

The ENERGY STAR Retail Products Platform (ESRPP) is a collaborative marketing and upstream rebate fulfillment initiative facilitated by the EPA, ENERGY STAR, energy efficiency program sponsors (e.g., utilities), retailer partners, and other stakeholders. The initiative offers minimal direct retailer incentives to participating big-box retail stores (e.g., Best Buy, Home Depot, and Lowe's) and small independent stores to increase the stocking and sale of high-efficiency appliances. The ESRPP was launched in Connecticut during the 2019-2021 term. The companies (Eversource and United Illuminating) work directly with retailers to lower the cost of appliances and electronics before they hit retail shelves through midstream incentives. ... The 2022-2024 ESRPP will include incentives for dryers, washers, refrigerators, freezers, air purifiers, room air conditioners, dehumidifiers, and sound bars.

State law establishes a process for developing and approving a C&LM plan every three years. Programs in the plan are funded in part through fully reconciling conservation adjustment mechanisms for electric and natural gas ratepayers. Generally, the electric and natural gas utilities must submit a proposed plan to [the Energy Efficiency Board \(EEB\)](#) for approval by the board and the Department of Energy and Environmental Protection (DEEP). (The DEEP commissioner convenes the EEB and appoints its members.) The Public Utilities Regulatory Authority (PURA) must ensure that ratepayer funds are properly allocated to fund it ([CGS § 16-245m\(c\) & \(d\)](#)).

The law explicitly authorizes certain programs or activities in the C&LM plan, including design, manufacturer, commercialization, and purchase of energy-efficient appliances ([CGS § 16-245m\(d\)\(5\)\(E\)](#)). For more information on plan requirements and approval process, see OLR Report [2021-R-0184](#).

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