



TO: Utah Public Service Commission
Stephen Mecham, Chairman
Constance White, Commissioner
Richard Campbell, Commissioner

FROM: Light and Truth
Paul Mecham

DATE: April 24, 2003

SUBJECT: Evaluation of the HELP Program

The HELP program continues to work toward the right ends using the wrong methods. This has been true from its very conception, thru its implementation and continues today.

L&T believes the Commission will find this document significantly more objective, inclusive and factually supported than any other input it has received on this topic to date. There certainly are some remaining open-ends. Some will never be closed. With the attachments, this document contains full text extracts of applicable portions of Commission orders, over 3 years of reported PacifiCorp data, comparative and condensed quotes of all parties and the full R. W. Beck report. It contains 134 footnoted references.

In this document, Light and Truth evaluates HELP by applying the useable measures and standards and then makes an overall recommendation for the future of the Program.

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SUMMARY

Light and Truth (L&T) reviewed and extracted salient data from the following:

- Three PSC orders pertaining to HELP
- The R. W. Beck Report
- The DPU First Annual HELP Report
- The CCS comments on the DPU Report
- The data reported by PacifiCorp relative to HELP

L&T then looked at the analysis done by the other parties on the measures, standards and available data. The great majority of available data was not usable for various reasons. This unusable data included most of the PacifiCorp data, the impact on which, could not be attributed to HELP. Most PacifiCorp data became informational only and could not be used for HELP evaluation. A number of the measures did not have any supporting data. A great number of the initial claims, assertions and findings were found to be unsupported and unsupportable. The usable measures, standards and data were ultimately identified.

L&T evaluated HELP against the usable measures and standards. HELP successfully provided benefits to recipients using acceptable procedures. No success for HELP was demonstrated in any of the other measures. No benefits to non-participant donors were found; no party presented such. No benefit to PacifiCorp was found; no party presented such. The overall detriments far exceeded the overall benefits: no party contested this. The fund balance, which ideally should be near zero, stood at over a million dollars at the end of program year two (September 30, 2002). In the end, the HELP program could not be demonstrated to be a success. It failed.

Even though pure logic would dictate that HELP be terminated, L&T is cognizant of the great needs of low-income people. With some reticence and concerns about legal issues, it recommends a modification and continuation of the program. That modification would be a conversion to non-forced, “opt-in” funding with the existing excess funds being kept (rather than refunded to donors) to allow present payments to continue. L&T hopes that, after reviewing the contents of this document, this compromise position can be supported by all parties and implemented immediately.

BACKGROUND

Many parties have described the background of the HELP program repeatedly. Light and Truth has elected in this document to display the high points of the background by referring to and quoting Public Service Commission (PSC) orders. Care has been taken in assembling the PSC quotes to differentiate between times the PSC is using the words of other parties and when the PSC is speaking in first person for itself. The underlining was done by L&T for emphasis. The parties mentioned are Salt Lake Community Action Program/Crossroads Urban Center (CAP), the Division of Public Utilities (DPU) and the Committee of Consumer Services (CCS). No effort was made to include any of the other filed input that was not quoted by the PSC.

PSC Quotes of others

The following quotes come from PSC Orders. In these quotes, the PSC is quoting other parties and not speaking for itself. These quotes illustrate the positions and assertions of other parties as shown on the PSC's records.

CAP

In 97-035-01: "SLCAP/Crossroads expects the benefits of the program to include a reduction in uncollectible accounts, returned checks, and service shutoffs; spreading the recovery of fixed costs over more customers and therefore reducing the impact on each customer; and an increase in sales of electric appliances."¹

CCS

In 97-035-01: "The members of the Committee of Consumer Services have voted to support the proposal."²

DPU

In 97-035-01: "The Division is neutral on the proposal but believes it raises a matter better left to the state legislature."³

"The Division asserts that there are no benefits to nonparticipants from direct assistance programs. It cautions the Commission against 'effectuating social policy by means of altered electricity rates.'⁴

Low Income Task Force

"Proposed Standards of Measures of Success. The task force report indicated some confusion as to what the Commission intended with its questions in this area. 'If the Commission's intention were to provide assistance to a given number of customers, or a percentage of low-income households, measurement would likely be quite simple . . .'⁵

"It recommended that we ask the Division to develop a set of standards and measures."⁶

"... make sure the program is effective ..."⁷

Quotes of the PSC's own words

The following quotes come from PSC Orders. In these quotes, the PSC is speaking in first person, for themselves. The underline highlighting is added by L&T for emphasis.

¹ Atch 2, PSC Order 97-035-01 (Extract) Lines 184-187

² Atch 2, PSC Order 97-035-01 (Extract) Line 47

³ Atch 2, PSC Order 97-035-01 (Extract) Lines 47-48

⁴ Atch 3, PSC Order 99-035-10 (Extract) Lines 77-79

⁵ Atch 3, PSC Order 99-035-10 (Extract) Lines 82-85

⁶ Atch 3, PSC Order 99-035-10 (Extract) Lines 88-89

⁷ Atch 3, PSC Order 99-035-10 (Extract) Lines 91-92

In 97-035-01

“... we must determine if a lifeline rate, as proposed in this case, is in the public interest.”⁸

“... we draw a set of criteria by which to judge the merits of the current proposal. ... the benefits of the program should offset negative impacts on rate making objectives and should be sufficient to overcome the Commission=s reluctance to effectuate social policy by means of altered electricity rates. ... the program should be easy and inexpensive to administer.”⁹

“The record does allow us to conclude that the lifeline rate is adequately targeted ... and thus overcomes the concerns expressed by the Commission in Docket No. 81-999-06.”¹⁰

“We conclude that if the assumptions are correct, then the benefits ... would exceed the detrimental effect of a very small increase in the bills of other customers.”¹¹

“SLCAP/Crossroads expects the benefits of the program to include a reduction in uncollectible accounts, returned checks, and service shutoffs; spreading the recovery of fixed costs over more customers and therefore reducing the impact on each customer; and an increase in sales of electric appliances. Though unrebutted, we recognize the speculative nature of this assertion.”¹²

“We are left with enough unanswered questions that, rather than order the lifeline rate established immediately, we direct the low-income task force to further consider, and recommend, exactly how this will be implemented.”¹³

“**Measurements / Standards.** Finally, we charge this task force with proposing as detailed as possible a set of standards, measurements and criteria against which, if we approve implementation, we could judge whether the program were functioning as intended. We further ask it to consider whether a pilot-test period may be appropriate, or a sunset date, or criteria upon which to determine that the program ought to be modified or abandoned.”¹⁴

“... whether the program actually results in measurable benefits”¹⁵

⁸ Atch 2, PSC Order 97-035-01 (Extract) Line 82

⁹ “... we draw a set of criteria.... First, the need should be both real and unmet by direct-payments programs, ... Second, ... the program must target only low-income households ... Third, the benefits of the program should offset negative impacts on rate making objectives and should be sufficient to overcome the Commission=s reluctance to effectuate social policy by means of altered electricity rates. Fourth, ... the program should be easy and inexpensive to administer.” See Atch 2, PSC Order 97-035-01 (Extract) Lines 86-94.

¹⁰ Atch 2, PSC Order 97-035-01 (Extract) Lines 153-156

¹¹ Atch 2, PSC Order 97-035-01 (Extract) Lines 181-183

¹² Atch 2, PSC Order 97-035-01 (Extract) Lines 184-188

¹³ Atch 2, PSC Order 97-035-01 (Extract) Lines 209-212

¹⁴ Atch 2, PSC Order 97-035-01 (Extract) Lines 242-246

¹⁵ Atch 2, PSC Order 97-35-01 (Extract) Line 250

In 99-035-10

“... our last rate case ... contained an extended discussion and analysis of the proposal, which we will not repeat here but reference and again rely on, in addition to evidence introduced in this case, as basis for our decision here.

“In the prior case, this Commission found that ... the program ... would not overly burden other customers; that the benefits offset negative impacts; and the proposed program was administratively simple and inexpensive to administer. Despite these findings, we declined to institute the lifeline rate in that case because of several concerns and unanswered questions, which were explained fully in that Order.”¹⁶

“... we asked for more information on ... proposed measurements and standards by which we could judge the success of a program”¹⁷

“We find sufficient benefits to the intended beneficiaries, to the utility, and to utility customers in general through reduced cost to the utility of collections, terminations, reconnections, and arrearages.”¹⁸

“We anticipate that the program be capped at no more than \$1.8 million per year; that it continue to be monitored by the Division and that it be thoroughly audited within three years.”¹⁹

“We further direct the Division of Public Utilities to monitor and audit the program, submitting, at a minimum, annual reports over an initial three-year period.”²⁰

“CONCURRING AND DISSENTING STATEMENT OF COMMISSIONER STEPHEN F. MECHAM

“...I do not personally oppose the lifeline proposal, but without concrete, identifiable benefits to all customers, I believe the legislature should specifically address this issue”²¹

In 00-035-T07

“PacifiCorp shall gather data on a monthly basis and issue a report ... with, the following details.

“1. The number of customers on Utah Tariff 1 and Lifeline Tariff 3.

“2. The amount collected under the Lifeline tariff rider (HELP surcharge).

“3. The amount credited to Lifeline tariff 3 customers' bills

“4. The amount of any administrative charges from PacifiCorp

“5. The amount of any administrative charges from DCED

“6. The balance in the Lifeline Account at the end of the period

“7. The balance in the Lifeline Account shall accrue interest.

“8. For residential tariffs 1 and 3, the monthly arrearage (an aging of accounts receivable)

¹⁶ Atch 3, PSC Order 99-035-10 (Extract) Lines 29-40

¹⁷ Atch 3, PSC Order 99-035-10 (Extract) Lines 41-46

¹⁸ Atch 3, PSC Order 99-035-10 (Extract) Lines 96-98

¹⁹ Atch 3, PSC Order 99-035-10 (Extract) Lines 118-120

²⁰ Atch 3, PSC Order 99-035-10 (Extract) Lines 128-129

²¹ Atch 3, PSC Order 99-035-10 (Extract) Lines 141-143

- “9. For residential tariffs 1 and 3, the number of termination notices and actual terminations
“10. For residential tariffs 1 and 3, the number and dollar amount of accounts turned over to collection agencies
“11. For residential tariffs 1 and 3, the dollar amount of write-offs and recoveries”²²

”The Division, with the assistance of PacifiCorp, SLCAP, CUC, DCED, CCS and other interested parties, will attempt to develop a set of standards and measures against which to evaluate the effectiveness and success of the program.”²³

“The Division will evaluate the effectiveness and success of the program against the determined standards and measures.”²⁴

“... the DPU will monitor and audit the program, and submit, at a minimum, annual reports to the Commission, CCS and other interested parties over the initial three year period. The DPU's reports will include three parts: (1) a financial audit of funds received and expended including administrative costs and a review of administrative processes, (2) an analysis of the program's effectiveness and (3) any appropriate recommendations for changes. Interested parties may thereafter submit their comments to the filed report. This procedural sequence is not intended to preclude the participation of any interested party in the development of the report and the inclusion of their views and recommendations in the report.”²⁵

PROGRAM GOALS

Light and Truth agrees with the identification of the eight HELP program goals made by the DPU in its report. L&T believes, however, that the goals need to be set in priority. To have a minor procedural goal be viewed as important as a major, overriding goal is a little like the airline pilot reporting to his passengers after being out over the ocean for several hours, “The bad news is that our navigation equipment is broken and we are hopelessly lost; but the good news is that we are making very good time.”

Overriding Goals

Light and Truth believes the following goals are “overriding” and are significantly more important than the other goals.

²² Atch 4, PSC Order 00-035-T07 Lines 124-140

²³ Atch 4, PSC Order 00-035-T07 Lines 170-173

²⁴ Atch 4, PSC Order 00-035-T07 Lines 174-175

²⁵ Atch 4, PSC Order 00-035-T07 Lines 179-187

Provide benefits to low-income program recipients

Provide benefits to utility customers in general

Provide benefits to PacifiCorp in the form of lower overhead costs

Provide benefits that offset negative impacts

Procedural goals

The following goals, while important on their own, do not carry the weight of the overriding goals in evaluating the overall success of the program

Not overly burden other customers

Cap collections at or near \$1,850,000 per year

Comply with ordered procedures on Tariffs, Certification and Administrative charges

Be administratively simple and inexpensive to administer

MEASURES AND STANDARDS

This section describes all the measures proposed by all parties. It places them in groups of those that have been found to be useable, those that were not analyzed and those that were found to be unusable. Where a specific measure and related standard were found usable, the HELP program was evaluated against that specific standard and found to be either successful or unsuccessful. It must be remembered that success (or lack thereof) relative to this one standard must be combined with success relative to other standards. These must then be tied to a program goal or goals and prioritized along with their successes for an overall evaluation of the HELP program. A one-page summary of the measures, standards and success appears in Attachment 7.

Useable Measures and Standards

These measures were found to be usable in evaluating the HELP program. Some have valid data available to support the evaluation. For others, the absence of data was noted where data was needed to support a claim or demonstrate success. Standards, along with the source of those standards are shown. Condensed observations of parties are shown for each measure. Finally, an evaluation of the HELP program relative to the individual measure and standard is shown.

Benefit to Recipients

Standard: Benefit (Defined by PSC)

DPU: Not useful.²⁶ (DPU combined the impact of this measure in the measure, Ending Account Balance)

Beck: \$1,044,260 distributed in first year²⁷

CCS: Important²⁸

L&T: This measure relates to the highest priority goal of the PSC. It should stand alone and not be combined with something else.

Evaluation: Success

Benefit to Ratepayers in General

Standard: Benefit (Defined by the PSC)

DPU: Not useful.²⁹ (DPU combined the impact of this measure in the measure, Program Cap)

Beck: No benefit. Negative impact.³⁰

CCS: Should be reported³¹

L&T: This measure relates to the second highest priority goal of the PSC. It should stand alone and not be combined with something else. No party has demonstrated any HELP benefits to ratepayers. There are no benefits in HELP to Ratepayers.

Evaluation: Fail

Benefits to PacifiCorp

Standard: Benefit (Defined by the PSC)

DPU: Not useful.³² (Although PacifiCorp's expenses before and after the implementation of HELP are available, the size of HELP relative to other factors makes it difficult, if not impossible, to attribute changes in PacifiCorp's O&M expenses or revenues to HELP.)

Beck: No data available.³³

CCS: Data should be available³⁴

L&T: Both DPU and Beck correctly observe there being no data available demonstrating a benefit to PacifiCorp. The proper conclusion is that there are no benefits in HELP to PacifiCorp.

Evaluation: Fail

²⁶ DPU HELP Annual Report, pg 18

²⁷ Beck Report, Enclosure 2, pg 5

²⁸ CCS Comments to the PSC, March 11, 2003 Pgs 4, 9

²⁹ DPU HELP Annual Report, pg 20

³⁰ Beck Report, Enclosure 2, pg 5

³¹ CCS Comments to the PSC, March 11, 2003 Pgs 4, 9

³² DPU HELP Annual Report, pg 19

³³ Beck Report, Enclosure 2, pg 5

³⁴ CCS Comments to the PSC, March 11, 2003 Pgs 4, 9

Benefits Offset Negative Impacts

Standard: Benefit (Defined by the PSC)

DPU: (Defined the goal but made no additional comments)³⁵

Beck: No (Is it Beck's overall position that the benefits will offset the negative impacts in year one? Please explain. No.)³⁶

L&T: Considering the impacts on all parties involved in HELP, negative impacts far exceed benefits.

Evaluation: Fail

Benefits compared to Negative Impacts

		Benefits	Detriments
Year 1			
Impact on Recipients		\$1,044,260	\$0
Impact on Donors		\$0	(\$1,887,233)
Impact on PacifiCorp		\$0	\$0
Year 2			
Impact on Recipients		\$1,782,585	\$0
Impact on Donors		\$0	(\$1,920,691)
Impact on PacifiCorp		\$0	\$0
Sums		\$2,826,844	(\$3,807,923)
Net			(\$981,079)

Detriments exceeded Benefits by \$981,079 in two years

Notes:

PacifiCorp's benefit of holding the fund was balanced by the interest it paid. This was a "wash" and was not shown in the above table.

PacifiCorp's costs were reimbursed. This was a "wash" and was not shown in the above table

DCED's normal costs were reimbursed. This was a "wash" and was not shown in the above table.

DCED's excess costs were paid from outside funds. This was not shown in the above table.

³⁵ DPU HELP Annual Report, pg 14

³⁶ Beck Report, Enclosure 2, pg 6

Not overly burden other customers

Standard: Not overly burden

DPU: Inconclusive³⁷

Beck: Not overly burden³⁸

CCS: Not overly burden³⁹

L&T: Please refer to the discussion in this document under SPECIFIC RESPONSES,
Overly Burden.

Evaluation: Fail

Program Cap

Standard: Within 5 % of cap. (Defined by DPU)

DPU: Helpful, Meets, Yes⁴⁰

CCS: useful⁴¹

L&T: All references observed by L&T in the PSC's orders except two indicate a firm cap. The exceptions occur in the 00-035-T07 order in which the PSC said, "... at or near the \$1,850,000 cap ..." ⁴² and "... collect approximately \$1,850,000 annually ..." ⁴³ In the same order containing the exceptions just quoted, the PSC used the words, "... collect no more than \$1,850,000 annually ..." ⁴⁴ L&T believes that a "fuzzy" cap is no cap at all. L&T believes that to arbitrarily pick a 5% variance without the PSC's endorsement and then base an evaluation on that arbitrary number is not appropriate. PacifiCorp collected more than \$1,850,000 in both HELP year one and HELP year two and, in the first three months of HELP year 3, is collecting at a rate that exceeds \$1,850,000 per year. Looking at calendar years 2001 and 2002 yields similar overcollections. PacifiCorp, when asked, indicated that if the fund were to reduce to zero, they would not grant any money to recipients below that zero level. DCED indicated that when HEAT money runs out, they stop spending. Apparently for some the limits are firm but this cap can be "fuzzy." Only the PSC can make a final determination on this issue. Simply put, HELP program collections have exceeded the cap.

Evaluation: Fail

³⁷ DPU HELP Annual Report, pg 39

³⁸ Beck Report, Enclosure 2, pg 6

³⁹ CCS Comments in the past

⁴⁰ DPU HELP Annual Report, pgs 24, 32 & 38

⁴¹ CCS Comments to the PSC, March 11, 2003 Pgs 7, 9

⁴² Atch 4, PSC Order 00-035-T07 Line 39

⁴³ Atch 4, PSC Order 00-035-T07 Line 103

⁴⁴ Atch 4, PSC Order 00-035-T07 Line 114

Process Collecting Surcharge from Ratepayers

Standard: Done per order (Defined by PSC)

DPU: Helpful, Meets, Yes⁴⁵

CCS: useful⁴⁶

Evaluation: Success

Process Granting Credit to Recipients

Standard: Done per order (Defined by PSC)

DPU: Helpful, Meets, Yes⁴⁷

CCS: Helpful⁴⁸

Evaluation: Success

Administrative Costs

Standard: Under cost cap (Defined by PSC)

DPU: Useful, Mixed, Inconclusive⁴⁹

CCS: Useful tool⁵⁰

L&T: In the first year of the program, DCED incurred HELP administrative costs and submitted them to PacifiCorp which exceeded the amount authorized by the PSC. Because of the cap, PacifiCorp refused to reimburse DCED. DCED found money elsewhere to cover the costs so the HELP fund was not hurt but that action did not remove the fact that costs exceeded the cap.

Evaluation: Fail

Ending Account Balance

Standard: Ending Account Balance

DPU: Useful, not meets, No⁵¹

Beck: Failed standard⁵²

CCS: recommend \$900,000 standard⁵³

L&T: The DPU is right in its stating the importance and the failure in this measure but this measure should not include (and hide) the measure, Benefits to Recipients. Please also refer to the discussion in this document under SPECIFIC RESPONSES, Fund Balance.

Evaluation: Fail

⁴⁵ DPU HELP Annual Report, pgs 20, 34 & 38

⁴⁶ CCS Comments to the PSC, March 11, 2003 Pgs 4, 9

⁴⁷ DPU HELP Annual Report, pgs 18, 34 & 38

⁴⁸ CCS Comments to the PSC, March 11, 2003 Pgs 3, 9

⁴⁹ DPU HELP Annual Report, pgs 19, 33 & 38

⁵⁰ CCS Comments to the PSC, March 11, 2003 Pgs 4, 9

⁵¹ DPU HELP Annual Report, pgs 23, 34 & 38

⁵² Beck Report, pg 4-12

⁵³ CCS Comments to the PSC, March 11, 2003 Pg 5

Measures Which Were Proposed, Analyzed and Found Wanting

The following measures were found to be unusable for several reasons. The most common reason was the inability to attribute available data to the HELP program. It appears that no cause and effect link can be found or demonstrated between the data in these measures and HELP. No party has provided this link(s). The great majority of the data being reported by PacifiCorp apply to measures in this group.

Penetration

Standard: 42% of those eligible (Defined by Beck)

DPU: Caution, Inconclusive, Yes⁵⁴

Beck: data not currently available. Failed standard⁵⁵

CCS: important, valuable⁵⁶

L&T: measure is arbitrary and not supported by data, would fail even if used.

Accrued Interest

DPU: Not useful⁵⁷

Beck: No info on impact⁵⁸

CCS: should be reported⁵⁹

L&T: impact on HELP evaluation is meaningless. Info only

Balance in Arrears

Standard: Reduction (Defined by DPU)

DPU: Limited value, Inconclusive, Inconclusive⁶⁰

Beck: Flag only⁶¹

CCS: could be useful⁶²

L&T: Data not attributable. Info only

Terminations Per Customer

Standard: Reduction (Defined by DPU)

DPU: Limited value, Inconclusive, Inconclusive⁶³

Beck: Flag only⁶⁴

CCS: keep track of info⁶⁵

CAP: reduction⁶⁶

L&T: Data not attributable. Info only

⁵⁴ DPU HELP Annual Report, pgs 24, 35 & 38

⁵⁵ Beck Report, pg 4-12

⁵⁶ CCS Comments to the PSC, March 11, 2003 Pgs 7, 9

⁵⁷ DPU HELP Annual Report, pg 28

⁵⁸ Beck Report, pg 4-11

⁵⁹ CCS Comments to the PSC, March 11, 2003 Pgs 8, 9

⁶⁰ DPU HELP Annual Report, pgs 21, 37 & 38

⁶¹ Beck Report, pg 4-4

⁶² CCS Comments to the PSC, March 11, 2003 Pgs 4, 9

⁶³ DPU HELP Annual Report, pgs 22, 37 & 38

⁶⁴ Beck Report, pg 4-5

⁶⁵ CCS Comments to the PSC, March 11, 2003 Pgs 5, 9

⁶⁶ Atch 2, PSC Order 97-035-01 Lines 185-186

Reconnections

Standard: Reduction (Defined by DPU)

DPU: Data not attributable⁶⁷

Beck: Flag only⁶⁸

CCS: keep track of info⁶⁹

L&T: Data not attributable. Info only

Accounts Sent to Collection Agencies

Standard: Reduction (Defined by DPU)

DPU: Limited value, Inconclusive, Inconclusive⁷⁰

Beck: Flag only⁷¹

CAP: reduction⁷²

L&T: Data not attributable. Info only

Write-Offs Per Customer

Standard: Reduction (Defined by DPU)

DPU: Limited value, difficult, Inconclusive⁷³

Beck: Flag only⁷⁴

CCS: keep track of info⁷⁵

L&T: Data not attributable. Info only

Recoveries Per Customer

Standard: Reduction (Defined by DPU)

DPU: Limited value, Inconclusive, Inconclusive⁷⁶

Beck: Flag only⁷⁷

CCS: keep track of info⁷⁸

L&T: Data not attributable. Info only

Cost to Other Parties

DPU: Not useful⁷⁹

CCS: unlikely to be useful⁸⁰

L&T: Data not attributable. Info only

⁶⁷ DPU HELP Annual Report, pg 22

⁶⁸ Beck Report, pg 4-6

⁶⁹ CCS Comments to the PSC, March 11, 2003 Pgs 5, 9

⁷⁰ DPU HELP Annual Report, pgs 22, 38 & 38

⁷¹ Beck Report, pg 4-7

⁷² Atch 2, PSC Order 97-035-01 Line 185

⁷³ DPU HELP Annual Report, pgs 22, 35 & 38

⁷⁴ Beck Report, pg 4-8

⁷⁵ CCS Comments to the PSC, March 11, 2003 Pgs 5, 9

⁷⁶ DPU HELP Annual Report, pgs 23, 36 & 38

⁷⁷ Beck Report, pg 4-9

⁷⁸ CCS Comments to the PSC, March 11, 2003 Pgs 5, 9

⁷⁹ DPU HELP Annual Report, pg 21

⁸⁰ CCS Comments to the PSC, March 11, 2003 Pg 4

Measures Found to be of Informational Use Only

The following were found to be unusable as measures but may be of interest if any party provides valid data.

Energy Consumption Trend

DPU: Not useful⁸¹
Beck: Not appropriate⁸²
CCS: useful⁸³
L&T: Data not attributable. Info only

Recipient Perspectives and Attitudes

DPU: Not useful⁸⁴
Beck: Unresolved challenges⁸⁵
CCS: get anecdotal information⁸⁶
L&T: Data not available

Average Electricity Burden

DPU: Not useful⁸⁷
Beck: Unresolved challenges⁸⁸
CCS: relevant data should be reported⁸⁹
L&T: Data not available, measurable or attributable

Economic stimulus lost from dollars "freed"

Beck: Extremely Challenged⁹⁰

Donors' Missed Investment Opportunity

DPU: Not useful⁹¹
Beck: Unresolved challenges⁹²
CCS: not easily quantifiable, small⁹³
L&T: Data not available or measurable

⁸¹ DPU HELP Annual Report, pg 25

⁸² Beck Report, pg 4-13

⁸³ CCS Comments to the PSC, March 11, 2003 Pgs 7, 9

⁸⁴ DPU HELP Annual Report, pg 29

⁸⁵ Beck Report, pg 4-14, 4-17

⁸⁶ CCS Comments to the PSC, March 11, 2003 Pg 8

⁸⁷ DPU HELP Annual Report, pg 31

⁸⁸ Beck Report, pg 4-14, 4-18

⁸⁹ CCS Comments to the PSC, March 11, 2003 Pgs 8, 9

⁹⁰ Beck Report, pg 4-23

⁹¹ DPU HELP Annual Report, pg 25

⁹² Beck Report, pg 4-14

⁹³ CCS Comments to the PSC, March 11, 2003 Pg 7

Donor's After-Tax Contribution Compared to Pre-Tax

DPU: Not useful⁹⁴
Beck: Unresolved challenges⁹⁵
CCS: not useful⁹⁶
L&T: Data not available, measurable or attributable

Donor Perspectives and Attitudes

DPU: Not useful⁹⁷
Beck: Unresolved challenges⁹⁸
CCS: get anecdotal information⁹⁹
L&T: Data not available

Economic stimulus lost from dollars "taken"

Beck: Extremely Challenged¹⁰⁰

Returned Checks

DPU: Not useful¹⁰¹
Beck: Measure not included¹⁰²
CCS: useful¹⁰³
CAP: reduction¹⁰⁴
L&T: Data not available, measurable or attributable

Program Stability

DPU: Not useful¹⁰⁵
Beck: Unresolved challenges¹⁰⁶
CCS: should be tracked¹⁰⁷
L&T: Data not available, measurable or attributable

⁹⁴ DPU HELP Annual Report, pg 26

⁹⁵ Beck Report, pg 4-14, 4-16

⁹⁶ CCS Comments to the PSC, March 11, 2003 Pg 8

⁹⁷ DPU HELP Annual Report, pg 29

⁹⁸ Beck Report, pg 4-14, 4-17

⁹⁹ CCS Comments to the PSC, March 11, 2003 Pg 8

¹⁰⁰ Beck Report, pg 4-23, 4-24

¹⁰¹ DPU HELP Annual Report, pg 30

¹⁰² Beck Report, pg 4-20

¹⁰³ CCS Comments to the PSC, March 11, 2003 Pgs 8, 9

¹⁰⁴ Attch 2, PSC Order 97-035-01 Line 185

¹⁰⁵ DPU HELP Annual Report, pg 30

¹⁰⁶ Beck Report, pg 4-14, 4-19

¹⁰⁷ CCS Comments to the PSC, March 11, 2003 Pg 8

Broad-based Macroeconomic Benefits

DPU: Not use¹⁰⁸
Beck: outside the scope¹⁰⁹
CCS: ought not be pursued¹¹⁰
L&T: Data not available, measurable or attributable

Measure Never Addressed

This measure was proposed. Both the DPU and Beck simply mentioned it but did not really address it.

Constitutional and Legal Measures

Standard: Consistent with Constitutions of Utah and US

DPU: No position, Not use¹¹¹
Beck: Measure not included. Require a legal assessment¹¹²
L&T: The HELP program as created by the PSC runs contrary to the separation of powers. It is a tax on ratepayers which, as the evaluations just completed now clearly show, has no valid connection to electricity rates. The function belongs before the legislature. There is also a question about its consistency with federal statutes. These issues should be addressed, even if it takes a PSC request for legal briefs. For more detail, please refer to L&T's testimony in Docket 01-035-01¹¹³

SPECIFIC RESPONSES

The following paragraphs contain L&T's responses to input provided by other parties relative to HELP.

Demonstrate what?

At the start, the PSC spoke about "...if the assumptions are correct..."¹¹⁴, "...speculative nature of this assertion..."¹¹⁵, "...unanswered questions..."¹¹⁶, "...we asked for more information..."¹¹⁷, etc. Given the major unknowns and uncertainties at the start, what needs to be done now is demonstrate HELP's success, NOT prove HELP's failure. For example, the absence of valid data about a given item or measure indicates the absence of demonstrated success and, indirectly, failure.

¹⁰⁸ DPU HELP Annual Report, pg 27

¹⁰⁹ Beck Report, pg 2-15

¹¹⁰ CCS Comments to the PSC, March 11, 2003 Pgs 8, 9

¹¹¹ DPU HELP Annual Report, pg 26

¹¹² Beck Report, pg 4-20

¹¹³ Attch 6, L&T Public Witness Testimony before the PSC on July 31, 2001

¹¹⁴ Attch 2, PSC Order 97-035-01 (Extract) Line 181

¹¹⁵ Attch 2, PSC Order 97-035-01 (Extract) Line 188

¹¹⁶ Attch 2, PSC Order 97-035-01 (Extract) Line 210

¹¹⁷ Attch 3, PSC Order 99-035-10 (Extract) Line 41

What the PSC needs to have demonstrated is “...whether the program were functioning as intended...”¹¹⁸, “...evaluate the effectiveness and success...”¹¹⁹, “...analysis of the program's effectiveness...”¹²⁰ It does not need more unsubstantiated assertions.

The burden of proof is on those demonstrating success, not upon those demonstrating failure.

Definitions

Light and Truth agrees with and supports all the Definitions in the DPU's HELP Report on pages 2 through 4.

Intangibles

The CCS in its Comments dated March 11, 2003 stated:

“DEFINITIONS

“On Page 3, under ‘Definitions Relative to Benefit’, the Committee does not agree that all benefits are monetary or even quantifiable. Financial accounting for HELP is a zero-sum game, so overall there are no monetary benefits. And the definitions of the three categories suggest that only PacifiCorp is a potential beneficiary. HELP was not established to provide the Company with benefits. When PacifiCorp ‘benefits’ by \$1k, someone else – most likely the Company’s customers – is suffering an equal and opposite detriment.

“On Pages 3 and 4, under ‘Definitions Relative to Measures’, a focus on monetary measurement alone will never result in an adequate assessment of HELP. And the Committee does not agree that the use of ‘floor’, ‘ceiling’, and ‘absolute’ standards alone is adequate. It believes that the use of more comparative measures would be very valuable.”¹²¹

L&T agrees with the CCS where it states that the accounting is a zero-sum game and that when one party benefits, another party is suffering a detriment.

L&T disagrees with CCS when it tries to use arguments that are “comparative” and not “quantifiable.” CCS has not shown how these “comparative” (intangible? hypothetical? indirect? qualitative? subjective? emotional? or ???) measures would factor into an evaluation of a program that takes hard dollars from one party and gives hard dollars to another.

Delay

Beck argued for delay by stating, “... R.W. Beck finds that it is not possible to determine whether or not the program is an overall success, at this time and that it will be most appropriate to allow two years of data to accrue before a full evaluation is undertaken.”¹²² The Beck report also contains the following, “The Division asks how measures that present attributability challenges will become attributable. They will not.”¹²³

¹¹⁸ Atch 2, PSC Order 97-035-01 (Extract) Line 244

¹¹⁹ Atch 4, PSC Order 00-035-T07 Line 174

¹²⁰ Atch 4, PSC Order 00-035-T07 Lines 183-184

¹²¹ CCS Comments to the PSC, March 11, 2003 Pg 2

¹²² Beck Report, pg 5-2

¹²³ Beck Report, Enclosure 2. pgs 6, 7

CCS states, “The Committee suggests that it is premature to attempt an evaluation of HELP – to judge whether standards have been met or exceeded, or goals achieved – at this stage.”¹²⁴

L&T believes that there should have been an initial evaluation at the end of year 1. In specifying annual reports, the PSC stated that the, “...reports will include three parts: (1) a financial audit ..., (2) an analysis of the program's effectiveness and (3) any appropriate recommendations for changes.”¹²⁵ L&T notes that the underlined word, “reports” is plural, indicating that the above requirements apply to the annual reports, not just when HELP is “thoroughly audited within three years.”¹²⁶

Data for the base year and two more full years is currently available and attached to this document.¹²⁷ Other than the ramp-up time early in year one, there has been essentially no significant change between year one and year two. This refutes Beck’s expectation on “...two years of data...” It also confirms Beck’s admission that attributability challenges “...will not.” change.

Any party arguing for further delay faces the challenge to demonstrate what data or conditions will change and what specific impact that will have on the HELP evaluation. CCS’s input to date does not contain that demonstration.

Fund Balance

All money in the fund comes from donors. If there is too much in the fund, that means that too much was taken from donors. L&T believes that the PSC envisioned and ordered a program that would, ideally, maintain a zero balance with \$1.8M going into the fund each year and \$1.8M going out each year. Beck read it that way and indicated, “The excess balance in the program account comes from the donors surcharge, but the interest does not accrue to the donors. ... it does provide information regarding the potential for unintended consequences of the program’s design in the form of an account that could, at the current levels of disbursements and administrative costs grow indefinitely. ... A standard should be defined for this measure that minimizes the excess amounts of accrued interest. The program design as understood by R.W. Beck would argue for 0 interest accrued...”¹²⁸

CCS stated, “...the Committee recommends that the standard for the Account Balance should be \$900,000.”¹²⁹ To L&T, this appears to be a narrow focus on a special interest group and a disregard for the donors.

¹²⁴ CCS Comments to the PSC, March 11, 2003 Pg 9

¹²⁵ Attch 4, PSC Order 00-035-T07 Lines 181-184

¹²⁶ Attch 3, PSC Order 99-035-10 (Extract) Line 120

¹²⁷ Attch 1, Measures: Graphs and Comments

¹²⁸ Beck Report, pg 4-11

¹²⁹ CCS Comments to the PSC, March 11, 2003 Pg 5

Overly Burden

Many parties have repeatedly stated that the program does not overly burden other customers. These have all been comments **about** those paying, not comments **in-behalf-of** or **for** those paying. To the best of my knowledge, to date, no party (other than Light and Truth) has spoken **for** those paying for HELP. No survey has been taken. No input has been sought. Even the official public witness day announcements did not mention HELP. The donors' burdens in forced actions, violation of property rights and distorted application of constitutional and governmental principles, as well as dollars have simply not been addressed.

The fact that there is a major fund balance (discussed under the previous, Fund Balance heading) is prime facie evidence that money has been overcollected and that donors are overburdened.

The focus has been exclusively on the small amount taken from a single donor a month at a time. No discussion has been had on the total impact on donors or society of \$1.8M taken out here and put in there. In its review of orders, L&T has not found any reference to an impact of \$1.8M being a potential burden, only the impact of 12 cents has been mentioned in the "burden" context. Much has been said about recipients' needs while nothing has been said about donors' rights. This is a classic example of a special interest group "tail" wagging the public "dog."

L&T sincerely believes that, while it has been repeated many times, it has yet to be demonstrated that HELP does not overburden other customers.

Charity

It has been clearly demonstrated that HELP has no demonstrated benefits to donors. It is simply a social program or charity. The PSC has long prohibited utilities giving to charities and passing the costs of that donation on to ratepayers. That, however, is exactly what the PSC has ordered to happen under HELP.

Third Party Billing

The Utah Code addresses third party billing. The definition in the code of a "third party" is, "any person other than the account holder and the public utility."¹³⁰ The definition of third party includes, "those persons billing for services or merchandise"¹³¹ The Code also states that, "A public utility may not disconnect or threaten disconnection of any account holder's basic utility service for failure to pay third-party charges."¹³²

During one of the HELP group working sessions, PacifiCorp was asked what would happen if a customer were to pay her bill, less the 12 cents for HELP. PacifiCorp's response was that it would be treated like any other partial payment. If the shortage were to persist over a set number of billing cycles, collection procedures would apply and ultimately power could be terminated. Light and Truth believes the HELP program violates both the intent and letter of the Code.

¹³⁰ UCA Title 54-4-37 (1) (e) (i)

¹³¹ UCA Title 54-4-37 (1) (e) (ii) (D)

¹³² UCA Title 54-4-37 (6)

Efficiency

Studies by Jerrold Oppenheim and Theo MacGreggor have been referenced. One of those studies is titled, “The Economics of Low-Income Electricity Efficiency Investment.” The key word in the context of the HELP program is “Efficiency.” Efficiency measures typically include efficient fixtures and appliances, insulation, education, etc. HELP is not an efficiency program; it is a direct payment program. The PSC indicated early on that, “...direct-payments programs ... are the preferred means.”¹³³

During the series of Low-Income Task Force meetings, both Oppenheim and MacGreggor participated by telephone conference. They were separately asked if the benefits in the studies they published applied to programs that were exclusively direct payment. They both replied that they did not. The benefits accrued from the efficiency side.

L&T believes that many of the unsubstantiated claims made for HELP can be traced back to Oppenheim and confusion about what benefits apply to programs that are exclusively direct payment programs without efficiency aspects.

Other States

There has been discussion about other states. To the best knowledge of Light and Truth, all information before any party to this topic comes from Oppenheim. The confusion related to Oppenheim described in the preceding paragraph on Efficiency also applies here. Oppenheim provides very little information on programs that are exclusively direct payment like HELP. L&T believes that many fewer than half of the states have programs similar to HELP regardless of whether they were initiated by commissions or legislatures. The lemming principle should not apply here.

OVERALL EVALUATION

The following table displays the usable measures and standards and shows the HELP evaluations relative to those measures and standards. It then shows Light and Truth’s overall evaluation for the program. This table comes from an overall Program Evaluation Summary that is attached.¹³⁴

¹³³ Attch 2, PSC Order 97-035-01 (Extract) Line 88

¹³⁴ Attch 7, Program Evaluation Summary, cells A4-E16

Measure	Standard (and source of that standard)	Goal	Success
Benefit to Recipients	Benefit (PSC)	1	Success
Benefit to Ratepayers in General	Benefit (PSC)	2	Fail
Benefits to PacifiCorp	Benefit (PSC)	3	Fail
Benefits Offset Negative Impacts	Benefit (PSC)	4	Fail
Not overly burden other customers	Not overly burden (PSC)	5	Fail
Program Cap	Within 5% of Cap (DPU)	6	Fail
Process Collecting Surcharge from Ratepayers	Done Per Order (PSC)	7	Success
Process Granting Credit to Recipients	Done Per Order (PSC)	7	Success
Administrative Costs	Under Cost Cap (PSC)	8	Fail
Ending Account Balance	Less than \$92,500 (Beck)		Fail
Overall HELP Program			FAIL

HELP did successfully provide benefits to recipients using acceptable procedures. No other success was demonstrated. This lack of success in all other measures and the detriments far exceeding the benefits make HELP an overall failure.

RECOMMENDATION

Given the demonstrated overall failure of the program, pure logic would probably dictate that HELP be instantly discontinued and the fund balance refunded to donors.

Light and Truth is aware of the needs of the poor that have been demonstrated in the proceedings of the program. And, bluntly put, L&T is also aware of the need for other involved parties in the proceedings to “save face.” L&T still has legal and constitutional concerns, but to the above ends, Light and truth recommends the following be implemented immediately:

- Cancel the HELP surcharge being withheld from donor’s accounts.

- Convert the HELP funding source to “Opt-In.”

- Retain the fund balance to apply to ongoing HELP payments.

- Allow the PSC, DPU, CCS, DCED, CAP, PacifiCorp, L&T and other interested parties to join in support of the modified program.

- Appropriately publicize all the above.

ATTACHMENTS

1 Measures: Graphs and Comments

This attachment includes all data provided by PacifiCorp in its quarterly reports to the PSC covering periods up through December 31, 2002.

2 PSC Order 97-035-01 (Extract)

This extract includes all paragraphs on the HELP topic and has areas highlighted that were deemed by L&T to be most important and which were referenced by L&T in this document.

3 PSC Order 99-035-10 (Extract)

This extract includes all paragraphs on the HELP topic and has areas highlighted that were deemed by L&T to be most important and which were referenced by L&T in this document.

4 PSC Order and Stipulation 00-035-T07

This copy is complete and also has areas highlighted that were deemed by L&T to be most important and which were referenced by L&T in this document.

5 R. W. Beck Report

This copy is complete as filed by Beck and also has areas highlighted that were deemed by L&T to be most important and which were referenced by L&T in this document.

6 L&T Public Witness Testimony before the PSC on July 31, 2001

This contains the constitutional and legal arguments against the PSC implementing HELP

7 Program Evaluation Summary

This summarizes the HELP program's measures, standards and success