

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

ORDER

September 28, 2007

**FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES,**
Order No. 14582

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") temporarily extends DDOE's authority to administer the D-1, D-2, and D-3 programs from the date of this Order until March 31, 2008. The Commission also temporarily extends DDOE's authority to administer the B-4, B-5, C-1/C-2, C-3, C-4, C-5, C-12, C-13, D-4, D-5, and D-6 programs from the date of this Order until December 31, 2007.

II. BACKGROUND

2. The District of Columbia Retail Competition and Consumer Protection Act of 1999 ("Act") requires the Commission to establish programs that will: 1) foster universal service by providing assistance to low-income customers; 2) promote energy efficiency; and 3) encourage the use of renewable energy sources.¹ By Order, the Commission designated DDOE to act as administrator of the Reliable Energy Trust Fund ("RETF"), which funds all three groups of programs.² In 2005, the Commission approved thirteen RETF programs on a two-year pilot basis.³ The two-year pilot program was to end on May 31, 2007.

3. On May 11, 2007, DDOE filed a motion requesting a four-month extension on ten RETF programs, including the C-12 program.⁴ On May 31, 2007, the Commission granted DDOE's motion and temporarily extended DDOE's authority to administer all ten programs until

¹ D.C. Code § 34-1514 (c)(1)(A), (c)(2)(A), (c)(3) (2006).

² *Formal Case 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices ("F.C. 945")*, Order No. 12778, rel. July 9, 2003.

³ *F.C. 945*, Order No. 13475, rel. March 7, 2005.

⁴ *F.C. 945*, District Department of the Environment's Energy Office's Motion for Four-Month Extensions of Ten Reliable Energy Trust Fund Programs, ("DDOE Motion for Four-Month Extension"), filed May 11, 2007 at 1 (The ten RETF programs included: B-5 Distributed Generation and Net Metering; C-3 Non-Profit Energy Efficiency Initiative, C-5 Home Energy Rating System ("HERS"), C-10 Institutional Energy Efficiency Program ("IEEP"), C-12 Energy Star Rebates, C-13 Small Business Energy Efficiency, D-1 Low Income Home Energy Assistance Program ("LIHEAP") Extension, D-3 RAD Arrearages, D-5 Energy Efficient Appliances, and D-6 Weatherization /Rehabilitation).

September 30, 2007.⁵ In a separate motion, DDOE requested an extension for the C-1, C-2, C-4, and C-6 programs, again for four months.⁶ After noting DDOE's change in position from its May 11 motion, the Commission granted DDOE's motion for a four-month extension.⁷ Thus, DDOE's authorization for fourteen RETF programs is set to expire on September 30, 2007.

4. With four days of authorization left, on September 26, 2007, DDOE filed a "Motion for Extension of the Fourteen Reliable Energy Trust Fund Programs."⁸ In its Motion, DDOE requests that the Commission approve an extension, "until such time as the Commission has had an opportunity to review the RETF impact evaluation (to be filed on September 28, 2007) and has made a determination regarding the future of the programs."⁹ DDOE argues that "terminating the programs abruptly...would impose enormous costs on any program that the Commission may later decide to continue."¹⁰ DDOE states it will propose modifications to the RETF programs after it receives the impact evaluations.¹¹ In the event that the Commission decides not to continue any programs, DDOE requests a sixty-day phase-out period.¹²

5. DDOE requests that the following fourteen programs be extended beyond September 30, 2007:

- 1) B-4 Renewable Energy Demonstration Program ("REDP")
- 2) B-5 Distributed Generation and Net Metering
- 3) C-1 & C-2 Energy Awareness Campaign
- 4) C-3 Non-Profit Energy Efficiency Initiative
- 5) C-4 Education and Public Outreach
- 6) C-5 Home Energy Rating System ("HERS")
- 7) C-12 Energy Star Rebates
- 8) C-13 Small Business Energy Efficiency
- 9) D-1 Low Income Home Energy Assistance Program ("LIHEAP")
Extension
- 10) D-2 Residential Aid Discount ("RAD") Expansion

⁵ F.C. 945, Order No. 14321, rel. May 31, 2007 at 3. Subsequently, the Commission decided issues involving the enrollment process for the D-3 program and the budgets for the D-5, D-6, C-5, C-12, and C-13 programs. See F.C. 945, Order No. 14341, rel. June 20, 2007; Order No. 14394, rel. July 26, 2007, Order No. 14576, rel. September 20, 2007.

⁶ F.C. 945, District Department of the Environment's Energy Office's Motion for Extension of Time to Promote Programs C-1, C-2, C-4, and C-6 and to Complete the Solar Home Project in Program C-4, filed June 20, 2007.

⁷ F.C. 945, Order No. 14377, rel. July 19, 2007.

⁸ F.C. 945, District Department of the Environment's Energy Office's Motion for Extension of Fourteen Reliable Energy Trust Fund Programs, ("DDOE Motion"), filed September 26, 2007.

⁹ *Id.* at 1.

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *Id.*

- 11) D-3 Arrearages Retirement and Education
- 12) D-4 Weatherization Plus
- 13) D-5 Low Income Appliances
- 14) D-6 Weatherization/Rehabilitation.¹³

DDOE also proposes an annual budget that, according to DDOE, falls within the range of previously approved Commission budgets.¹⁴ Furthermore, DDOE avers that it has modified the budgets of B-4, D-1, D-2, and D-3 to reflect the level of demand for those programs.¹⁵ On September 27, 2007, DDOE filed a request for an expedited ruling on its motion because fifteen of its employees depend on RETF funding for their salaries and that, in the absence of a Commission determination to extend these programs beyond the end of the fiscal year, DDOE will be forced to tell these employees not to report for work on Monday, October 1, 2007.¹⁶

6. On September 27, 2007, the Office of the People's Counsel ("OPC") filed comments on DDOE's motion.¹⁷ OPC states that it does not oppose DDOE's motion as long as: 1) the pilot programs continue only until the Commission issues an order determining their future status, and 2) funding for the programs [do] not exceed the levels the Commission approved in Order No. 13475.¹⁸ OPC further contends that its position "is not an endorsement for continuation of any of the programs on a permanent basis."¹⁹ In addition, OPC "urges DDOE to take steps to avoid unnecessary delays so that decisions about [the RETF] programs can be made on a timely basis."²⁰ Finally, OPC indicates that "[t]he use of extensions to continue these programs is not desirable and thwarts the required evaluation process. The Office will be unable and unwilling to support future requests to continue RETF programs in this manner."²¹

¹³ *Id.* 2-3. See also 15 D.C.M.R. § 105.8, 105.10 (1981). Section 105.8 of the Commission's Rules of Practice and Procedure allows parties to a proceeding ten calendar days to respond to written motions of other parties. Notwithstanding the above rule, Section 105.10 states that, "[t]he Commission may act without awaiting responses, when considered necessary." In this instance, the Commission finds good reason to expedite its decision on DDOE's Motion since DDOE's authority to administer these RETF programs will expire shortly.

¹⁴ *Id.* 1.

¹⁵ *Id.* at 1.

¹⁶ *F.C. 945*, District Department of the Environment's Energy Office's Motion for an Expedited Ruling Regarding Fourteen Reliable Energy Trust Fund Programs, filed September 27, 2007.

¹⁷ *F.C. 945*, Response of the Office of the People's Counsel to the Motion of the District Department of the Environment's Energy Office's Motion for Extension of Fourteen Reliable Energy Trust Fund Programs, ("OPC Comments"), filed September 27, 2007.

¹⁸ *F.C. 945*, OPC Comments at 1-2.

¹⁹ *Id.* at 2.

²⁰ *Id.*

²¹ *Id.*

III. DECISION

7. We are deeply concerned that DDOE has waited until the eleventh hour to request an extension of the RETF programs, which not only impacts consumers who rely on the programs, but also jeopardizes the livelihood of fifteen of its own employees. It is yet another reason for us to explore alternative means of administering the programs. In the near future, we will make a decision on which RETF programs to continue and also decide the future administration of the RETF programs. However, in the interim, District consumers should not have their services interrupted. Therefore, the Commission grants DDOE's motion as follows:

- a. DDOE's authority to administer the D-1, D-2, and D-3 programs is temporarily extended for six months from the date of this Order; and
- b. DDOE's authority to administer the B-4, B-5, C-1/C-2, C-3, C-4, C-5, C-12, C-13, D-4, D-5, and D-6 programs is temporarily extended for three months from the date of this Order.

8. With regard to funding, DDOE has asked us to approve an RETF budget presumably on an annual basis, even though it has not yet filed the impact evaluation or process evaluation for these programs or explained how the annual budget numbers can be broken down on a pro rata basis for a temporary extension of the programs for less than a year. As a result, we have decided to pro-rate the budgets based on the Year 2 amounts approved in 2005.²² The approved budgets attached to this Order include both the programmatic and administrative costs for the programs.²³

THEREFORE, IT IS ORDERED THAT:

9. The District Department of the Environment's Energy Office's authority to administer the D-1, D-2, and D-3 programs is temporarily extended from the date of this Order until March 31, 2008; and

10. The District Department of the Environment's Energy Office's authority to administer the B-4, B-5, C-1/C-2, C-3, C-4, C-5, C-12, C-13, D-4, D-5, and D-6 is temporarily extended from the date of this Order until December 31, 2007.

A TRUE COPY:**BY DIRECTION OF THE COMMISSION:****CHIEF CLERK**
DOROTHY WIDEMAN
COMMISSION SECRETARY

²² F.C. 945, Order No. 13475, rel. March 7, 2005.

²³ See Attachment A.

ATTACHMENT A

APPROVED BUDGETS THROUGH MARCH 31, 2008

Program	Total Cost²⁴
D-1: Low Income Home Energy Assistance Program (LIHEAP) Extension	\$425,000
D-2: Residential Aid Discount ("RAD") Expansion	\$387,500
D-3: Arrearages Retirement and Education	\$250,000

APPROVED BUDGETS THROUGH DECEMBER 31, 2007

Program	Total Cost
B-4: Renewable Energy Demonstration Program ("REDP")	\$50,000
B-5: Distributed Generation and Net Metering	\$12,500
C-1/C-2: Energy Awareness Campaign	\$250,000
C-3: Non-Profit Energy Efficiency	\$98,750
C-4: Education and Public Outreach	\$51,250
C-5: Home Energy Rating System (HERS)	\$200,000
C-12: Energy Star Appliance and Lighting Rebates	\$150,000
C-13: Small Business Energy Efficiency	\$275,000
D-4: Weatherization Plus	\$281,250
D-5: Low Income Appliances	\$355,000
D-6: Weatherization/Rehabilitation	\$250,000

24

Total Cost includes both programmatic and administrative costs.