

Financing and On-Bill Repayment (OBR) Issues: Status Report to EEAC

February 9, 2010

- EEAC Consultant report based partly on the On-Bill Repayment (OBR) working group discussions
- Two tables/matrices summarizing financing and on-bill repayment issues, most of which have been discussed in the OBR working group
 - Residential owner-occupied
 - Rental properties
- During the working group discussions, several issues tended to fall along owner vs. rental lines – therefore two separate matrices
- Also, the working group made more progress on the owner issues; more discussion and progress is needed for rental property issues (rental matrix is an initial draft)
- Many issues have been resolved through the working group discussions, meaning that there is a current proposal to address the issue and either consensus or a large degree of agreement
- Several issues have not been resolved or fully resolved – as identified in the matrices (e.g., allocation of partial payments)
- Timeline for addressing the unresolved issues (EEAC consultant recommendations)
 - All of the remaining unresolved issues for residential owner property should be resolved by mid-March
 - Vast majority of the rental issues should also be resolved by mid-March
 - Several of the issues may need to be addressed by the DPU (e.g., repayment obligation linked to the meter for rental property, still under discussion), which could take additional time

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EEAC Consultant Report Based on OBR Working Group Discussions

February 5, 2010

Summary of Issues (Matrix/Tables)

Attached are tables summarizing financing and on-bill repayment issues that should be addressed in order to implement one or more effective financing offerings in the energy efficiency programs. Most of these issues have been discussed within the On-Bill Repayment (OBR) working group or in sub-groups. There are two matrices or sets of tables:

1. Residential owner-occupied
2. Rental properties

Much of the OBR working group discussions have been focused on the issues related to residential owner-occupied property, and in general, more progress in terms of resolving issues has been made for owner properties.

The working group has also spent significant time discussing issues associated with rental property, and progress has been made, but additional consideration and analysis are needed to resolve the issues with rental property, some of which are very challenging.

Other notes:

- While most of the discussions have focused on residential, some of the proposals to address the OBR issues could also work for small business financing. However, since there are existing small business financing programs in MA already, we would have to consider whether, and if so, how best to modify or transition those existing programs to incorporate the OBR proposals listed below.
- We also will need to clarify any differences in financing or repayment for single family residential vs. multifamily.

Status of the Issues

In the eyes of the working group participants, many of the issues have been resolved through the working group discussions. "Resolved" means that there is a current proposal to address the issue and either consensus or a large degree of agreement on the current proposal, plus DOER and EEAC consultant recommendations to the Council to support the proposal. For residential owner-occupied property, the majority of the issues fall into this category. For rental property, more consideration and analysis are needed to resolve the issues.

There are several major issues that have not been resolved, or at least not fully resolved, even for residential owner-occupied property. These are shaded in the first matrix attached below, the residential owner matrix (we have not shaded the rental matrix because many of the issues are still being considered).

Note that there is a difference between major issues that remain unresolved, and issues for which there is agreement at a high level but the details still need to be worked out (generally we have labeled these details as TBD).

Timeline for Addressing Unresolved Issues

The EEAC consultants recommend that all of the remaining unresolved issues for residential owner property be resolved by mid-March, with the vast majority of the rental issues being resolved also by mid-March. We believe that several of the issues may need to be addressed by the DPU.

Issues Not Considered in OBR Working Group Discussions

The following issues were not discussed in the OBR working group, at least not significantly:

- **Source and nature of financing** – these issues are being addressed in the other “bucket” of financing issues (including attracting and attaining outside capital for financing, cost of such capital, etc.), and it is being worked on by various parties; need to coordinate with OBR issues. Overall timeline needed.
- **PA implementation** – once the overall OBR mechanism and financing approach is determined, what will PAs need to do in their billing systems to quickly and efficiently implement OBR repayments? Possibly different requirements if repayment is strictly On-Bill as opposed to companion bill. PAYNSAVE pilot results may offer insights about this subject. The PAs need to begin scoping out the common issues; understanding the solutions may be PA-specific in some cases.
- **DPU requirements or issues for the DPU to address** - TBD.

Financing and On Bill Repayment Issues (FOBR) – For Residential Owner-Occupied (and Small Businesses) – 02/05/10 Revised

Note: This version of the matrix is modeled for residential owner-occupied property (as noted, much of it would also work for a small business customer who owned the property, but the specific application and details for small businesses would need more consideration). The guiding purposes for this version of the matrix are to deal with the large number of residential customers for whom a single model works, and to make some progress with a new or improved financing offering in the field soon. There are many permutations that need to be addressed. Most of the more complex situations are among renters (see the other matrix), but condominium developments also present challenges, as do buildings with changes of use, changes in residents' income, etc. The goal and proposed approach is to build the OBR model that will work for many customers and to tackle the progressively more difficult questions in a parallel process.

Issue	Current Proposal	Comments
Principle: program financing should not be offered to low income customers	Protections to ensure that customers eligible for low income programs participate in those programs (in which the programs provide 100% of the funding for measures) and do not receive loans or offers for loans.	Different viewpoints among working group members; statute regarding utility services for which termination for non-payment is allowed; and views of potential investors regarding termination vs. utility collection process (latter being more general)
Repayment obligation: should repayment be tied to the customer or to the meter?	Tied to the customer for residential owner customer segments. (See other matrix for rental property.)	Preference among PAs and most of WG is to tie to owner, with disclosure requirement that obligation must be satisfied on sale of property. Tie to owner simplifies issues in some respects (and may work well with a PACE law in place in parallel - MA is considering one right now). However, tie to meter could be a good sales tool, including for customers who don't want to assume more debt, because the repayment obligation doesn't follow the owner.
Termination for non-payment	No termination for non-payment of EE loan	Comments re strong interest by financial community in enabling termination. But others asserted consumer protections and current statutes on energy services. Issue of risk vs. cost; no termination may cost more/higher reserves.

Issue	Current Proposal	Comments
Allocation of partial payments	Unresolved. Allocation of partial payments in similar manner as in Terms and Conditions for Distribution Service (TCDS), with loan charges treated as part of distribution charges OR as part of energy service charges. DPU would need to address any changes or additions to TCDS.	Allocation consistent with existing law re restructuring act/TCDS. But would partial repayment of loan be part of distribution charges (currently partial payments are allocated to generation service and distribution service) OR would it be a new energy service charge, and possibly secondary to the generation and distribution service charges?
Requirement of positive cash flow	Objective (aspiration) of positive cash flow for certain customer segments (e.g., loan payment no more than ~80% of <i>expected</i> savings for moderate income); optional for other customer segments, e.g., allow shorter terms if customers prefer, or if financing entire retrofit or replacement measures (cannot provide positive cash flow for an entire new heating/cooling system with the energy savings alone)	Special consideration for low/moderate income customers, with goal to increase access to EE funds for 60-120% median income customers. Issue to be examined. Potential to add financial burdens to this community; address customer eligibility in relation to financial risks
Savings guarantee	No	Do not guarantee savings, but provide best estimates on savings. Also provide education to customers on optimal practices and monitoring results.
Remedy if estimated savings do not materialize	Program issue, not financing OBR issue per se. Determined by underlying EE program; respond to and resolve with customers who aren't satisfied	If savings do not materialize because program is not designed or implemented properly, improve QA/QC; quality is responsibility of installers and the PAs.
Nature of payment: fixed or floats with savings?	Fixed over the term of the loan	
Eligible measures	Non-portable efficiency measures (regardless of fuel) ¹ offered through the EE programs. Detailed list of eligible measures TBD.	Eligible measures should be cost effective and fixed (not mobile). See list in PaynSave pilot document for one example.

¹ This raises regulatory issues (collecting for oil- and propane-related measures on the utility bill) and “presentation to the customer” issues (electric bill goes up but total energy bill goes down). Consider the alternative of a companion/sundry bill paid by the customer in a manner very similar to the utility bill, but not necessarily directly on the utility bill, and collected through electric (or gas) utility collections (with the allocation of partial payments), which could also provide an integrated summary of the impact on the customer’s total energy costs (not just the electric costs).

Issue	Current Proposal	Comments
Customer eligibility		
<ul style="list-style-type: none"> <li data-bbox="142 173 373 207">• Customer class 	Residential (small commercial – see note above)	NOT for low income customers (see above)
<ul style="list-style-type: none"> <li data-bbox="142 207 422 241">• Owners vs. renters 	Both eligible, but possibly different offerings (see other matrix on issues in rental property)	Work to date focused more on issues in owner property. Also have identified issues for renters. Continue work on issues for renters in parallel.
<ul style="list-style-type: none"> <li data-bbox="142 316 352 350">• Credit checks 	No. No individual credit checks, with possibility of using utility repayment history as qualifier.	Emphasize/support pooled lending and pooled (diversified) risk
<ul style="list-style-type: none"> <li data-bbox="142 391 558 425">• Customer bill payment history 	Eligibility limited to customers that have been current on their electric bill for at least 12 [24?] consecutive months	12 months vs. 24 months, and for which customer segments, TBD
Maximum loan amount	TBD	Consider investment needed to achieve deeper savings. Could be minimums per servicing issues and transaction costs.
Maximum term	TBD	Measure life and lender terms will affect this. Terms as long as 10 years or more needed for some projects. Consider measure lives as one driver to extent possible.
Source of capital	Outside capital Being developed in other bucket of financing	Not program monies from EE funds or PA shareholder funds. PAs are not the source of capital but portal to the customers and the primary collection path for repayment of loans.
Cost of capital	Being addressed related to source of capital, above (seeking lower cost capital)	
Disclosure requirement	Full and fair disclosure Must be disclosures regarding measures, costs, savings, loan costs, cash flow, defaults, remedies, and use of payment history. Use plain language explanations (we haven't discussed multiple language explanations).	Disclosure must be: - complete and fair - clear and understandable (plain language) - concise so that someone will read it
Customer interest rate	Unknown at this time. Objective is attractive, below market rate. Possibly two or more tiers of interest rates based on income level.	Concern regarding 60-120% median income customers: can financing be structured for them with lower interest rates or lower other costs to keep financing affordable? Possibly a lower tier interest rate for these customers (buy down the interest rate). TBD

Issue	Current Proposal	Comments
Collection procedures and protections	Standard utility procedures and protections. DPU would need to address any changes to utility collection procedures.	Standard utility/PA collection procedures. Uncollectibles at some point TBD would be turned over to a service agency. The financial agreements will specify the duties and limitations for all loan servicing not directly involving the PAs.
Who is at risk for defaults	Loan loss reserve at risk for defaults. Initially, the loan loss reserve could be funded by EE program funds (similar to how the EE program funds pay for any defaults in the small business financing program)	Expectation of low default rates based on existing HEAT Loan (< 1%). Seek other potential sources of funding for loan loss reserve (e.g., federal stimulus, foundation)
QC on measures / installations	QC on measures / installations (see above)	
Applicability of banking and consumer protection laws	OBR and financing program will be subject to compliance with all laws and regulations including banking/lending statutes.	Need to get better understanding of the requirements and the applicability to PAs as portal vs. provider of financing.

Financing and On Bill Repayment Issues (FOBR) – For Residential RENTAL Property – 02/05/10 Initial Draft

Note: This is an initial draft prepared by DOER and the EEAC consultants, and it has not been reviewed or bought into by the OBR working group.

Issue	Current Proposal: RENTAL	Comments
Repayment obligation: should repayment be tied to the customer or to the meter?	Meter with Landlord guaranty	
Allocation of partial payments	Unresolved. (See other matrix)	
Termination for non-payment	None. Landlord/tenant agreement would include eviction capability for non-payment of Renters' finance obligation similar to existing statute for failure to pay rent.	
Requirement of positive cash flow	Aspirational objective using best estimate. Extending loan duration or requiring Landlord to put down part of capital cost to lower tenant payments (see financial model for details). Landlord and Tenant must both approve measures to protect both parties.	
Savings guarantee	No. (see also "Nature of payment" below)	
Remedy if savings do not materialize	Contractual agreement between Landlord and Tenant spells out both parties' legal obligations as well as future assumptions which are limited to best efforts and best analysis. Tenant can move at lease expiration or break lease subject to existing terms.	
Nature of payment (fixed or floats with savings)	Financing charges are fixed for life of obligation. Energy costs/use will vary monthly with weather/temperature, actual efficiency gains, and tenant behavior among other factors.	
Eligible measures	Cost effective EE improvements, as determines by program requirements	
Customer eligibility	Eligibility is determined by landlord credit quality. Underwriting will follow traditional underwriting measures of an investment property and will not be based on tenant credit. (The landlord has every incentive to screen the credit quality of tenants and due to guaranty will have further incentive to do so under OBR)	

Issue	Current Proposal: RENTAL	Comments
<ul style="list-style-type: none"> • Customer class 	Residential rental only	
<ul style="list-style-type: none"> • Owners vs. renters 	Rental	
<ul style="list-style-type: none"> • Credit checks 	YES, related to Landlord and investment property	
<ul style="list-style-type: none"> • Customer bill payment history 	No, responsibility of the Landlord to ascertain credit quality of tenants	
Maximum loan amount	Unknown	
Maximum term	Unknown – Has implications for tenant cash flow and Landlord required upfront capital	
Source of capital	Outside capital, third party capital	
Disclosure requirement	<p>YES, Landlord and Tenant must both have disclosed and agreed to:</p> <ul style="list-style-type: none"> • A Best estimate of expected savings and financing charges • Capital commitments (Landlord) and agreement to repay (Tenant) • Authorization to allow detailed credit check (Landlord) • Alteration of terms for eviction to include EE finance payment (Tenant) • Landlord agreement to guaranty EE finance payment backed by potential lien on investment property 	
Customer interest rate	Unknown	

Issue	Current Proposal: RENTAL	Comments
Collection procedures/protectations	<p>Tenants will be responsible for contractually agreed upon finance charges. Failure to pay will result in unfavorable credit reporting (responsibility of injured party expected to be guarantor/Landlord).</p> <p>If normal collection measures (set forth in program Terms & Conditions - T&C) do not remedy loan, loan balance is turned over to special servicer that will contact the Landlord and seek remediation. Remedy of the loan by the servicer (including Landlord payments, tenant remedy, etc.) will result in the METER based obligation being returned to the utility OBR program. Failure to remedy will result in default and associated collection measures.</p>	
Who is at risk in case of default	Investors / Loan Loss Reserve Fund (if applicable).	
Relationship to low income program	Low income Landlord/Tenant may choose to enter into these agreements subject to meeting above criterion.	
QC on measures / installations	<p>Existing program QC procedures are deemed adequate to monitor and verify installation.</p> <p>Question – higher efficiency systems (boiler, solar hot water, etc.) may require regular maintenance to achieve projected efficiency. Can this be worked into agreements as the Landlord and Tenant have different incentives with respect to efficiency targeted maintenance?</p>	
Applicability of banking laws	OBR and Financing program will be subject to compliance with all laws and regulations including banking/lending statutes.	