Midwestern Renaissance: A Tale of Three States' Public Benefits Victories

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ABSTRACT

Recent enactment of public benefits programs in three Midwestern state – Illinois, Ohio, and Wisconsin – has raised the expectation that the Midwest finally might be awakening to the promise of energy efficiency and market transformation. This paper examines the programs enacted in each state as well as the processes that led to creation of these programs in an effort to understand the dynamics of the public benefits debate in the Midwest and extract lessons for those states still to act. Based on this review, we conclude that enactment of significant public benefits programs is an uphill battle in states without a history of utility-funded efficiency programs. Nevertheless, aligning efficiency funding with key restructuring issues in the broader debate enhances the prospects for public benefits programs. The emergence of the Midwest Energy Efficiency Alliance also signals a stronger interest in regional approaches to efficiency and market transformation and offers a new platform for action.

Introduction

Ask where the action is in the post-restructuring world of public benefits and the likely response is, California, or New England/New York, maybe Texas, or the Northwest. The Midwest, at least until very recently, has not been on anyone's "must see" list. The reasons grow from deep historical roots; the Midwest, outside of Wisconsin, and to a more limited extent, Minnesota and Iowa, has never been viewed as a place that gave much attention to the kinds of public benefits programs most of us focus on. By-and-large, neither state legislatures nor utility regulation have been seen as progressive, at least insofar as that has meant "supportive of utility-funded energy efficiency and renewable energy programs."

The recent enactment of several major public benefits programs in the Midwest, however, suggests at least that things might be changing. Over the last two years, legislation passed in just three Midwestern states; Illinois, Ohio, and Wisconsin, has created a public benefits funding stream of close to a half a billion dollars. Illinois has enacted both a $10M annual fund for renewables and efficiency, and a $225M clean energy trust fund.[1] Ohio has enacted a $100M revolving loan fund for efficiency, and Wisconsin has adopted a program to be funded at up to $100M per year. Overlaid on this foundation, is the Midwestern Energy Efficiency Alliance, the newest regional market transformation organization, the formation of which has been led by a coalition of State Energy Offices, utilities, and NGOs.

Is this activity just another brief flicker in the darkness; a contemporary replay of the region's brief infatuation with integrated resource planning and utility DSM? What's behind this uptick in activity and where is it likely to lead? Maybe more important, what lessons can we glean from the processes that produced this Midwestern Renaissance, and can those lessons work for other states falling between the coasts?

[1] In addition, through a recent settlement, Commonwealth Edison will pay the City of Chicago $100M over four years to support energy efficiency projects.

The Midwest in Context

The view of the Midwest as a bit player on the public benefits stage springs from the fact that the states generally comprising the region never have been particularly active in their support of utility-funded, non-low income energy efficiency programs.[2] This broad brush covers the fact that the Wisconsin Public Service Commission always has been a leader nationally in its support for utility DSM programs, and that several other states have provided significant support for utility DSM investments.[3]

Nevertheless, even this level of activity masks an economic and political culture that, historically, has not supported large, sustained investments in energy efficiency by utilities across the region. Moreover, this region includes a number of states (Iowa, Indiana, Minnesota, Missouri and Wisconsin) that have enjoyed low rates relative to many states on the coasts and, until recently, relatively high capacity margins. A 1999 paper by Ecos Consulting for NRDC attempted to assess the opportunities for expanded energy efficiency efforts, particularly those focused on lighting, in several less active areas of the country, including the Midwest. Although the assessment was relatively informal, the authors concluded that:

> *In fact, while the available potential to save energy is high in a number of these regions, the available opportunities and/or allies are not. Although most states surveyed have some organizational structures in place…the number of coordinated energy efficiency successes may still be quite modest. Utility programs are also active in a number of states, but these are often limited in scope, are not yet focused towards residential customers, or have not made the transition to market transformation from demand-side management. (Ton & Calwell 1999)*

Table 1 provides further insight by showing the recent levels of spending on energy efficiency and load management programs by utilities grouped according to reliability council. The Midwest is represented principally by ECAR, MAIN, and MAPP. While this exercise oversimplifies what is otherwise a dynamic and complex landscape, it is illustrative of the environment for large-scale energy efficiency and renewable energy programs, including those with market transformation objectives. For example, of the three regions, only MAPP falls above the national average in terms of DSM dollars per 1000 residential kWh, and that result is driven by the spending of two Minnesota utilities.

Finally, the region has shown little in the way of interstate collaboration with respect to energy or environmental policy. Advocacy groups have tended to operate on the state or sub-state level, and major national organizations such as the Environmental Defense Fund

[2] For purposes of this paper we will focus principally on non- low-income energy efficiency programs, although by-and-large, non-federal funding for low-income weatherization programs also has been limited to a few states. We define the Midwest generally as comprised of the states of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

[3] It also hides the fact that the states of Minnesota and Iowa rank second and third respectively in wind generation. In addition, 1990 legislation required Iowa's investor-owned electric utilities to spend two percent of revenues on DSM. In Minnesota, utilities also still are required to spend a percentage of revenues on DSM as part of the Conservation Improvement Program. NSP must spend 2%; other investor-owned utilities, 1.5%.

and the Natural Resources Defense Council, which have been instrumental in supporting funding for energy efficiency programs on the coasts, have not been active in the Midwest.[4] Outside of utilities in Minnesota and Wisconsin and organizations such as the Energy Center of Wisconsin, regional participation in national organizations such as the Consortium for Energy Efficiency, or national programs such as Energy Star, has been extremely limited until very recently.

Table 1. Utility Spending on Energy Efficiency and Load Management ($Millions)

	1995		1996		1997 (est)		2001 (est)
	$DSM	$DSM/1000 kWh(1)	$DSM	$DSM/1000 kWh	$DSM	$DSM/1000 kWh	$DSM
ECAR	138.9	0.95	77.0	0.5	77.3	0.5	73.5
ERCOT	7.0	0.07	54.1	0.6	65.1	0.7	35.9
MACC	300.3	3.8	225.2	2.8	275.6	3.5	290.8
MAIN (2)	78.1	1.2	70.3	1.1	69.9	1.1	72.5
MAPP (3)	158.9	3.3	156.7	3.2	127.3	2.6	125.5
NPCC	346.7	4.4	263.2	3.3	282.9	3.6	215.7
SERC	681.2	2.5	551.0	1.9	561.3	2.7	582.8
SPP	26.4	.3	28.4	0.3	21.0	0.2	17.9
WSCC	619.6	3.6	471.7	2.6	482.7	2.6	393.8
TOTAL	**2,420.6**	**2.3**	**1,897.8**	**1.8**	**1,963.4**	**1.8**	**1,808.4**

Source: Energy Information Administration, U.S. Electric Utility Demand-Side Management 1996, Table 22, www.eia.doe/cneaf/electricity/dsm/t22.text, and Energy Information Administration, Electric Power Annual 1998, Vol II, Table 33.

Notes:

(1) Total DSM expenditures divided by residential sales.

(2) 70% of spending in the MAIN region is accounted for by four Wisconsin utilities.

(3) Almost 50% of spending in the MAPP region is accounted for by 3 Minnesota utilities.

Restructuring Comes to Town

Electric utility restructuring, of course, changes everything; the fall of vertically integrated utility monopolies to restructuring is reshaping the political and economic landscape in the Midwest. In some respects, restructuring seems to be making fertile ground for the emergence of large-scale and sustained energy efficiency programs where there had been little to show. In others, however, the record to-date is not so clear. And, while the early results suggest that public benefits programs have been a piece of most state restructuring deals, the nature of the programs enacted in each state vary widely, reflecting, in part, the very different dynamics that are driving restructuring in each jurisdiction.

The Illinois Experience – Round 1

Illinois was the first State in the Midwest to act on utility restructuring, with passage of comprehensive legislation in late 1997. Three issues drove the process in Illinois. First, the state's major utilities needed protection for huge exposed investment in nuclear

[4] One exception is the Environmental Law and Policy Center of the Midwest, formed in 1995 in Chicago to act as an environmental advocate in the states making up Federal Region V. While ELPC's major influence is in Illinois, its base of operations, it has become increasingly active across the region, particularly in major utility merger cases.

generating capacity. Second, large commercial and industrial customers wanted choice. And third, there was a compelling need for rate relief in the northern third of the state, where prices had risen to among the highest in the country as the result of Commonwealth Edison's ambitious nuclear construction program.

The Act stretches across 261 pages and in total represents one of the most comprehensive and complex pieces of restructuring legislation enacted to-date. The public benefits provisions of the Act comprise six pages; the energy efficiency provisions, one; an allocation that corresponds roughly to the funding made available for non-low income public benefits programs. The Act imposed a flat fee on all electric and gas customers[5] designed to yield approximately $10 million per year, half of which is dedicated to renewable energy grants and loans, with the other half allocated to clean coal technology development. The Act also created an Energy Efficiency Trust Fund, funded at $3 million per year. However, unlike the Renewable Energy Trust Fund, the energy efficiency monies are collected directly from utilities and alternative retail electric suppliers based on pro rated electricity sales; in other words, the efficiency funds come right off the utilities' bottom lines. The Illinois Department of Commerce and Community Affairs administers both funds.

A range of energy efficiency technologies and programs are listed in the Act as possible projects to be funded; these include low-income energy efficiency, inefficient window and appliance replacement, lighting upgrades and building insulation. Projects funded to-date include a torchiere turn-in program, subsidization of high-efficiency apartment-sized refrigerators in public housing, and an expansion of the Department's innovative multi-family rehab program. Over the next year, the Department expects to develop additional high-efficiency appliance incentive programs, including perhaps one targeted at room air conditioners and run in conjunction with Commonwealth Edison.

The Illinois' public benefits program (Round 1) isn't often included in discussions of major public benefits programs around the country given it's relatively small size. For example, in 1996 estimated total DSM expenditures for Illinois' major utilities totaled less than $10 million, over $2 million less than the comparatively tiny Central Maine Power. (Energy Information Administration 1997) And yet, the fact that there is such a program at all is a major accomplishment. In the years leading up to passage of the Act, the State actually had one of the more comprehensive IRP statutes on the books anywhere. However, the Illinois Commerce Commission had never embraced IRP and demand-side management, refusing to provide incentives for utility efficiency programs. By the early 1990s, Commission staff as well as some on the Commission were openly derisive of DSM and the entire IRP process.

Even this relatively modest program, however, almost didn't exist. Aside from that of the Environmental Law and Policy Center (ELPC), there was virtually no other support for a public benefits program during the restructuring process, although it might be more accurate to say that public benefits simply weren't on the radar screen of most parties. According to several observers of the process, the public benefits program that survived Round 1 in the legislature was the cost of the final critical votes for the legislation. Although a funding proposal had been on the table, there was little or no active support, and no legislative no champion to keep it there. However, relatively early in the process, ELPC had circulated a

[5] The Illinois restructuring law imposed a $0.05 per month charge on residential and small commercial/industrial electric and gas customers. Large C&I customers were assessed a monthly charge of $37.50.

"Dear Colleague Letter", positioning public benefits funding as an environmental issue, and managing to collect the signatures of a substantial number of legislators. In the end, the fact that their signatures were on the letter made lawmakers reluctant to eliminate public benefits funding entirely. (Anderson-Andraka 2000) In other words, there were not enough votes to support a public benefits program of any magnitude, but there were enough to ensure that no bill would pass without some provision. The subtext to this debate was that legislative leaders would not accept anything that looked like a tax for energy efficiency. Hence any funding for efficiency had to come directly from the utilities and $3 million was as much as they would accept.[6]

The Illinois Experience – Round 2

Shortly after passage of this bill, one observer noted that the action was merely a prelude, which, in fact, it was. In 1998, John Rowe came to Chicago from NEES to run Commonwealth Edison and its parent, Unicom. Discussions began almost immediately with a variety of groups aimed at reducing ComEd's negative environmental image, improving its standing generally with customers and policy makers, and addressing emerging peak load problems. Shortly thereafter, mirroring his strategy at NEES, Mr. Rowe struck a deal to sell ComEd's entire fleet of fossil generating units for a price that far exceeded its book value. Under the existing restructuring statute, ComEd's profit from the sale was jeopardized, and it sought legislative relief in the context of a reopening of the restructuring statute to make a variety of "technical corrections". In return for being allowed to hold the proceeds from the plant sale, ComEd ultimately negotiated an amendment to the law that, among other things, created a $250 million Clean Energy Community Trust.

The Clean Energy Community Trust represents a unique approach to public benefits funding in that no funds actually pass through the State treasury. Instead the legislation simply authorizes the creation of the trust by ComEd, and then establishes the composition of its governing board. According to the legislation, the trust was created for the purpose of, "…providing financial support and assistance to entities, public or private, within the State of Illinois...for programs and projects that benefit the public by improving energy efficiency, developing renewable energy resources [and] supporting other energy related projects that improve the State's environmental quality…"(State of Illinois 1999)

While a portion of the funds set aside in the trust is dedicated to clean coal projects, the trust nevertheless represents a huge increase in funding available for public benefits programs. Its unique structure also enables it to be much more creative in the use of funds. For example, funds not committed to projects may be invested for the trust's account. Similarly, the trust can seek and/or design projects that allow it to operate as a venture capitalist, investing in innovative technologies or businesses with the expectation of a return. The governing board of the trust was convened in early 2000 and expects to have formal operational guidelines by June.

[6] Proponents of the public benefits fund had hoped to secure funding for efficiency and renewables at $20 million. However, as part of the final negotiation on the bill, coal interests succeeded in claiming roughly half of the funding for clean coal technology research.

The Wisconsin Experience

Wisconsin's experience with restructuring and public benefits is one of the more long-drawn and dynamic in the country. It began in 1994 with a Public Service Commission inquiry into restructuring, which produced a six-year, 32-step pathway to restructuring and competition. As it proceeded along this path, the Commission issued in 1997 an enunciation of policy and principles regarding public benefits. This statement outlined, in comprehensive fashion, how the PSC believed public benefits programs should be funded and administered. With respect to energy efficiency, the Commission set as the primary goal, the creation of, "a sustainable market for efficiency and conservation services that would not need public or regulatory intervention" (i.e. market transformation) that was to replace the DSM activity utilities heretofore had been managing.(Wisconsin Legislative Staff 1998, 22) The Commission also set as a goal, "to maintain historical levels of energy efficiency savings during the transition to competitive markets."(Wisconsin Legislative Council 1998, 22) The funding required to maintain these historical levels was estimated to be $100 annually. With respect to administration, the PSC enunciation recommended principal responsibility be given to a state agency working with program administrators.

The Commission's work took place in the context of a regulatory process that had long-supported utility DSM as part of the State's comprehensive Advance Planning process. However, while electric utility DSM spending had exceeded $100 million in 1993, by 1997 spending had dropped to about $37 million.(Wisconsin Legislative Council Staff 1999) Consistent with the direction it would articulate in the enunciation of policy and principals, the PSC began, in 1996, to move Wisconsin utilities away from resource acquisition DSM programs and towards market transformation. In response, Wisconsin Public Service Company proposed to turn over its entire program funding – approximately $16.75 million through calendar year 1999 –to the Wisconsin Department of Administration (DOA) in a pilot of the public benefits program the PSC envisioned. While DOA retains overall responsibility for the program, actual implementation is in the hands of six administrators selected by DOA.[7] The PSC and Legislature approved the proposal in 1998.

The Commission's gaze was diverted in 1996 and 1997 by several merger proposals brought before it, and the specter of generation and transmission shortages during the summer of 1997 turned legislative attention toward reliability. Major legislation designed to enhance reliability by facilitating construction of merchant power plants and encouraging new transmission was enacted in 1998. This legislation included a requirement that utilities acquire an additional 50 megawatts of renewable energy resources, and it abolished the State's Advance Plan process. Although it was replaced by a new "Strategic Energy Assessment", the Advanced Plan had been the primary vehicle to that point for setting utility energy efficiency policy. And while several public benefits funding bills were introduced in the 97/98 session of the legislature, none received serious consideration. However, recognizing the need to address public benefits issues as restructuring moved forward, a Special Committee on Utility Public Benefits Programs was created and given the task of recommending a public benefits program for Wisconsin to be considered in the 1998/99 legislative session.

[7] The six administrators are responsible for Large C&I, Residential and Small Commercial, Marketing, a Standard Performance Contract program, Education and Training, and Evaluation respectively.

The Special Committee conducted one of the most comprehensive examinations of public benefits programs to-date, using as it's starting point, the PSC's enunciation of policy and principals. By April 1999, the Committee had begun consideration of draft bill language that would implement a program very similar to what the PSC had recommended, with oversight to be provided by the Department of Administration. However, it had become clear that relatively major divisions had appeared between committee members over whether the State should address only low-income issues or a full public benefits program. At the same time, a process had begun totally apart from the public work of the Committee; a process that would ultimately define the Wisconsin Public Benefits program.

Wisconsin law placed fairly tight restrictions on the fraction of utility holding company assets represented by non-utility investments. Known as the "asset caps", these restrictions increasingly were viewed as a serious handicap by Wisconsin utilities preparing for competition, particularly as they contemplated transfer of their transmission assets to a Transco. During the spring of 1999, representatives of the utilities, environmental groups and other key parties participated in intense negotiation shielded almost entirely from public view. By early summer a compromise had emerged that would provide relief from the asset cap for utility investment in energy or environment-related projects. Parties also agreed to a public benefits program that very closely mirrored the framework outlined by the PSC several years earlier. The legislation was adopted as part of the State budget in late 1999, virtually bypassing the Special Committee. Table 2 summarizes the major public benefits provisions of the "Reliability 2000" legislation.

Because the process that yielded the Wisconsin solution was not a public one, we could not directly observe the dynamics. On the other hand, the nature of the outcome is such that we can construct a plausible and, in this case, relatively simple model. The utility asset cap, in place since 1985 was threatening to place Wisconsin utilities at a great competitive disadvantage. However, this asset cap has been viewed as a very important consumer protection that had shielded consumers from the misfortunes visited on ratepayers in other states where utilities were freer to invest in unrelated businesses. While utilities and some consumers in some states have argued that large public benefits programs can threaten competitiveness, in Wisconsin rates are relatively low, and the amount of public benefits funding proposed was no greater than historic levels (albeit higher than most recent years' expenditures). From the perspective of consumer groups involved in the negotiations, the utilities' desire to ease the cap, combined with uncertain prospects for public benefits legislation on its own made this a good deal.[8]

As of May 2000, the Department of Administration has published rules prescribing how certain elements of the program will be administered. However, significant issues have arisen which could slow the full development of a statewide public benefits program. In particular, utilities are contesting the levels of historic spending on which total program funding levels were based. Depending on the resolution of this issue by the PSC, the total level of funding for energy efficiency could be substantially lower than the initial target of approximately $100 million per year.

[8] In addition, the "Reliability 2000" law included some very clear standards for loosening the asset cap, including that the cap could be lifted only for related investments (other energy sources, environmental engineering, telecommunications and energy services). In addition, as a condition for relaxing the cap utilities were required to transfer their transmission assets to an independent company. Finally, the law also provided some important new environmental and consumer protections related to transmission line siting and construction. See (Stolzenberg and Lovell 1999).

Table 2. Summary of the Wisconsin Public Benefits Program

Scope[9]	• Energy efficiency, renewable energy, R&D and environmental protection; • Energy efficiency program to be administered by nonprofit entities under contract to the Dept of Administration (DOA). • Renewables portfolio standard rising to 2.2% of sales by 2011. • After 5 years DOA must recommend to legislature whether to continue, scale-back or end the program. • Munis and Coops can opt-in to the DOA program or conduct their own programs.
Funding	• Total funding in FY 99/00 = $73.6M; in FY 00/01 = $83.6M • Of the totals, $10M in FY00/01 and $20M in FY00/01 comes from new fees; the remainder is represented by utility expenditures. • Utility program funds must be transferred to the DOA program by 2003. • 1.75% of annual appropriations (from new fees) must go to R&D • 4.5% of annual appropriations must go to renewable energy grants. • New fee to be included as portion of customer charge; cannot exceed 3% of customer bill.
Objectives	Priority to projects in sectors of ***efficiency markets*** that are least competitive, as well as to projects that promote environmental protection, reliability or rural economic development.

The Ohio Experience

Ohio, like Illinois and Wisconsin engaged in a fairly lengthy investigation of restructuring under the auspices of the Public Utility Commission of Ohio prior to there being final legislative action in 1999. The legislature took up the issue in its 1998 session, although as has been the case in many states, the legislation did not move to final passage, held up in this case by issues related to the impacts of restructuring on the State and municipal tax bases. Legislation containing a tax "fix" was reintroduced in the 1999 session and was adopted.

The legislation contained provision for an Energy Efficiency Revolving Loan Program to be administered by the State Department of Development and offered through participating banks; a program modeled on the successful *Nebraska Dollar and Energy Saving Loan Program.* The fund is to be capitalized at a maximum of $100 million and can commence operation on January 1, 2001, the date for open access to begin. The assistance provided through approved lending institutions can take the form of loans at below-market rates, loan guarantees for such loans and linked deposits for such loans.(Ohio Legislative Service Commission 1999)

Virtually all customers are eligible for such loans, though the loans must be for "projects" as defined in the law. Further, the Department may authorize a loan only after a determination that: (1) The project will result in investment in products, technologies or services (including energy efficiency and renewable energy); (2) The project will improve energy efficiency in a cost-effective manner, employing "best practices" for the use of

[9] Another key provision of the public benefits program pertains to NOx emissions reductions. If EPA issues a NOx SIP call, and the Wisconsin Department of Natural Resources subsequently issues a SIP, two public benefits-related provisions kick-in. First, the law requires that 866 tons of NOx effectively be obtained through the public benefits program. Second, DOA must award grants totaling up to $4.9M per year from the public benefits fund to utilities in Western Wisconsin for the purpose of NOx emission reduction investments.

technologies, products and services; (3) The project will benefit the economic and environmental welfare of Ohio citizens; and (4) The applicant likely would not have made the investment but for the financial assistance.

The fund is to be capitalized with monies collected via a temporary, per-customer surcharge set to collect no more than $15 million per year through 2005, and no more than $5 million per year after that time. The surcharge expires at the end of ten years or whenever the fund reaches $100 million, whichever comes first. The Department of Development is responsible for rules implementing the program.

The Energy Efficiency Revolving Loan Program is treated as one of several "environmental provisions" of the Act, at least by the Legislative Service Commission. And, in fact, the Ohio Environmental Council, a group of environmental advocacy and educational organizations, championed the program. However, discussions with participants in the process suggest that the program was not viewed in environmental terms by legislators or other active parties.(Ward 2000) In fact, the success in securing a place for the program is attributed more to the banking community's support than to a link between public benefits programs and the environment. Early on in the process, the Ohio Environmental Council engaged members of the banking community in Nebraska (where a similar program had been very successful and was very popular with the banks) in a discussion with Ohio bankers. Subsequently, it was the banking community in Ohio that was able to exert influence in the legislative process, tying the loan program to local economic development. Environmental protection was viewed as a positive ancillary benefit, but was not itself a powerful enough issue to motivate lawmakers.

On its face, the Ohio loan program doesn't map easily into the conventional market transformation world. The legislation does not target least competitive market segments as does Wisconsin's, and the flexibility to design innovative programs would seem to be less than exists in either of Illinois' public benefits programs, given that all assistance must come through loans. However, beyond the basic requirements cited above, the loan program is left relatively undefined, awaiting a rulemaking by the Department of Development, which does view market transformation as an important objective.(Ward 2000)

Moreover, as was the case in Illinois, public benefits funding did not have a firm foundation of utility DSM spending to build upon. While Ohio utilities had DSM budgets far exceeding those of Illinois utilities prior to restructuring (close to $40 million in 1995) support for continued funding was weak. In fact, a binding constraint facing supporters of non-low income public benefits programs was that there could be no rate impact of the programs. Therefore, funding levels had to be set at or below the levels of utility programs that were being replaced. Viewed in this light, a $100 million loan fund is a significant victory in an unsupportive environment. Nebraska's revolving loan program, capitalized at a small fraction of Ohio's $100 million, has leveraged over $80 million in energy efficient investment. The market transformative effects of Ohio's program, then, depend less on the its general nature than on the way in which it is implemented.

Are There Any Lessons?

Returning to the questions posed earlier, is this recent activity a temporary anomaly in the Midwest? Where is this activity likely to lead and, what lessons can be learned from the process that led to enactment of these programs? First, we accept that the restructuring

process and, by extension, the public benefits programs enacted as a result, follows a unique path in every state. There is no standard or simple formula for those interested in securing substantial public benefits funding to follow, because in virtually no case are public benefits issues central to the debate. What emerges at the end of the legislative pipe in terms of public benefits funding is most often a reflection of the nature of debate on the broader issues.

The experiences of Illinois, Ohio and Wisconsin provide perfect illustration as well as some markers for the next round of states to enter the restructuring process.

1. Securing large-scale, recurring funding for public benefits programs is much more likely in states with a history of such funding, a perhaps all-too obvious conclusion supported by state activity far beyond the Midwest. Still, there are some important embedded lessons. First, if historical funding is relatively high, legislators don't have to face the prospect of raising rates to pay for the programs; customers already are paying. Second, significant reductions in funding from historical levels opens proponents of the cut to charges of reducing choice, particularly for smaller customers. In other words, without this funding, residential customers will be at the mercy of unregulated energy providers. Third, funding cuts create the perception of backsliding on customer service and on environmental protection. States that have a history of significant funding for energy efficiency – Wisconsin, Minnesota and Iowa in the Midwest – run a better chance of keeping funding levels relatively high. The final funding levels set for energy efficiency in Wisconsin come very close to the levels originally contemplated as needed to maintain parity with historic levels of utility spending.

2. Where historical funding levels have been low, securing public benefits funding is an uphill battle for several reasons. First, any funding for public benefits will cut into the pool of "savings" from restructuring that otherwise would go to reducing rates, or paying off stranded assets. A variant of this problem occurs with the perception that funding for efficiency and renewables reduces the funding available for low-income programs.[10] Second, states not having had a history of funding for these programs typically don't have a core of regulators or legislators who can champion funding. These programs, unfortunately, don't have a constituency, or at least not one that commands much political attention.

3. Even where there is no significant history of funding, two arguments seem to be able to cut through the noise and at least get public benefits a seat at the table.

- "**It's the Environment:** Funding for energy efficiency and renewable energy is funding for environmental protection." This, however, is a visceral, not an analytical argument when it comes to the vote. Given the nature of their job and the competing demands that they face, most legislators fly blind on the subject, guided by the few of their colleagues who have the time to learn the issues. The compelling motivation is to do some good if possible, but above all do no bad. Voting for some level of energy efficiency and

[10] The competition among public benefits beneficiaries over the fixed pie threatens to become a serious issue in Iowa, where low-income advocates and efficiency/renewables advocates have pursued separate strategies.

renewable energy is an easy hedge against the charges that restructuring will harm the environment. However, it is not likely that the environmental argument will secure substantial funding by itself. This is a card that tends to be played most effectively late in the process when the search is on for the last few votes. This was very clearly the case in Illinois.

- **"It's the Economy:** Funding for energy efficiency and renewable energy creates jobs (profits) in our state." In Ohio, it was business for local banks that sold the program. In Massachusetts, the argument, in part, was that public benefits funding would create jobs for the local energy efficiency industry - HVAC dealers, home energy raters, local insulation and windows contractors – as well as for the larger energy service companies.

4. Being in a position to secure funding for public benefits programs means putting public benefits issues squarely in the path of someone's big issue. Public benefits issues are below the radar screen in most states. The restructuring debate centers on the issues with the largest economic implications. For example, if the key issue for large industrial customers is choice, public benefits funding needs to become the vehicle for creating small customer choice – "without funding for small residential and commercial public benefits programs, these customers have no options; restructuring is just a way for the big dogs to take all the seats at the table."

Three states does not necessarily a renaissance make, and it is not yet clear if the rest of the Midwest will follow Illinois, Wisconsin and Ohio. For example, efforts in Iowa to enact restructuring legislation (accompanied by a significant public benefits program) recently failed for the second year in a row. Legislation is moving in Michigan, although the prospects for public benefits funding do not appear good for want of a strong constituency. In the whole, however, the combination of public benefits funding in the three states examined here, combined with continued substantial funding for DSM in Minnesota and the prospects of action in Iowa, puts the Midwest is in its strongest position ever to seize the initiative in market transformation.

Whether or not recent activity presages long-term support for energy efficiency isn't entirely clear, though there are hopeful signs. The formation of the Midwestern Energy Efficiency Alliance suggests that support is growing for broader, market-based efficiency programs to serve regional environmental and economic development interests. More important, that organization, driven by public and private entities from Illinois, Wisconsin and Ohio, provides the Midwest's first intra-regional platform for energy efficiency. The programs enacted in the three states examined either have distant sunset dates or none and, therefore, there is time for momentum to build in the region. Most important, there is a mood across the region that with restructuring comes the first real opportunity in decades to make energy efficiency a vital part of the Midwestern landscape.

References

Anderson-Andraka, D. (Environmental Law and Policy Center). 2000. Personal communication to author. March 3.

Energy Information Administration (EIA*), U.S. Electric Utility Demand-Side Management 1995*, January 1996, DOE/EIA-0589 (95), Table 22

Ohio Legislative Service Commission. *123rd Final Bill Analysis. Am. Sub. S.B. 3.* July 6, 1999.

State of Illinois. 91st General Assembly. *Conference Committee Report on Senate Bill 24*. LRB9100188JSpcccr4.

Stolzenberg, J. and D. Lovell.. *Overview of the New Law on Electric Utility Regulation— The "Reliability 2000" Legislation (Part of 1999 Wisconsin Act 9*. Wisconsin Legislative Council Staff. December 2, 1999.

Ton, M. and C. Calwell. *Regional Efficiency Opportunities in the Midwest, Southwest, and Southeast: The Key to National Market Transformation*, Ecos Consulting, Inc. for Natural Resources Defense Council. January, 1999.

Ward, S. (Ohio Department of Development). 2000. Personal communication to the author. March 3.

Wisconsin Legislative Council Staff. *Utility Public Benefits Programs*. Staff Brief 98-2. September 25, 1998.

Wisconsin Legislative Council Staff. *Utility Public Benefits Programs Memo No. 6 – Expenditures on Public benefits in 1993, 1995, and 1997*. January 15, 1999.