

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members
FROM: Steve Erb, Performance Auditor
CC: Mike Kadas, Director, Department of Revenue
Brad Johnson, Chairman, Public Service Commission
DATE: October 2015
RE: Performance Audit Follow-Up (16SP-02): Universal System Benefits Program (13P-06)
ATTACHMENT: Original Performance Audit Summary

Introduction

The *Universal System Benefits Program* (13P-06) report was issued to the Committee in May 2014. The audit included a total of four recommendations to the Department of Revenue, the Public Service Commission, and the Legislature. In September 2015, we conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our follow-up work.

Overview

During the audit of the Universal System Benefits (USB) program, we found that improvements could be made to how the Department of Revenue and the Public Service Commission provide oversight of USB activities. Generally, the recommendations made by the audit are being implemented by both departments and the legislature. This determination is primarily due to the limited number of observations available since the report was issued.

Background

In 1997, in order to continue funding public benefit programs conducted by the state's electric and natural gas utilities as the industry was being deregulated, the legislature created the USB program. The USB program established a funding mechanism whereby a fee would be added to each customer's bill equal to a percentage of the utility's annual retail sales. The fees would then be used to fund public purpose programs. These programs ranged from low-income energy assistance and weatherization programs, development of alternative energy resources, to energy conservation research activities.

Utilities are permitted to establish their own USB program or donate their collected USB fees to the state of Montana for use in authorized USB-funded programs. A utility's large customers, those businesses that use more than 1,000 kilowatts of power each month, are permitted to "self-direct" their USB fees on internal energy conservation programs and then seek reimbursement from their utility provider. However, those businesses that self-direct their USB fees are required to report those activities to the Department of Revenue.

During the audit, we found that large customers frequently failed to provide the Department of Revenue with required reports when they self-directed their USB fees. Between 2007 and 2012, large customers met their reporting requirement 44-75 percent of the time. However, after the 2015 Legislative Session, one utility's large customers had a 92 percent reporting rate. Overall, large customers of the state's regulated utilities had an 87 percent reporting rate.

Audit Follow-Up Results

The following sections summarize the progress toward implementation of the report recommendations. To conduct this follow-up, we interviewed Department of Revenue program managers and reviewed department documents related to collecting information on large-customer reporting activities. We also reviewed legislation enacted during the 2015 Legislative Session. Finally, we reviewed available Public Service Commission dockets for final orders, specifically related to electric and natural gas utility's USB programs.

RECOMMENDATION #1

We recommend the Public Service Commission require all regulated utilities comply with statutes to assess Universal System Benefits charges on Montana customers.

Implementation Status – Implemented

During the 2015 Legislative Session, Senate Bills 10 and 11, providing exemptions from USB compliance to natural gas and electric utilities under a certain customer size, were passed by the legislature and signed into law by the Governor. Exempting small utilities from USB compliance removed the conditions identified during the audit which resulted in noncompliance by the Public Service Commission.

RECOMMENDATION #2

We recommend the Public Service Commission:

- A. Ensure universal system benefits funds are used only for statutorily authorized purposes.**
- B. Document the review process used to justify final decisions issued by the Public Service Commission as they relate to the use of universal system benefits funds.**

Implementation Status – Being Implemented

There are currently few situations in the Public Service Commission docket system where final orders have been issued. However, in the cases we were able to review, the Public Service Commission decision provided justification for each aspect of the decision without issuing a blanket approval.

RECOMMENDATION #3

We recommend the Department of Revenue:

- A. Request information from electric utilities on all large customers who received a reimbursement for universal system benefits related expenditures from the utility during the previous reporting year.**
- B. Implement procedures to review and compare annual universal system benefits reports provided by utilities and large customers to identify large customers who are not in compliance with reporting statutes.**

Implementation Status – Being Implemented

The Department of Revenue is completing modifications to its GENTAX system which will allow it to account for the imposition of fines against large customers who fail to meet their self-directed USB reporting obligations. The Department of Revenue is also developing procedures for acquiring the names of large customers who self-direct their USB funds from the regulated utilities and rural electric cooperatives. Development of these procedures has been delayed by critical retirements. However, newly assigned staff appear to have a firm understanding of the remaining work.

RECOMMENDATION #4

We recommend the Montana Legislature determine if large customer self-directed universal system benefits expenditures are meeting the public purpose benefits expected of all other universal system benefits funded programs.

Implementation Status – Being Implemented

During the 2015 Legislative Session, a number of bills were passed, which changed the USB program. Senate Bill 150 significantly changed how USB funds were to be allocated to support low income programs. Senate Bills 10 and 11 exempted certain small scale utilities from USB compliance. Senate Bill 312 gave the Department of Revenue enforcement authority to enhance large-customer reporting of self-directed energy efficiency expenditures.