

Working Paper: Energy justice & poverty – A Case Study for Ontario

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Highlights

- The impacts of energy and climate crisis policy decisions on low-income and other marginalized communities are often overlooked. Specific policy advocacy efforts are needed to overcome these gaps.
- The Ontario experience, particularly the role of the Low-Income Energy Network (LIEN), offers an important case study in successful advocacy around low-income energy issues.
- Political and judicial interventions play a major role in overcoming the reluctance of energy planners and regulators to address energy poverty.
- The integration of low-income energy programming remains a major challenge across different fuels and circumstances.
- The incorporation of energy poverty considerations into federal and provincial carbon pricing and climate change adaptation policies remains incomplete.

Key resources

- Low-income Energy Network website: <https://www.lowincomeenergy.ca/>
- Low-income Forum on Energy website: <https://www.nyserda.ny.gov/all-programs/programs/low-income-forum-on-energy>
- Applied Economics Clinic, *Initial Assessment of the Climate Justice Working Group's Recommended Policy Priorities – Tracking Equity and Justice*:
<https://aeclinic.org/publicationpages/2021/3/23/initial-assessment-of-the-climate-justice-working-groups-recommended-policy-priorities-tracking-equity-and-justice>

The following chapter explores the concept of energy poverty, and its ongoing impacts on marginalized communities in Ontario. The chapter examines the experience in Ontario advancing the interests of low-income energy consumers through the Ontario Energy Board natural gas and

electricity rate decision-making processes, including the organization of the Low-income Energy Network (LIEN). The key factors in the relative success of LIEN's advocacy for low-income energy programming, based on advocacy for all elements of the Energy Poverty Pyramid, are identified. The chapter goes on to highlight the need for the integration of low-income and otherwise marginalized communities into the design of carbon pricing and climate change adaptation strategies. Recommendations are also made regarding the further refinement and expansion of low-income energy programs.

What is Energy Poverty?

“Energy poverty” is the disproportionate burden of electricity, natural gas and other utility costs on low-income households which reduce the funds available for food, clothing, medicine and other basic necessities. Inability to pay utilities is second only to inability to pay rent as a reason for homelessness. The alleviation of energy poverty is central to the concepts of energy justice, climate justice and democracy.¹ The accessibility and affordability of energy services is seen as essential to energy sustainability.² Many argue that energy poverty should be understood as a human rights violation.³ Services like electricity are integral to several rights including the right to an adequate standard of living, which incorporates the right to adequate housing, the right to health and even the right to life. In rural areas, access to safe water and sanitation can be dependent upon electricity access.

In Ontario, low-income households are disproportionately single parents, new immigrants, racialized communities, people living with accessibility challenges, and seniors.⁴ When energy poverty is not addressed, high energy costs and low incomes are a painful combination. In the cold winter months, when energy bills can be higher than rent, affected households must make impossible choices between food, clothing, and keeping themselves warm. Some are forced to live in moderate to extreme discomfort. Health can be affected by the

¹ J.C. Stephens *Diversifying Power: Why we need antiracist, feminist leadership on climate and energy* (Washington D.C. Island Press, 2020)

² B.K Sovacool and M.Dworkin, Energy Justice: Conceptual Insights and Practical Applications *Applied Energy* 142 (2015) 435–444

³ See Scott, Adrienne J. In the Dark, An Exploration of the Human Rights Implications of Energy Poverty in Rural Ontario, *Research Paper submitted to the Faculty of Graduate and Postdoctoral Studies In partial fulfillment of the requirements For the LL.M. degree in Law, available at <https://cela.ca/in-the-dark-an-exploration-of-the-human-rights-implications-of-energy-poverty-in-rural-ontario/> (2016)*

⁴ Canada Without Poverty, *Just the Facts*, available at <https://cwp-csp.ca/poverty/just-the-facts/>

cold or mold arising from inadequate insulation and ventilation, exacerbating asthma and other cardio-vascular and respiratory illnesses. In the case of poor housing stock in some regions of the province, lung cancer risks are a concern due to high indoor radon levels. The climate crisis will fuel higher summer temperatures, prolonged heat waves and more episodes of extreme heat, which can combine to deadly effect for those who do not have or cannot afford air conditioning.⁵

Energy poverty affects low-income people living in all categories of housing: private rental, social housing and owner-occupied. Energy poverty can be the result of lack of income or the result of low-quality housing. In homes lacking insulation or draft-proofing, or with inefficient heating equipment and appliances, energy costs can remain unaffordably high despite residents' best efforts to be responsible and conserve.

Energy Poverty in Ontario

Impetus to organize a low-income energy network

Electricity costs have been a central issue in Ontario politics for the past two decades. The roots of ongoing issues with high energy costs and widespread energy poverty began after decisions in the mid-to-late 1990s to marketize Ontario's electricity system. The May 2002 opening of competitive retail and wholesale electricity markets coincided with a record hot summer, causing electricity prices to increase dramatically. Consumer outcry followed.⁶ The government responded by freezing electricity prices for residential consumers at 4.3 cents per kWh effective December 1, 2002.⁷

⁵ See Scott, Adrienne J. *In the Dark, An Exploration of the Human Rights Implications of Energy Poverty in Rural Ontario*, Research Paper submitted to the Faculty of Graduate and Postdoctoral Studies In partial fulfillment of the requirements For the LL.M. degree in Law, available at <https://cela.ca/in-the-dark-an-exploration-of-the-human-rights-implications-of-energy-poverty-in-rural-ontario/> (2016) for a review of some of the literature on energy poverty, at pp 15 to 19.

⁶ *Energy Competition Act*, 1998 set the framework for competitive electricity market. On the evolution of electricity policy in Ontario see generally MacWhirter, R., and M. Winfield, "The Search for Sustainability in Ontario Electricity Policy." in G. Albo and R. MacDermid eds., *Divided Province: Ontario Politics in the Age of Neoliberalism* (Kingston/Montreal: Queens-McGill University Press 2019)

⁷ *Electricity Pricing, Conservation and Supply Act, 2002*, Royal Assent on Dec. 9, 2002, capped the price of electricity at 4.3 cents per kilowatt hour for residential, small-business and other designated low-volume consumers, effective May 1, 2002 to May 1, 2006 and provided refunds, retroactive to May 1, 2002, to compensate those consumers for any costs in excess of the 4.3-cent cap.

By the following autumn, the government announced that the 4.3 cents per kWh price freeze would be reviewed and it would be moving the province to having consumers pay the “true cost of electricity.” The Ontario legal aid specialty clinics Advocacy Centre for Tenants Ontario (“ACTO”) and Income Security Advocacy Centre (“ISAC”) immediately highlighted concerns to Ontario's Energy Minister about the impact of increasing prices on low-income consumers. They recommended that the government consider a comprehensive energy assistance program. However, the government did not include any programs to alleviate the impact of its interim pricing plan on low-income consumers.⁸ Under the interim structure, residential, low-volume and other designated consumers paid 4.7 cents per kWh for the first 750 kWh consumed per month, and 5.5 cents per kWh for consumption above that level.

At that time, available emergency energy financial assistance programs were totally inadequate. Low-income consumers also faced difficulties accessing energy services because they could not pay large security deposits. In some rural areas, consumers were required to purchase a minimum volume of fuel oil, which made the costs prohibitive for fixed-income consumers.

The Low-Income Energy Network (LIEN) is formed

As energy prices increased, advocates recognized that efforts were needed to address energy poverty. LIEN emerged as a coalition of Ontario legal aid clinics, front-line emergency service providers, environmental, anti-poverty and affordable housing advocacy groups to address this need. Its purpose was to advocate for systemic solutions to energy poverty among key energy decision makers in Ontario such as the Ontario Energy Board (OEB), which is the province's regulator of electricity and natural gas utilities, utilities themselves, and the Ontario government. LIEN's founding members included the Canadian Environmental Law Association, (CELA), Share the Warmth, the Advocacy Centre Tenants Ontario, (ACTO), the Income Security Advocacy Centre, (ISAC), Community Social Planning Council (CSPC)-Toronto, Toronto Disaster Relief Committee (TDRC) and Toronto Environment Alliance, (TEA).⁹ The policy improvements secured by LIEN over the past two decades flowed from its recognition

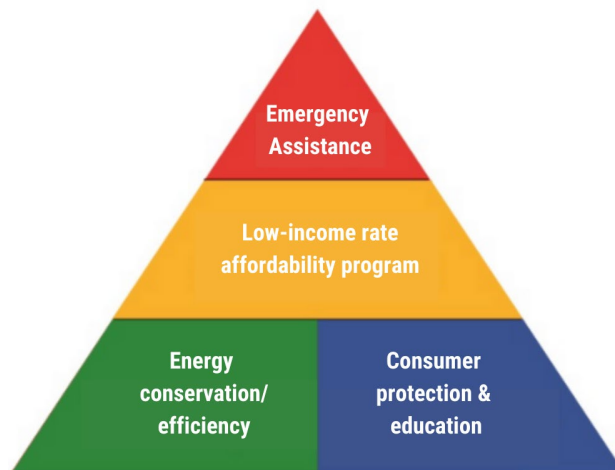
⁸ *Ontario Energy Board Amendment Act (Electricity Pricing), 2003*, which put in place a new interim electricity pricing structure, replacing the 4.3 cent per kilowatt hour (kWh) price cap as of April 1, 2004.

that the best policies to address energy poverty would be informed by a variety of perspectives, including front-line social service agencies and organizations with expertise in systemic policy analysis.

Securing an Energy Poverty Strategy in Ontario: the Energy Poverty Pyramid

LIEN developed a comprehensive approach to address energy poverty that it termed the Energy Poverty Pyramid. The pyramid, shown in **Figure 1**, was based on work done for rate hearings in Nova Scotia by the Dalhousie university legal clinic. The Energy Poverty Pyramid details the four elements that make up a fulsome and coherent energy poverty strategy. These are: (1) energy conservation and efficiency; (2) consumer protection and education; (3) low-income rate affordability programs; and (4) emergency assistance. LIEN created a simple graphic of the Energy Poverty Pyramid and presented it every time it met with decision-makers, and believes it significantly assisted LIEN’s advocacy efforts because it was easy to understand.

Figure 1: The Energy Poverty Pyramid



At the foundation of the pyramid are policies and programs that promote energy conservation and efficiency and educate consumers about how to reduce their energy

consumption. Energy efficiency programs alone cannot solve the problem of energy affordability, but they can make significant contributions to reducing energy needs and costs, especially in low-quality housing.

The base of the pyramid also includes customer service rules that do not penalize low-income energy consumers who are already struggling to pay for gas and electricity bills. Examples of barriers that unfairly impact low-income consumers include requirements for security deposits, late payment fees and unfair arrears repayment programs. The energy assistance emergency funds that might be available to customers in arrears were often used up early in the year. Customers with greater means are not required to pay security deposits at all due to their higher credit ratings. Nor do they run into costly late payment fees and arrears repayment costs.

Total home costs become unaffordable if they exceed 30% of total income. Utility costs should not exceed 20% of shelter costs. Therefore, energy costs become unaffordable for low-income consumers if they exceed 6% of total household income. A central element of the Energy Poverty Pyramid is therefore that low-income consumers should not pay more than 6%-8% of their total household income on energy. This element of an energy poverty strategy requires programs to make ongoing energy bill payments affordable for lower income families and focuses on preventing a crisis rather than reacting to one.

Finally, at the top of the Energy Poverty Pyramid, LIEN argued that the least resources, in total dollar terms, should be reserved for an adequately funded emergency financial assistance fund to help households in short-term crisis. With a comprehensive energy poverty strategy in place, fewer families should find themselves in energy crisis. But, there will always be a need for immediate crisis funding to deal with unexpected job losses, insecure work, fluctuating income, illnesses and other short-term financial emergencies. However, emergency energy funds should not be the primary way to address energy poverty.

Emergency Assistance

The first element of a comprehensive energy poverty strategy to be secured in Ontario was an emergency assistance program. LIEN representatives met with the Ontario energy minister in 2004 to raise serious concerns about the impacts of rising electricity prices on low-

income consumers. Shortly thereafter, in March 2004, the province announced a one-time \$2 million provincial Emergency Energy Fund (EEF) targeted to people with energy payment crises. The province made the EEF an annual program in 2005. The fund served 37,757 households with an average grant of \$468 from 2004/05 to 2011/12 for a total of \$18.55M.

The emergency assistance program was supplemented when the Ontario Energy Board commenced the Low-Income Energy Assistance Program (“LEAP”) Emergency Financial Assistance (EFA) grant for low-income electricity and natural gas consumers at the beginning of January 2011. The grant was based on income qualification and aimed at energy consumers who had recently received a ‘past due’ bill or a disconnection notice. It has limits of a maximum of \$500 per fuel, per household, per year (or \$600 for electrically heated homes.) The fact that consumers could apply for help without waiting for a disconnection notice did help some low-income consumers to stay on top of their arrears. However, it was introduced as emergency funding, not ongoing bill payment assistance.

Once the EFA was introduced, the Provincial Emergency Energy Fund was consolidated in 2013 by the province into a new broader Community Homelessness Prevention Initiative (CHPI). CHPI combined funding from former separate housing and homelessness programs into a single flexible program. This program allowed municipalities to use flexible program funding to develop homelessness programs tailored to their communities' needs. One advantage for low-income energy consumers under that revised program was that it allowed for coverage of fuel types other than electricity, such as wood, propane, and oil. These remain important fuel sources for many low-income households in non-urban areas of Ontario.

These emergency assistance programs established predictable funding and program support for low-income people facing household energy emergencies. At the same time, LIEN continued to advocate for a more comprehensive approach to energy poverty that would not rely on emergency assistance.

Proposing a rate assistance program

As the next stage of its strategy, LIEN advocated for a rate support program before OEB.

LIEN hired Roger Colton, a United States low-income energy expert to create a proposal for a ratepayer-funded *Ontario Home Energy Affordability Program*¹⁰. It included five major components mirroring the energy poverty pyramid: rate affordability; arrears management; crisis intervention; conservation and demand management; and consumer protection. It also provided the basis for LIEN's argument that Ontario's low-income consumers cannot pay more than 6% of their total household income on energy. The proposal was submitted on behalf of LIEN to the OEB as part of Union Gas' 2007 distribution rate hearings. The utility had a large number of low-income customers in its consumer base.

The OEB acknowledged that affordable rates were an important issue but refused to consider it in the Union Gas hearing and instead directed staff to determine an appropriate forum and timing for future consideration. With no OEB staff report forthcoming, LIEN intervened in Enbridge Gas' 2007 distribution rates hearing, again filing the *Ontario Home Energy Affordability Program* for consideration. The OEB again decided that the proceeding was not the most suitable venue for the issue to be heard.

The OEB issued a decision in April 2007 which held that it did not have jurisdiction to implement rate affordability programs for low-income consumers. However, the decision included a strong dissent which found that the OEB had jurisdiction to set just and reasonable rates, to act in the public interest, and to use any rate-making technique it considered appropriate. The dissent also noted that the fact that the Board may be considered an "economic regulator" does not limit that jurisdiction.¹¹

LIEN appealed the OEB's decision to Ontario's Divisional Court. The Court found that "the Ontario Energy Board (OEB) has the jurisdiction to establish a rate affordability assistance program for low-income consumers."¹² In response to the Divisional Court's decision, the OEB initiated a consultation on energy issues relating to low-income consumers. Primarily as a result

¹⁰ See Roger Colton, A Ratepayer Funded Home Energy Affordability Program for Low-Income Households: A Universal Service Program for Ontario's Energy Utilities, submission to the Ontario Energy Board on behalf of the Low-Income Energy Network, OEB File No. EB-2005-0520, Exhibit K15.1, April 2006 at 5.

¹¹ *Enbridge Gas Distribution Inc.*, EB-2006-0034 (O.E.B.), *Decision – Rate Affordability Programs*, 2007 <https://www.oeb.ca/documents/cases/EB-2006-0034/decision_egd_rate_affordability_20070426.pdf>

¹² *Advocacy Centre for Tenants-Ontario v. Ontario Energy Board*, 2008 CanLII 23487 (ON SCDC), <<https://canlii.ca/t/1wzkk>>

of LIEN's work, and following a low-income consumer issues consultation, the OEB released its Low-Income Energy Program report on March 10, 2009, in which it:

- explicitly recognized the reality of energy poverty and its hardship;
- explicitly recognized that energy regulation in the public interest includes low-income considerations; and
- explicitly recognized the need for province-wide equitable solutions to energy poverty as opposed to a fractured, piece-meal approach.

The Low-Income Energy Assistance Program (LEAP)

While recognizing the significance of energy poverty, the OEB Low-Income Energy Assistance Program ("LEAP") report dismissed the concept of a permanent rate affordability program. Instead the board's program was to be comprised of three elements to help low-income Ontarians better manage their electricity and natural gas bills:

- Temporary financial assistance for consumers in need;
- Access to more flexible customer service rules on matters such as bill payment and disconnection notice procedures, waivers for security deposits and late payment fee; and
- Targeted conservation and demand management programs for energy efficiency upgrades to homes, to assist low-income energy consumers in reducing their overall energy usage.¹³

Implementing low-income conservation programs.

Given that access to conservation for low-income consumers would have many health, comfort and affordability co-benefits, some of LIEN's early efforts were focused on that issue. Low-income consumers faced numerous barriers to participation in conservation efforts. These

¹³ Ontario Energy Board, *Report of the Board Low-Income Energy Assistance Program* (Toronto: OEB 2009) https://www.oeb.ca/oeb/Documents/EB-2008-0150/Board_Report_LEAP_20090310.pdf

include a lack of capital to invest in energy-savings retrofits and energy efficient appliances, as well as the lack of authority for tenants to undertake retrofits or replace inefficient appliances in their rental units.

The historic approach at the OEB to conservation programs resulted in few programs reaching low-income consumers. The board's reliance on a Total Resource Cost test, instead of a societal benefit cost test, precluded consideration of many factors, such as health and equity benefits, in program assessments.¹⁴

CELA and TEA developed a template low-income energy efficiency program to be piloted by local electricity distribution companies (LDCs) in 2005. LDCs are typically municipally owned utilities that distribute electricity to homes and businesses from the provincial electricity grid. They operate in most Ontario cities and towns. The provincial transmission utility, Hydro One provides distribution services in rural areas. One of the first LDCs to pilot a program for low-income conservation was Brantford Power, which initiated a program called Conserving Homes based on LIEN's "template", directing \$100,000 to assist 100 homes with conservation measures.

The province's energy minister subsequently issued a directive to the Ontario Power Authority (OPA) to work with LDCs to deliver electricity conservation and demand management (CDM) programs that would reduce energy demand for residents of low-income and social housing in Ontario by 100MW. The OPA was provincial agency established in 2004 to undertake electricity system planning and contract electricity supply. Following a number of initial pilot programs, the minister issued another directive to the OPA in 2010 instructing it to roll out electricity CDM programs targeted specifically for low-income consumers. The result was the SaveONenergy Home Assistance Program (HAP) for low-income consumers offered through participating LCDs with OPA funding. The program provided weather-stripping and insulation, new, energy-efficient refrigerators or air conditioners, and programmable thermostats at no cost to eligible consumers.

¹⁴ Ontario Energy Board, *Total Resource Cost Guide*, Revised October 2, 2006. <https://www.oeb.ca/documents/cases/RP-2004-0203/cdm_trcguide_021006.pdf>; Ontario Energy Board, *EB-2008-0346, Staff Discussion Paper on Revised Draft Demand Side Management Guidelines for Natural Gas Utilities*, January 21, 2011. <https://www.oeb.ca/oeb/_Documents/EB-2008-0346/BrdStaff_DiscPaperRevDraft_DSM_Guidelines_20110121.pdf>.

Another directive was issued in 2014 flowing from the Conservation First Framework and Ontario Long-Term Energy Plan requiring that 75 LDCs' develop six-year (2015-2020) CDM plans from. These plans were required to include programs for the low-income customers.

Natural gas conservation programs developed separately. Union Gas and Enbridge both offered Home Weatherization Programs for low-income consumers including energy audits and insulation in attics, basements, and walls.

It became clear from these early conservation programs that there were several barriers to uptake in the low-income community. The programs must be turn-key, full-cost solutions. There was also skepticism about the programs and community partners and municipalities were enlisted to help increase credibility, visibility and reach of the programs.

A new, 2015-2020, natural gas Demand Side Management (DSM) framework was released by the OEB in December 2014. It required that "where appropriate" low-income gas DSM programs should be coordinated and integrated with electricity CDM low-income programs. Low-income consumers are not well served by separate electricity and natural gas conservation programs, but program providers resisted integration because of concerns about not receiving credit for the program from the OEB and government. There has been some progress on this issue with GreenSaver attempting to provide one window customer service, but this remains an ongoing problem.

While it was useful at the early stages of program development for LDCs to pilot programs, LDC delivery also resulted in uneven program delivery and availability across the province. On August 4, 2017 a Ministerial Directive gave the IESO, which had been merged with the OPA through legislation adopted in 2016, the responsibility of designing, funding and delivering the low-income HAP province-wide. The current 2021-2024 Conservation and Demand Management Framework includes a rebranded HAP: The Energy Assistance Program (EAP).

Adopting better terms of service and customer service rules for low-income consumers.

The next element of LIEN's energy poverty pyramid was consumer protection and education. Terms of service and customer service rules need to be designed to prevent disproportionate and unfair impacts on low-income consumers. The OEB began efforts to adopt

new low-income consumer rules after a 2009 policy hearing. The programs allowed customers to request security deposit waivers, longer disconnection grace periods, and extended arrears payment agreements.¹⁵ Once a customer qualified for LEAP emergency financial assistance they automatically qualified for all other low-income customer service rules. However, consumers had to apply for this status by contacting their local utility.

The OEB has had customer service rules in place for electric utilities since 2011. Gas distributors were also required to implement customer service rules that were similar to the ones provided by electricity distributors. These were unique to each distributor, prior to the Union Gas/Enbridge merger, which made Enbridge the only gas distributor in the province. The gas users terms of reference were generally less prescriptive than the terms of reference for electricity users.

The OEB adopted the LEAP customer service program in the electric and gas sectors at different times. As a result of an extensive review of electricity and natural gas customer service rules undertaken in 2018 and 2019, to which LIEN submitted comments, the electricity sector rules have been enhanced and now also apply to rate-regulated gas utilities.

The Ontario Electricity Support Program.

A rate support program was the last element of the energy poverty pyramid to be implemented in Ontario. Rate assistance had not been addressed through the OEB's LEAP program, and electricity prices were expected to again increase according to the province's 2013 Long-Term Energy Plan (LTEP).

In response, LIEN argued that an electricity rate support program would benefit both consumers and the utilities and that the energy assistance funds remained insufficient to avoid extensive energy poverty issues in Ontario. The benefits of a rate affordability program for consumers are improved health, improved housing stability, and decreased forced trade-offs such as for adequate nutrition. Utilities benefit from improved cash flow / collection of revenue,

¹⁵ Final Customer Service Rules were issued July 2, 2010; Low-Income Customer Service Rules were issued March 29, 2011; took effect October, 2011.

decreased costs (such as for collection, bad debt, and working capital), improved collections efficiency and effectiveness. A proactive rather than a reactive approach would mean that less money would be needed for emergency assistance programs, and fewer households would reach energy crisis. However, LIEN representatives were told repeatedly by the OEB and other agencies that movement a program would not be developed with governmental direction.

The primary concern expressed by government officials was the question of the cost of a rate assistance program. In response, LIEN again hired energy poverty consultant Roger Colten to develop a cost estimate for a comprehensive rate support program for Ontario low-income consumers. In advocating for a rate support program, LIEN argued that it should be targeted to low-income households and take a fixed credit approach with an incentive to conserve. The fixed credit would be a monthly “payment” on the account of the low-income consumer. LIEN presented its findings to the Ontario Energy Ministry and emphasized the affordability of a rate support program compared to the benefits for low-income consumers.

An Ontario Electricity Support Program (OESP) was finally announced by the Minister of Energy on April 23, 2014, with the Minister requesting that the OEB report on options for a ratepayer-funded program by December 1, 2014. The report was to include electricity system options for a sustainable, long-term electricity support program specifically designed for low-income Ontario families. LIEN participated in those OEB stakeholder consultations, recommending a percentage-of-income fixed credit to directly address the affordability gap. The OEB issued its final decision on OESP design in March, 2015.

The Ontario Electric Support Program (OESP) commenced on January 1, 2016. It was designed as a fixed credit based on income and household size, delivered as a reduction on qualifying customers’ bills. Customers had to apply to be eligible and re-apply after two years, although some consumer groups needed to re-apply less frequently. Customers of distributors, retailers and unit sub-meter providers were eligible for the program.

Existing recipients of LEAP, Ontario Works and the Ontario Disability Support Program were automatically eligible for the OESP. Aspects of the program included the ability to consider the unique needs of low-income electricity customers, such as those who depend on medical equipment requiring electricity, including ventilators or dialysis machines. Additional provisions enhanced eligibility for those in First Nations and Métis communities.

Rural and remote electricity customers and the energy poverty crisis in 2016

In 2016 electricity transmission and delivery costs began to rise suddenly and were causing significant hardship, especially for rural and remote electricity customers. As Adrienne Scott noted in her LL.M. Masters research,

*For Peggy Mills, an elderly resident of rural McArthur's Mills near Bancroft, the weight of increasing bill payments for electricity became insurmountable. Being on a fixed income she was unable to keep up with her monthly Hydro One bill along with her arrears payments. Hydro One disconnected service to the 74-year-old pensioner in the summer of 2016. Her story was recounted in the Toronto Star. Mills explained that she was unable to deal with rising bills despite trying to reduce her consumption. After being disconnected she had to cope with losing her electricity as well as her water supply. Being a rural householder, her water pump won't work without power. Almost one-quarter of all Hydro One residential customers were behind in their bill payments at the tail end of 2015 – almost 225,000 households. Low-income rural customers of Hydro One are struggling under ever-increasing bill arrears. According to the United Way of Bruce Grey, in 2016 the average amount of arrears owed to Hydro One by their low-density rural customers was \$1,224.49. The United Way and other social agencies and charities have drawn attention to the human toll of rising electricity bills for rural customers, calling it nothing short of a social crisis.*¹⁶

Further attention by media followed,¹⁷ with one provincial MPP telling Global News:

Ontario Progressive Conservative energy critic John Yakabuski said he was recently speaking to a volunteer at a food bank in the Ottawa Valley town of Eganville, who told him that most of the food bank's new clients were people who had to make a choice between paying their hydro bill and avoiding a disconnection fee, or buying groceries.

¹⁶ Scott, footnote 8 at 2.

¹⁷ Bourbeau, Jaques, *Rural Ontario Left in the Dark as Electricity Bills Skyrocket*, June 30, 2016 Global News, <https://globalnews.ca/news/2796958/rural-ontarians-left-in-the-dark-as-electricity-bills-skyrocket/>

There were and still are serious inequities in the way that energy distribution costs are allocated because the cost is calculated in a density basis. A Rural Rate Assistance Program reduced rural distribution rates beginning in January 1981. However, because of distribution rate setting cost allocation and regulatory changes over the years, the affordability of these rates declined. Requirements for long overdue but high cost transmission and distribution system upgrades across the province led to enormous increases in electricity costs to those living in low density regions from the mid-2010s onwards. These were primarily Hydro One customers, including many First Nations communities.¹⁸

In the meantime, other aspects of electricity costs were placing pressure on the provincial government to deal with pricing. LIEN met with the Ontario energy minister and Premier in February 2017 to advocate for a broad solution to the inequitable impacts from energy costs, noting that electricity should be considered a basic human right. LIEN provided recommendations for improving current energy rate mitigation programs, and a range of new solutions that could be adopted to increase access to these programs. LIEN's recommendations included:

- broadening the income eligibility for current programs;
- introducing an arrears forgiveness component;
- addressing the delay created by the Canada Revenue Agency's requirement for "wet signature" consent form on the OESP application to share income tax information; and
- addressing the disproportionate amount that rural customers pay for distribution rates.

LIEN also emphasised the importance of considering the impact on low-income and other marginal communities in energy system decisions.

In May 2017, the province implemented a Fair Hydro Plan in response to growing public uproar over rising hydro rates.¹⁹ The overall plan was to reduce residential electricity bills in Ontario by 17%. Combined with the removal of the Ontario portion of HST on electricity bills,

¹⁸ Scott, footnote 8 at 7

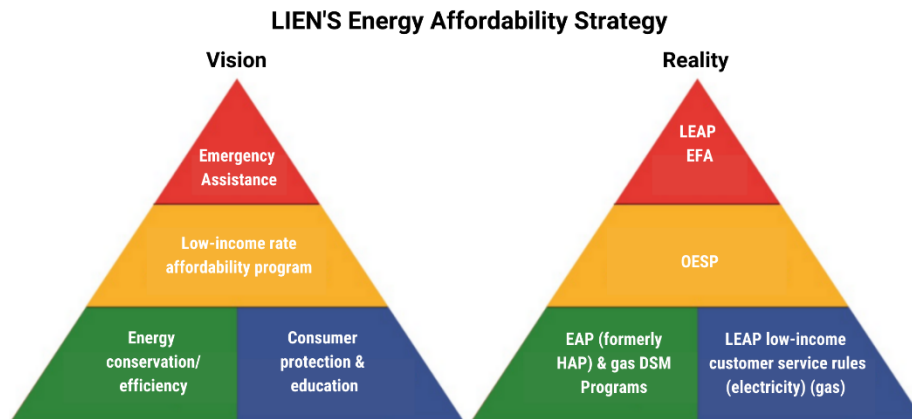
¹⁹ *Ontario Fair Hydro Plan Act*, 2017, S.O. 2017, c. 16, Sched. 1 2017. See also MacWhirter and Winfield, "The Search for Sustainability in Ontario Electricity Policy."

the total savings would be 25% for most residential customers. With respect to rural and low-income consumers, the plan attempted to address high rates by including a rate reduction through the Rural or Remote Electricity Rate Protection program, enhancing the OESP, introducing a First Nations On-Reserve Delivery Credit (which was to offset the cost of entire delivery line on the monthly hydro bill), and establishing an Affordability Fund. There were additional savings for some low-income consumers and some customers in remote and rural areas.

Energy Poverty Pyramid: All of the Elements are in Place

As shown in **Figure 2**, by the beginning of 2021, all of the elements of LIEN’s original vision for an energy poverty strategy have been adopted and remained in place in Ontario. Low-income energy consumers in Ontario now have the benefit of the Low-income Energy Assistance Program (LEAP), Emergency Financial Assistance (EFA), specific low-income customer service rules in electric and gas utilities, energy conservation and efficiency programs for electricity and natural gas customers, and on-bill energy payment support through the Ontario Electricity Support Program (OESP).

Figure 2 – LIEN’s Energy Affordability Strategy



Once people can climb out of energy poverty it is easier for them to stay out of energy poverty, especially when program design does not repeatedly impose extra costs and penalties that impact only low-income customers. Energy poverty programs pay for themselves both on a societal basis, and even at the scale of individual utilities compared to their previous collection costs.

Emerging Energy Poverty Issues and Recommendations to Policy Makers

Although Ontario has made significant progress in developing a framework of programs and rules to address energy poverty, significant gaps remain and too many Ontarians are still faced with crushing choices about whether to pay for energy bills or other basic essential needs. Significant refinements are possible in the province's existing suite of programs.

Energy poverty and the climate crisis

The impacts of the climate crisis are already manifestly inequitable. Low-income communities contribute significantly less to overall greenhouse gas emissions than other Canadians, but will be disproportionately impacted by the effects of climate change.²⁰ The relationship between energy poverty and the climate crisis remains largely unexplored but will become a crucial next battle ground for LIEN as governmental policies slowly seek to address soaring greenhouse gas emissions.

Like in all energy policy decisions, low-income communities are often overlooked in the design of climate policies. When, for example, Ontario adopted a greenhouse gas (GHG) cap-and-trade program and joined the Western Climate Initiative with Quebec and California, LIEN advocated for direct rebates to low-income consumers to account for the disproportionate burden of any resulting rise in energy costs on low-income people. The argument was not taken up by the province in its design of the cap-and-trade program, which provided no direct support to low-income energy consumers. In contrast, Western Climate Initiative partner California adopted a legislated requirement to allocate 25% (and later 35%) of the cap-and-trade GHG emission permit auction proceeds to low-income energy and climate alleviation programs. However, Ontario's cap and trade legislation did require the province to prepare a climate change action plan that would consider the impact of the regulatory scheme on low-income households and

²⁰ See for instance Marc Lee, *Fair and Effective Carbon Pricing: Lessons from BC* (Vancouver: Canadian Centre for Policy Alternatives, February 2011) [*Fair and Effective Carbon Pricing*] Online: CCPA <https://www.policyalternatives.ca/publications/reports/fair-and-effective-carbon-pricing>
Sustainable Prosperity, *The Effect of Carbon Pricing on Low-Income Households, and Its Potential Contribution to Poverty Reduction* (Ottawa: Sustainable Prosperity, May 2011) <https://institute.smartprosperity.ca/sites/default/files/effect-carbon-pricing-low-income-households-and-its-potential-contribution-poverty-reduction.pdf>

include actions to assist those households with Ontario's transition to a low-carbon economy.²¹ The Act also required the Minister of the Environment to consider whether proposed expenditures of moneys raised by the cap and trade program would assist low-income households and vulnerable communities with their transition to a low-carbon economy.²²

The Canadian federal government's carbon pricing scheme does provide for increasing rebates to low-income residents. However, the program could be refined to more effectively calculate rebates to target low-income communities rather than providing rebates to all Canadians including high-income households. Such changes will become more critical given the federal government's proposals for significant increases in its carbon price.²³ The potential for wider integration of low-income energy programs with federal housing programs and new programs arising from carbon pricing mechanisms remains largely untapped.

Climate change adaptation measures must also focus on low-income communities. Low-income households are more likely to be located in areas more susceptible to climate impacts and to live in housing that is less resilient.²⁴ Low-income people will not have the resources to purchase mitigation or move away from the problem. Targeted, well-funded programs will be essential. California's low-income barrier studies provide a good example for future climate action that accounts for the unique needs of low-income people. These examinations of barriers to uptake of low-income environmental programs resulted in programs targeted at whole neighbourhoods, reducing stigma, increasing credibility, and significantly improving the cost-effectiveness of programs in carbon reduction terms.²⁵

²¹ *Climate Change Mitigation and Low-carbon Economy Act, 2016*, SO 2016, c 7, s. 7(3)

²² *Climate Change Mitigation and Low-carbon Economy Act, 2016*, s 71(3)(e)

²³ Government of Canada *A HEALTHY ENVIRONMENT AND A HEALTHY ECONOMY: Canada's strengthened climate plan to create jobs and support people, communities and the planet* (Ottawa: December 2020) https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/climate-plan/healthy_environment_healthy_economy_plan.pdf.

²⁴ Queen's University and the Centre for Environmental Health Equity, *Final Report of the RentSafe Research on Equity-focused Intersectoral Practice (Equip) for Housing and Health Equity in Owen Sound, Ontario*, October 2019 https://povertytaskforce.com/wp-content/uploads/2020/01/we-are-all-neighbours_rentsafefinalreport_oct-2019.pdf

²⁵ California Energy Commission, SB 350 Low-Income Barriers Study, Part A – Commission Final Report, (California: December 2016) [Low-Income Barrier Study]. Online: http://www.energy.ca.gov/business_meetings/2016_packets/2016-12-14/Item_08/Item_08.pdf; CELA January 2018 brief <http://www.cela.ca/sites/cela.ca/files/1161CELALIENSubmissionsClimateChangeAdaptationProposal.pdf>

Issues in program design, implementation and evaluation

With each element of the energy poverty pyramid established, policy-makers must now focus on program uptake. As of 2018, there were approximately 200,000 out of a potential 571,000 (35%) eligible low-income households receiving the OESP benefit on their monthly bill. Low uptake is not unique to Ontario. Multiple studies focused on US energy support programs have reached similar conclusions that program awareness is exceptionally low among the broader population and even worse within low-income groups.²⁶ There is a need for targeted outreach to eligible consumers to boost enrolment numbers. Policy makers and advocates also need data on whether the monthly credit amount is sufficient.

Ontario and other jurisdictions should adopt the approach of California utilities and create a comprehensive list of medical conditions and devices that are eligible for additional energy assistance. Based on the California model, LIEN has recommended that due to the extraordinary heating or air-conditioning required by people with conditions such as paraplegia, quadriplegia or multiple sclerosis, they should be eligible for an enhanced OESP benefit. LIEN has also suggested that the current energy intensive medical devices list used to determine eligibility factors for the OESP be expanded to include additional lifesaving devices.

Addressing Arrears

An arrearage forgiveness program should be added to the low-income customer service rules. This should be a carefully structured program of debt forgiveness that requires customers to maintain a good payment history (both for current monthly bills and for monthly arrears repayment plans) for a set period of time, typically one or two years. Under such a program, arrears still owing at the end of that period would be written off. The utility will typically receive more in increased net revenue toward current bills than it gives in forgiven debt. An arrearage forgiveness program helps provide a low-income, payment-troubled customer with a

²⁶ Roger Colton, A Ratepayer Funded Home Energy Affordability Program for Low-Income Households: A Universal Service Program for Ontario's Energy Utilities, submission to the Ontario Energy Board on behalf of the Low-Income Energy Network, OEB File No. EB-2005-0520, Exhibit K15.1, April 2006 at 5.

path to energy sustainability for their household. Arrearage forgiveness and the affordability programs must be designed to work closely together.

There should be specific protections for low-income customers who are experiencing domestic abuse. Without protections in place, a victim could be left with a large debt to the utility company, resulting in shut-offs, excessive debt, and an inability to re-establish or maintain an account with the utility provider. Therefore, LIEN has recommended there be no liability for arrears in another name, unless a court order declares the debt the responsibility of the victim. In such cases, utility reconnection fees, in the event of a disconnection, should also be waived.

Reaching consumers of other fuels

Ontario's energy support programs primarily assist consumers of electricity and natural gas. For many rural and northern Ontarians, other fuel types including wood, propane and even oil remain significant energy sources and can push households into a state of energy poverty. Some of the people with the least efficient and most costly heating in Eastern Ontario, for example, are those with old farmhouses heating with stove oil or by burning wood.²⁷ The capital costs of equipment upgrades, fuel switching, or renewable energy are typically unachievable for low-income households without significant program support.

Most programs are designed around the type of fuel used by the household, instead of being primarily focused on alleviating energy poverty. The Community Homelessness Prevention Initiative allows municipalities to address these other fuel types with emergency energy funding. However, these households would benefit from long term programs aimed at sustainability, such as low-income conservation programs with deep measures including furnace replacement, and direct assistance with energy costs.

Integrating electricity and gas utility programs

An ongoing issue is the need for integration across fuel types and providers, particularly between natural gas and electricity. Governments and utilities often raise privacy concerns as a reason for siloed programs, but these types of concerns have not typically been raised by program recipients themselves, and can be solved with consent forms.

²⁷ Scott, *ibid* at 23

Data Access

Advocates and service providers need better access to data to inform how programs can be refined and expanded. Decision makers need to know who is accessing programs, based on location in the province and housing type and tenure. As well, policy makers need to know how many tenants pay for their energy bills directly and not in their rent.

It would be valuable for policy makers to have demographic profiles of low-income households facing energy poverty – such as how many are single-parent led families, racialized, First Nations, seniors, disabled, rural, or northern residents.²⁸ Energy decision makers also need to be able to evaluate how well energy poverty mitigation programs are doing in addressing the issue. Such information would help reveal best practices and what needs to be changed to eliminate barriers to energy security.

Conclusions

There are a number of important take-aways from the ongoing LIEN and Ontario energy poverty story. The Ontario experience makes clear the ongoing need to advocate loudly and often on energy poverty issues to ensure decision-makers take low-income people into account. These impacts are often unanticipated or un-measured, until the consequences become tragically obvious. Considerations of energy poverty simply fell outside of the OEB and OPA/IESO's initial frames of reference in planning and decision-making.

Even when confronted with the issue, OEB and OPA/IESO have been reticent to act without governmental direction. These agencies did not act on it until required by the courts and ministerial direction to do so. At the same time, political direction can be fleeting and shift when political fortunes change. Although political direction was crucial in the development of Ontario's energy poverty programs, many other political directives on energy policy have been extremely problematic. A better approach is to require by statute that all key players in the energy system work to eliminate energy poverty.

²⁸ An example of the type of information that would prove very useful is Canada-wide information emulating the short report prepared by the Financial Accountability Office of Ontario in 2016 (with the caveat that some of the programs mentioned in that report have since been modified or enhanced). <http://www.fao-on.org/web/default/files/commentaries/1618%20home%20energy%20regional/Home%20Energy%20Spending%20Regional.pdf>

All of the major elements of Ontario's energy poverty strategy established through LIEN's work have survived following the 2018 provincial election. In the longer term, however, solutions to energy poverty need to be entrenched and embedded within the culture and practice of energy rate making and program design by utilities, provincial government departments, and utility regulators. This is essential to the political resilience of these programs.

The significance of LIEN's role should not be underestimated in this context. Without the sustained presence of an advocate that combined first-hand knowledge of the circumstances of those confronting energy policy, and an understanding of the legal, policy and institutional dimensions of provincial policy-making, it is unlikely anything resembling the low-income energy policy framework that has come into existence in Ontario would have emerged.