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Utility
management

THE LATEST RESEARCH AND MODELS ON
OPTIMIZING UTILITY USAGE IN MULTIFAMILY
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**MULTI
FAMILY**

The Regulatory
Conundrum



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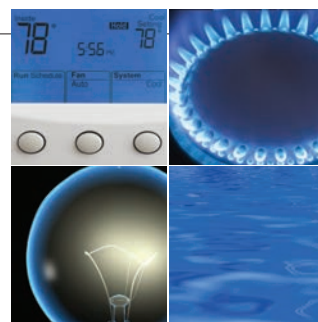
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light you up? Join like-minded professionals
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EMPOWERING
IDEAS

NWP 2016
Energy Summit

2016 promises to be an interesting year. NWP, now part of the RealPage family, continues to roll out innovations that make utility management and regulatory compliance easier, and results, more reliable. Many are in direct response to regulatory requirements, now and into the future.

NWP leads the industry in data visualization and mobile computing as we work to deliver Uber™ and Amazon™ ease-of-use for utility management. To this end, NWP has elevated meter health with its latest feature, Geo-Mapping, which allows staff to approve maintenance proposals and scheduling with a click.

Even better, meter health Geo-Mapping is available on our metered U.S. portfolios at no added charge.

In February, we hosted the sixth annual Energy Summit in Washington, D.C. The Summit continues to raise the bar on utility management professional education while creating an environment for peer-to-peer collaboration on an assortment of relevant topics relating to the multifamily industry.

Top multifamily executives and policy-makers discussed the latest in smart technology, new and updated regulatory issues, retrofits with smart pay-offs and the impact conservation is making on the industry. See Summit highlights on page 12.

It was a super-charged event with a lineup of high level speakers from Fannie Mae, Environmental Protection Agency (EPA), U.S. Army and the Rocky Mountain Institute. The finale was a private event held at the Smithsonian Air and Space museum (above); a perfect backdrop to an event about cutting edge innovation.

Those surveyed at the event, said they gained more actionable knowledge than ever.

It's this forward thinking that keeps us out in front and this issue brimming with need-to-know information. With so many jurisdictions and states' ever-changing policies to monitor, regulatory compliance is certain to affect every multifamily operation, no matter the product or location.

Certainly, prominent news is that of NWP's acquisition by RealPage a few months ago. RealPage is the leading provider of on-demand software and software-enabled services for the multifamily, single-family and vacation rental housing industries. Like NWP, RealPage is customer-centric in its integrations and partnerships. NWP fits well with RealPage's philosophy of allowing customers to choose best-of-breed solutions.

Combined with RealPage's Velocity, we'll continue setting the standard in utility management, as we have for over last 20 years.

Central to this is a deeply ingrained culture of talent, discipline and innovation. The merger of NWP and Velocity under RealPage is a true testament to those principals we hold dear and they will continue guiding us toward greater and better innovation.

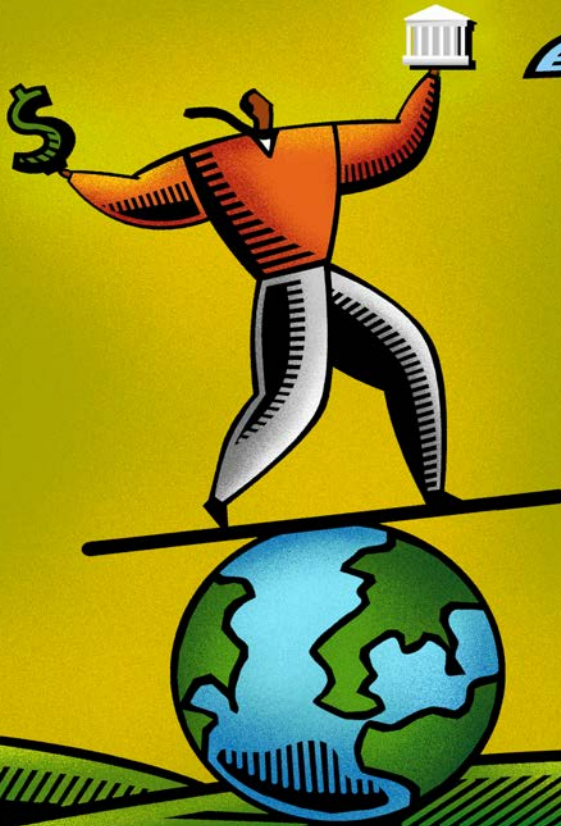
Connecting our organizations will only accelerate this innovation. In addition to maintaining the NWP Lab's innovation team, the combined organization will benefit from RealPage's annual \$65 million investment in research and development.

Everything good about doing business with NWP will only get better as part of RealPage. We'll continue to apply talent, innovation and discipline to deliver easy reliable results.



Ron Reed, Publisher
reed@nwp.com

Legislative and regulatory update



California Senate Bill 7

In the 2015 California Legislative Session, Senate Bill 7 (SB7) passed the Senate and made it through all but one of the Assembly Committees before it stalled and was made a two-year bill. This bill will create a mandate for the installation of meters (by the owner or the providing utility) in every multifamily unit.

It also regulates amounts to allocate, fees, bill content, and other consumer protection issues. The bill, as last amended, contains a safe harbor for properties using an allocated (RUBS) methodology prior to the effective date of the legislation.

The Appropriations Committee could not resolve a small number of issues and did not allow the bill to proceed to a floor vote in the Assembly. The primary issue was a new requirement that all meters must be installed by a licensed plumbing contractor.

Current law allows only Certified Service Agents to perform installations. These Certified Service Agents are tested on Weights and Measures regulations regarding installation of meters and electronics.

The Appropriations Committee did not agree with the sponsor of the bill that licensed plumbers were a necessity or bring specialized knowledge to the installation.

NWP anticipates that the parties will be able to resolve the remaining issues during the 2016 Legislative Session. The bill's sponsor has been working with the plumbers' union to come to a compromise position on installation.

What is benchmarking anyway?

The term "benchmark" was originally used to describe a point related to elevation. We now use it to describe the measurement and comparison of all sorts of data.

In the apartment business, utility benchmarking is a hot topic. But, what does it mean? Is it a code word for something else? Is it just a fancy term for measure? How do you do it? Once you've done it, then what do you do with it? I'll offer answers, but by no means are they absolute. This is my interpretation of benchmarking and how I've used it to manage utility expenses and their recovery.

I've heard people use the term benchmark when they really meant manage. So when talking about utility benchmarking, they were really talking about utility management. These terms are not interchangeable. Utility benchmarking precedes utility



Ohio

In September of 2013, the Columbus Post Dispatch ran a series of articles highlighting multifamily owners that were “marking up” rates that they charged their residents for electric service and allocating more than their expense to residents. The Ohio Legislature responded with the introduction of three bills in 2014. One was by the “over-allocators,” one by a tenant-friendly legislator, and one “middle path” bill. For various reasons, none of these bills made it out of committee. In 2015, legislators approached the Ohio Office of Consumer Counsel and utility billing industry groups and encouraged them to meet and draft compromise legislation that achieves limiting the amounts allocated to residents to the properties’ expense and includes sensible consumer protection language. During 2015 the groups met many times and exchanged draft language. These efforts continue with a goal of introducing the language in the fall of 2016.



Maryland

On February 3, 2016, Delegate Stephen Lafferty introduced House Bill 545 (HB 545). The bill, as introduced, prohibited allocated (RUBS) methodologies for water and sewer, created high-dollar penalty amounts for owners, and limited the amount of administrative fees that submetered properties could charge residents to two dollars (\$2.00). The bill was amended significantly

in the Environment and Transportation Committee after significant opposition by multifamily owners and operators in Maryland. The amendments included removing the prohibition on RUBS, the \$2.00 cap on administrative fees, and the onerous penalty provisions. The engrossed bill, as currently drafted, obligates owners to disclose the RUBS method used to bill residents in leasing documents and provide information to residents about bill calculation.



Florida

In October of 2015, the Florida Assembly introduced House Bill 491 (“HB 491”). The introduced bill sought to deal with several issues relating to water and sewer services. Importantly, it sought to amend the Public Service Code section which provides an exemption to owners (in states regulated by the Public Service Commission) from regulation as a public utility provided that the owner does not allocate more costs to residents than it is charged by the providing utilities.

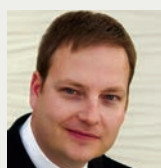
After amendments, the bill passed the House and the Senate and is now engrossed and ready to be signed by the Governor. HB

491 removes the distinction between counties regulated by the PSC and those that are not. Now owners and operators in all counties will be exempted from regulation as a public utility provided that they do not charge residents more (in the aggregate) than they are charged by the utility.

Owners and operators can include an administrative fee equal to nine percent (9 percent) of current charges for water and sewer. The administrative fee is in addition to the amounts charged to residents for water and sewer service.

If signed into law by the Governor, the bill will affect owners and operators differently, depending on whether they were previously in a PSC jurisdictional county or a non-PSC jurisdictional county.

Owners in previously jurisdictional counties will be able to recover a larger percentage of their expense (up to 100 percent) but may have to revise the amount of administrative fees for water and sewer billing. Owners in previously non-jurisdictional counties will likely have to modify fee amounts for water and sewer billing. See a link to a map of counties: www.psc.state.fl.us/Files/PDF/Utilities/WaterAndWastewater/wawmap.pdf



Michael Foote is senior regulatory and corporate counsel at NWP where he’s been on the legal team since 2008. Prior to NWP, Foote was general counsel for ista North America, Inc. He has 15 years experience with utility billing law and is regarded an industry expert.

management. It’s the measurement that determines where to focus our energies.

How do we get to that measurement? Start with what is readily accessible.

We all have financial data in our accounting systems. Start there. But we look at that all the time. What is going to make the data stand out?

By simply grouping properties, first by property type, they by cost per apartment unit, you will see your most costly properties rise to the top. Then calculate an average cost per unit, by property type, and that is your “benchmark.” Everything over that average is your new area of focus.

There are a number of third party products that can help with benchmarking, as well. In the early days of utility management, solutions were manual and time consuming. Now companies are sophisticated

in their data collection and reporting. Also, utilities are cooperating and enabling vendors, and owner/managers, to collect and share utility data electronically. This allows utility managers to simplify the process and get right to measurement and management.

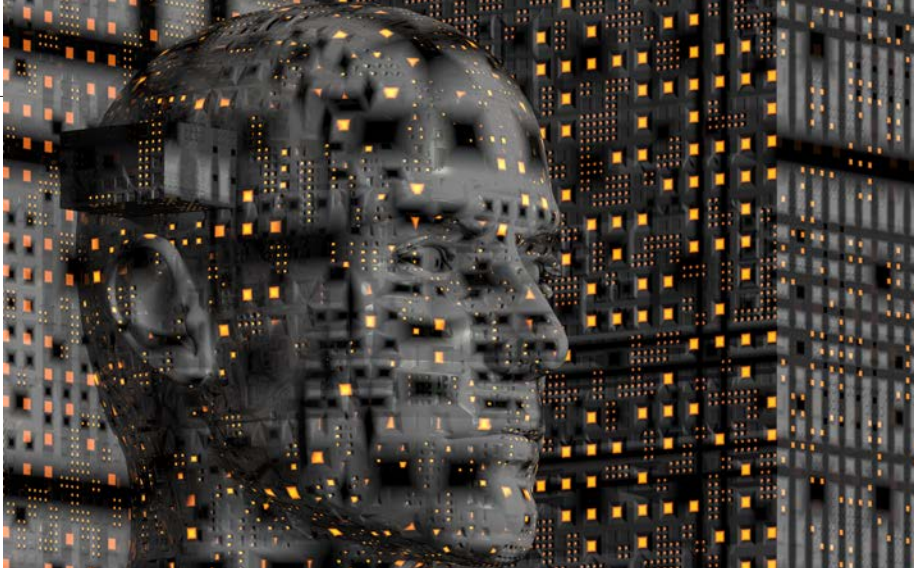
Third party vendors also have helpful dashboards that compare your data to the rest of your portfolio, and to the rest of their

client database. This gives you a clear picture of how your properties stack up both internally and to the greater industry at large.

No matter how you do it, internal spreadsheets or high-tech, third party tools, utility management is a valuable and necessary process. You can also find the latest government-mandated benchmarking laws and their requirements at: nwp.com/benchmark



Timothy Haddon is National Director of Ancillary Services with Fairfield Residential. Haddon is an advocate of utility management and conservation as a member of an internal Environmental and Sustainability Taskforce. Before joining Fairfield Residential, Haddon worked in residential construction and earned his BA from Kent State University. Haddon is an avid cyclist. He is the captain of Cheryl’s Crew, a cycling team that raises money for Multiple Sclerosis research. Spare time is rare, but Haddon is also fond of motorcycles and snow mobiles.



New rules to the utility allowance

Following in the footsteps of other residential energy efficiency programs, multifamily housing is becoming the subject of new energy performance rules and regulations. The new mandates require higher levels of usage disclosures and prescribe energy benchmarking policies.

The goal of this expanded oversight is to encourage greater transparency in energy performance information. Regulators believe that providing energy data to residents will help drive improvements in multifamily housing energy efficiency and lower utility bills for both tenants and owners.

Today, very little utility consumption data is available for the 25 percent of the U.S. population that dwell in rental properties. The adoption of the new guidelines is making that data more accessible to policymakers, utility companies and lenders of capital. As a result, the sharing of consumption data is producing new regulations, utility savings incentives and financial products.

One of the overarching impediments to improving the energy performance of multifamily communities is the industry's fragmentation of ownership and consumers. Properties range from low-income subsidized public housing to luxury residences in high-barrier markets, all with varied sources of public and private financing.

"Gathering utility usage data is much more difficult for market-rate property owners than it is for owners of low-income housing properties", says Dave Borsos, VP of Capital Markets for the National Multi Housing Council (NMHC).

Whether it's for public housing, housing vouchers or low-income housing tax credit (LIHTC) project-based affordable, having some form of governmental support in any one of those instances, the residents of those communities, because of the support they

are receiving, can have a requirement placed on them to report their utility consumption.

"In direct comparison, if you are a market-based property that doesn't have some form of governmental, state or local support, there is no obligation for residents to allow owners to look at or view utility consumption," said Borsos.

In federally subsidized affordable housing, monthly rental costs for residents are based on a payment standard that is set as a percentage of a tenant's adjusted monthly income, depending on the program through which the subsidy is provided. A tenant's total rental payment includes the costs of shelter and a reasonable amount for tenant-paid utilities, known as a utility allowance.

There are two traditional methodologies used by housing authorities to calculate consumption and set utility allowances for residents. The first is engineering based and entails the hiring of qualified professionals analyze technical information such as weather data and the types of appliances used at the property. Alternatively, billing data and previous consumption statistics of the community's residents can be used to formulate the allowance.

Over the past year, both the IRS and the U.S. Department of Housing and Urban Development (HUD) have released new rules for calculating the utility allowance for affordable housing programs. Historically, HUD's methodology for calculating expenditures were based on an engineering model. The agency's new guidelines standardize the

required utility allowance calculation to the usage of the actual utility-billing and consumption data from the previous year.

"HUD's ruling (released last July) speaks directly to how the utility allowance is calculated, while the IRS's just released final rules for sub-metering talk about the allowance from a LIHTC perspective. They don't say, 'This is how you figure it out,' just that, 'if you have residents who are paying utilities directly, then it doesn't go into the calculation for the maximum rent you can charge.' There's a slight difference in the two," said Borsos.

There also are differences in the possible benefits to the owner that may be derived from each new rule.

Owners may choose which methodology they want to use if their property's contract anniversary date falls within 180 days of notice. But for properties falling outside the 180-day window, owners are required to use the new billing data methodology and establish a baseline utility allowance for each bedroom size once every third year, using specific sampling requirements outlined by HUD. Over the following two years, they may adjust the allowances using the utility allowance factor of each utility.

HUD specifies that the utility allowances should be compared to the paid utilities over the previous twelve months. If an allowance decrease exceeds fifteen percent and is more than \$10, the decrease must be phased in over multiple years. Owners may require tenants to sign release forms to share utility data.

NMHC supports an accurate methodology that makes sense and is readily determinable by owners and not difficult to interpret, said Borsos.

"So the program HUD rolled out last year takes a step in the right direction in that it helps provide a more accurate way of determining the energy consumption in certain buildings, but, while HUD's new national standard provides clarity on the requirements, complying with them could become burdensome for many owners and operators.

"And my fear would be that if there is a rule or regulation that makes things more difficult, people are going to shy away from it," said Borsos, adding that while it's hard to argue with more accuracy, what comes with that is a more complex methodology.

"There's a sampling protocol, but the reality is, it's a bit unfavorable to smaller property owners. If you think about it from an affordability perspective, half the properties in the U.S. have less than 50 units. The sampling protocol that HUD articulates from are a percentage of total units, so if you have 20 or less, you have to get data for

every unit, and if it's 20 to 30 units you're still getting 85 or 90 percent, so your sampling protocol, if you can't get to every unit/one to do this, you are still at a very high number.

"When you get to the top bracket of above 359 units, it's only in the 30s. In other words, the number you need to sample off of doesn't increase very much even though the number of units increases a lot, so it's a bit of a disadvantage for smaller properties in terms of how many of the existing units you need to get in order to help determine the sampling for determining the allowance," said Borsos.

Luckily, HUD included funding stipulations to help offset the additional time and expense associated with the new process.

Studies suggest that reducing energy costs in the multifamily sector can help preserve rental housing affordability, which is a growing issue for millions of Americans.

A 2012 report, jointly commissioned by Deutsche Bank Americas Foundation and Living Cities, found that energy efficient retrofits conducted on more than 21,000 affordable housing units in New York City generated energy reductions that lowered fuel costs by an average of \$240 per unit annually and electric costs by \$50 per unit annually.

So, while the objective of HUD, which spends \$6 billion annually on utility costs, is to reduce utility spending and property operating costs, and the new guidance is a step in that direction, Borsos thinks there is an important aspect that has been overlooked in the agency's new utility allowance guidance.

"Does it promote energy efficiency any more than the other methodology? I don't think anyone has the answer to that question, because what it doesn't say is, now that we have a more accurate usage, let's do the following things to promote energy efficient retrofits to existing buildings, and that would be the important second half of the equation," said Borsos, adding that the ultimate challenge is how much influence an owner actually has over residents, even in subsidized housing, other than educating them about personal consumption.

"Obviously their personal consumption may mean higher utility costs for them, but ultimately they may not care," he said.

He cites the new FHA multifamily financing program implemented on April 1 as an example. FHA affords a 25-basis-point reduction in Mortgage Insurance Premium rates to owners who obtain some form of energy certification and then register with Energy Star to utilize its Portfolio Manager benchmarking tool.

"What NMHC said was that it's one thing

for an owner to retrofit—put in low-flow toilets and LED lights and Low-E glass and do all the things one needs to do to get any one of the energy efficient certifications. But even if each unit is sub-metered, making every unit individually responsible for its energy consumption, the owner is still reliant on the resident as to how much energy the property uses, because the way to keep a relative score in Energy Star is to have whole building data. So I can go get a certification on a building up front and, let's say I installed all these great things to make me compliant, while I can control the usage in the common areas, I have no control over what the residents consume, and if my whole building data says I am not performing where I need to be, I may not continue to qualify for this FHA reduced rate," he said.

Meanwhile, under the IRS's final rule, released March 16, tenants with sub-metered utilities based on actual consumption will receive a utility allowance in the same way that tenants who receive bills directly from local utility companies do.

The property owner may impose an administrative fee for sub-metering, but must

include in the gross rent any charge that exceeds the greater of \$5 or the specific dollar amount allowed by state or local law. In future guidance, the IRS also may choose to impose its own cap on administrative charges.

"This one is still a bit new, so it remains to be seen what the impacts to owners are as to the final rule on this methodology," said Borsos.

One possible benefit is that the new IRS ruling could potentially move LIHTC owners in the direction of sub-metering.

"When you think about LIHTC, which has an Area Median Income (AMI) restriction placed on who can actually live in a LIHTC financed property and has to be certified on an ongoing basis, if your wage side of that, meaning what you can charge for rent, doesn't change because wages haven't changed, but your operational costs have increased and the electricity bill was included in that, you would have an incentive to try and exclude that piece from the determination of what you could charge for rent," said Borsos.

A good way to exclude those costs is to set up individual meters for every unit on the property, he said. ⚙️



Michael Semko is Vice President of Legal for NWP Services Corp., and advises the company on corporate and regulatory issues. Prior to NWP, he was VP and legal counsel to the National Apartment Association (NAA) for nearly a decade.

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Please don't talk about that: Net Zero and Multi-Unit Dwellings

I have a proclivity to discuss topics that no one else seems to want to chat about, in greater detail than anyone wants to hear.

When I worked in the healthcare industry and people asked me, how was your day, they would often get a story in graphic detail. My best friend once told me to never talk about work at a dinner party because my "shares" had the potential of deterring guests' appetites. You would think that I would be better now, right? More sensitive?

Sadly, I am aware of my mistakes and can repeat them exactly, which brings me to the discussion of net zero buildings. Although net zero is a real thing, most don't seem ready to believe in it. When discussing new construction and at most industry conferences, we tend to talk about the fancy-pants amenities that are going to be offered. Package lockers, fitness equipment with built-in screens, Wi-Fi, clubhouses with game rooms, gas ranges, smart thermostats, etc. What about net zero?

First, what exactly is a net zero? Wikipedia gives a detailed definition, but basically a net zero building for multifamily is a building that can generate, on an annual basis, the same amount of energy that it is anticipated that it will use; this includes the energy consumed in the units, not just common areas.

So why should we be talking about net

zero? It's being integrated into our building codes. Those states that have integrated zero energy policies and programs are New York, Arizona, Massachusetts and California. It's important to note that California's 2014 Title 24 construction code moves all buildings in California toward net zero. Title 24's goal is that all new residential construction three stories or less must be net zero by 2020, and by 2030, all residential construction four stories and above will need to be net zero.

Additionally, changes to California's Title 24 will also affect certain levels of rehab or renovation. So existing construction is not exempt. Even if you don't have properties in California, you may not be off the hook.

Policy makers in other states are watching California's integration of net zero into its construction codes, and using it as a template to add net zero into their codes. To get a better sense of what markets might implement a net zero code, I recommend perusing the EPA's website; you will see that over 275 states, countries and tribes have green building codes. It stands to reason that a market already implementing green building codes, may seriously consider net zero; it seems a safe prediction that what is happening in building codes in California will not stay in California.

When I have talked with multifamily

developers about California Title 24, there is a tone of wonderment on how it is even possible to get a multi-unit building to net zero—especially since we cannot control the resident's consumption. My mind wanders back 60-plus years ago to similar musings of the time like "how is it physically possible for a human to run less than a four minute mile." Or "it's impossible to break through the sonic wall (sound barrier)."

I think that the most important thing to consider when thinking about net zero is that anything is possible.

Currently, there are multiple net zero multi-unit buildings in the United States. It has already been done. The biggest misconception is that it's all about solar and getting enough panels on the property. In reality, it's all about efficiency, including the fixtures and design of the units themselves.

If we consider net zero in our design phase, we can build smarter and create a tight building envelope. We can include efficient fixtures within the units, building controls that help the on-site teams manage their consumption, and controls within the units themselves to assist the residents in managing and reducing their consumption including plug loads.

Once you develop a plan that is tight and right, including the tools our residents need to understand and control their energy consumption, the on-site renewable generation is really just icing on the cake.

Net zero building codes are coming. I believe that we have the right stuff to do it, we just need to start the conversation. Let's chat on how we are going to create net zero buildings and how our existing product is going to compete with it. Let's develop best practices in the industry rather brush net zero off as impossible or only for those developers looking to be "bleeding edge."

If anyone would like to discuss net zero, feel free to jump in at UMAdvisory.com. I feel ready to have a conversation, do you? ☀



Mary Nitschke is passionate about utilities and should, perhaps, switch to decaf. She is the first president of the Utility Management Advisory Board, holds an Energy Resource Management Certificate from UC Davis, two BAs from UC Berkeley and is Director of Ancillary Services for Prometheus Real Estate Group, Inc. Nitschke has the first law of thermodynamics posted by her office door, and a 1970 Lincoln Mark III with over 400 bhp, in her driveway in Northern California.



Utility billing and the state of compliance in the industry

Utility billing programs are an excellent tool for expense recovery. Utility expenses are an owner's third largest expense.

Billing programs provide a price signal to residents to reduce consumption, thereby decreasing utility expense. Such programs also recover a percentage of the utility expense directly from residents. These are all good things for owners—but you may be wondering, “What is the downside?”

The primary concern is that without proper compliance for a billing program, the owner may face exposure for improper or “unfair” utility billing.

Utility billing programs require compliance and diligence from the utility billing service provider and from owners. There are specific portions of the program where the owners must perform.

Owners must ensure that the residents are properly obligated under a residential lease to pay for utilities separately from rent. The lease language is of paramount importance as it is typically the first line of defense to resident complaints.

Often, there are jurisdictional requirements for the lease content that discloses the billing program. Owners are in the business of obligating residents through lease language. However, they are typically not in the business of knowing the local jurisdictional requirements for lease language.

The lease issue illustrates how a highly functioning billing program requires the diligence and efforts of both parties. Highly functioning utility billing programs are effective partnerships between owners and utility billing service providers. Accordingly, utility billing providers must bring a significant amount of expertise and working knowledge to the partnership to achieve recovery results and to mitigate any potential risks.

Not all utility billing service providers have or offer industry expertise, however. Some providers place an obligation on the owner to comply with all local laws. This may include laws and regulations related to lease language, bill presentment, bill content, proper calculation of resident

amounts, proper fee amounts, and potentially reporting/registration duties.

This scenario does not achieve the twin goals of recovery and risk minimization. The owner may be responsible for decisions and actions that the service provider performs. The provider does not provide any consultation or expertise and has no incentive to ensure that bills are sent out correctly.

On the other end of the spectrum are highly-functioning partnerships that achieve the desired results. These partnerships begin with an agreement that clearly delineates duties, responsibilities, and liability for the respective parties.

The service provider should consult with owners on its areas of expertise from sales activities through to billing residents. The rules, statutes, and regulations for utility billing by landlords are sometimes complex and can be regulated by multiple entities.

The billing service provider's expertise in navigating the regulatory landscape issues is vitally important. The stakes may be quite high. For Texas properties, for example, non-compliance with rules means that a resident may be entitled to three times any overcharge plus one month's rent. Other jurisdictions may not have a regulatory framework and residents in those jurisdictions may avail themselves to consumer protection and/or class action remedies as well—which are expensive to defend.

Advocacy and legislative initiatives are also important pieces of the overall compliance picture. Advocacy activities can include liaising with and providing information to regulators and residents in order to prevent billing issues from becoming the subject of a regulatory or legal action.

This participation can be to combat legislation which will negatively affect owners or to introduce legislation that is favorable.

Currently, “highly variable” is the best descriptor of the state of compliance in the utility billing industry. Service providers may provide no compliance services or expertise, some compliance and expertise, or a comprehensive suite of compliance activities (which can extend to development and acquisitions as well).

The legislative and regulatory frameworks in particular jurisdictions require a detailed understanding to ensure that owners are not put at risk by operating their utility billing program. The potential penalties for non-compliance can be severe and erode resident trust. Owners should strongly consider where their provider sits on the compliance spectrum and what their provider is doing for their joint benefit. ⚙️



Michael Foote is senior regulatory and corporate counsel at NWP where he's been on the legal team since 2008. Prior to NWP, Foote was general counsel for ista North America, Inc. He has 15 years experience with utility billing law and is regarded an industry expert.



Affordable housing is more important than ever

Protecting and improving the Low Income Housing Tax Credit is critical to the future of affordable housing.

The Low-Income Housing Tax Credit (LIHTC) remains the most important resource for producing affordable housing in the U.S. Created by the Tax Reform Act of 1986, the LIHTC program, which is administered through state and local allocating agencies, has helped finance more than 3 million affordable housing units across the country. Congress authorizes approximately \$8 billion in budget authority annually to allocating agencies for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households.

Still, demand outpaces supply.

Every year, more applications are submitted than tax credits available. With the cost of construction and land increasing and sources of soft funding becoming ever more elusive, producing quality affordable housing is increasingly difficult.

Yet, there is good news.

Affordable housing developers were jubilant at the end of last year when President Obama signed into law a bill passed by the House and Senate that made the nine percent tax credit rate fixed and permanent. This legislation, the culmination of a multi-year effort by housing advocates, established a floor of nine percent for the tax credit rate awarded to developers in competitive tax credit rounds that occur annually in every state in the country.

Prior to this fix, the nine percent rate was a maximum rate and it could “float” based on variables such as long- and short-term

interest rates. During some periods in the not too distant past rates dipped under eight percent causing significant shortfalls. Housing advocates are applauding the certainty that tax credit awardees now enjoy in accumulating sources of funding for their developments, since the nine percent rate will no longer fluctuate.

With the establishment of the new nine percent minimum rate the equity raised through the syndication of low-income housing tax credits has increased by 20 percent, enhancing the financial feasibility of new affordable housing developments in an environment where other state and local subsidies have decreased.

The passing of this legislation last year also heartened housing advocates because it signaled that the success of the low-income housing tax credit program has been established. In this era where the cries for comprehensive tax reform are ubiquitous, this tax preference has survived scrutiny.

Robust market for credits

Equity pricing has remained strong, recovering after the 2008 recession. In the strongest markets, investors are bringing capital contributions to projects with tax credit benefits well over one dollar allowing more affordable housing developments to achieve feasibility with tax credit equity, permanent financing and not a lot of soft funding. This is especially true in qualified census tracts and difficult development areas where tax

credit basis is increased by 30 percent.

The success in 2015, combined with concerns of continuing income stagnation and households who are overburdened by housing costs, are setting the stage for the future. Senator Maria Cantwell (D-WA) is spearheading an effort to increase state credit authority by 50 percent. Under the proposed legislation, this expansion would be phased in over five years at a rate of 10 percent per year.

Housing advocates are encouraging other progressive reform of the tax credit program in the proposed bill including a provision promoting the development of housing for families at a range of income levels. Under this scenario, rather than limiting tax credit projects to households at or below 60 percent of the applicable county median, provision would be made for income averaging allowing households to qualify as high as 80 percent of median if other units were set aside for low income and very low income families including households that have experienced a period of homelessness.

As important is a provision that would allow the non-competitive four percent LIHTC to also benefit from a fixed rate. The floor on this credit would be four percent. Presently, housing financed with tax-exempt bond and automatic allocations of four percent LIHTCs face challenges because the four percent credit is the maximum rate. As with the nine percent credit prior to last year's legislative victory, affordable housing developers will welcome the day when four percent bond deals are not subject to a floating rate that averages less than 3.5 percent.

The Cantwell bill has yet to be written and among the challenges to overcome is finding Republican co-sponsor in the Senate. The estimated cost of the increase in Credit Authority is \$4 billion dollars. This loss of tax revenue would have to be offset by either spending cuts or other revenue enhancement.

During this election year there is a very limited time that Congress will be in session for the remainder of the year. If support for the LIHTC program continues, advocates anticipate that the Cantwell bill will continue to move forward after the election and that it could be incorporated into future comprehensive tax reform or like, in 2015, be part of significant piece of tax legislation after the election. ⚙️

Sources:

<http://rentalhousingaction.org/blog/2016/1/23/nahb-estimates-the-number-of-people-benefiting-from-the-housing-credit>

http://www.housingfinance.com/finance/cantwell-launches-campaign-to-increase-lihtcs_o



Joel Silver is a senior vice president of Michaels Development Company, the nation's number one affordable housing owner/developer. An independent operating company of The Michaels Organization, the Michaels Development Company has developed more than 50,000 housing units across 35 states, the District of Columbia, and the U.S. Virgin Islands, since its founding in 1973.



Underwriting energy efficiency in affordable housing

Billions of dollars of energy saving potential are sitting in our nation's multifamily buildings. A study by McKinsey and Company estimated that the capital required to unlock energy efficiency opportunities in our nation's low-income residential buildings between 2009 and 2020 is approximately \$46 billion, and would provide a present value of \$80 billion in savings.

Almost a quarter of this energy efficiency potential is in multifamily buildings, accounting for approximately \$16 billion in savings.

The capital to unlock these improvements, however, is not always readily available. In response to this challenge, Deutsche Bank Americas Foundation and Living Cities engaged Steven Winter Associates and HR&A Advisors to aggregate and analyze a dataset of multifamily housing projects—totaling over 21,000 units—that had undergone energy efficiency retrofits in New York City. The study looked for three key metrics: pre- and post-retrofit building performance, the reliability of savings projections and, finally, to establish a framework for incorporating energy savings projections into underwriting.

Energy retrofits ensure the long-term viability of existing affordable housing. Retrofits help improve the physical conditions of existing housing stock which helps to address the issue of the widening gap between supply of and demand for multifamily affordable housing across the U.S.

Also, retrofits generate significant operating savings that can be reinvested into the building, supporting future operations and/or capital work.

Retrofits bring direct energy savings to those most in need, help avert future rent increases, and improve conditions in affordable properties.

Residents of multifamily housing, partic-

ularly affordable housing, are extremely vulnerable to energy cost increases, and stand to benefit the most from energy retrofits.

According to the U.S. Department of Housing and Urban Development (HUD), 88 percent of households in multifamily buildings are renters and have a nationwide median household income that is approximately half that of homeowners. Energy costs in low-efficiency multifamily housing puts a large financial strain on these households.

HUD found that while average rents in multifamily housing increased by 7.5 percent from 2001 to 2009, energy costs for these renters increased by nearly 23 percent.

Residents in direct-metered buildings can benefit from substantially lower utility bills. In direct-metered buildings (where residents pay for the in-unit share of utilities and building owners pay for base-building energy consumption) residents can benefit directly from retrofits to apartments, such as appliance replacement, lighting upgrades and, in some cases, improvements that impact heating and cooling.

Not only do retrofits improve the quality of the housing stock, but they generate significant operating savings that can be reinvested into the building. Energy efficiency savings can play a critical role in improving a building's financial stability, freeing up capital to offset potential rent increases and/or cover additional capital work. Energy savings essentially creates an ongoing annuity that pro-

vides a return on investment to the owner.

Affordable housing owners often face considerable financial hurdles to repairs and retrofits, as they are limited in raising rents or passing along costs to residents to recapture the cost of improvements. Furthermore, most do not have the upfront capital available to invest in these projects. Operating savings resulting from retrofits can be used to build up capital reserves, service additional debt to carry new capital work, make repairs, or improve building operations.

The 2011 Deutsche Bank Americas Foundation/Living Cities study reports that NYC affordable multifamily buildings undertaking comprehensive retrofits recorded \$240 per unit in annual fuel savings, and \$50 per unit in annual common area electric savings across the study portfolio.

Assuming total building expenses of \$5,000 to \$6,000 per unit per year, and annual energy savings of \$290 per unit from a comprehensive retrofit project, savings would equate to a five to six percent reduction in expenses. More importantly, this extra income could be used to support almost \$3,000 in debt per unit.

Examining fuel savings across the Deutsche Bank/Living Cities portfolio, \$240 in annual savings could support approximately \$2,480 in new debt per unit, which covers the median per unit cost of fuel retrofits of \$2,200 across the portfolio.

While the study marks considerable progress on this front, additional efforts are critical to supporting transformation of underwriting practices. The industry needs to continue to document the reliability of energy savings through the development and/or expansion of building energy databases. Furthermore, increasing accountability in audit projections can serve as a means to improve the accuracy of projections and support lenders' use of audit projections.

More effort is needed to build upon the study's methodology for underwriting against energy savings and prove out the concept.

Finally, support from government and philanthropic sources are required to support these activities and serve as a source of credit enhancement in the early stages. And while some housing agencies and industry stakeholders have begun to make important shifts, energy efficiency retrofits need to become part of typical business practice on a broader scale. ⚙️

Sources: "The benefits of energy efficiency in multifamily affordable housing," report by Deutsche Bank. McKinsey & Company, Unlocking Energy Efficiency in the U.S. Economy, 2009

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N W P 2016
Energy Summit

An industry at the tipping point

The annual Energy Summit held in Washington, D.C. in Q1 of this year had a rather tall agenda. Never before has the world of utility management been more inundated with new legislation, regulation or challenge. Multifamily stands at the very threshold of the Administration's Climate Change Initiative, the EPA's quest for more and better data from the nation's renters, and the natural tension between the balance of privacy and accruing consumption data in order to compel conservation.

Multifamily owners and operators must be smart and they must be nimble, all while operating at the speed of change and navigating this new and evolving world of utility management and its inherent risks. And therein lies the tipping point.

That was the message from Ron Reed, former CEO of NWP Services Corporation, headquartered in Costa Mesa, Calif. and now newly-minted senior vice president of Utility Management at RealPage. Reed announced that NWP had recently been acquired by Dallas, Texas-based, RealPage just days before the event. Steve Winn, CEO of RealPage, was also in attendance.

Data is no longer information, but actionable intelligence, said Reed. He outlined his company's vision for the future by joining NWP's decades of talent and innovation with the backing of its new parent company. One immediate outcome of the union is that NWP will bring its pipeline of breakthrough technology to market faster.

This not only addresses the changing reg-

ulatory environment, but delivers the actionable data points that owners need to make fiscally sound decisions in the field, said Reed in his opening statement at the Energy Summit.

Reed opened the 2-day event that included a line-up of case studies by several of the country's top multifamily owners and operators, game changing product introductions by key NWP software engineers, and legal overviews from NWP's legal bench. The legal team outlined the latest state-by-state legislation, now and on the horizon, as well as how it will affect utility management, billing and data collection by multifamily properties.

EMPOWERING
I D E A S

Keynote speaker, Lily Donge of the Rocky Mountain Institute, discussed the energy transformation occurring across our country, and what it means in the near and distant future. Donge's tipping point had more to do with the transformation of the country's energy and how policy makers, consumers and improving business models will eventually move the U.S. and the world, off fossil fuels and into greater efficiency and renewables. She believes that such change will be driven by demand reduction, economies of scale and great demand flexibility.

Supporting evidence to her theory is that the nation's electricity use per household

has systematically dropped over the course of the last decades due to more efficient technology, positive impact from renewables, smarter building design and a rising interest in net zero.

Other speakers included key executives from Fannie Mae, Environmental Protection Agency (EPA), and the U.S. Army. Michael Zatz of the EPA and Jonah Schein of the EPA's WaterSense program brought attendees up to speed on the latest growth of Portfolio Manager, a national aggregate of energy data from apartments. The program now has 14,000 multifamily buildings contributing data.

Karyn Sper of Fannie Mae shared the latest details on the FHA's Green Initiative that offers lower interest rates for financing energy and water efficiency retrofits and discounts for green building certified properties. Qualifying properties must project 15 to 20 percent in annual savings in energy or water use for its green discounts.

Dr. Jim Hartman with the Sustainability and National Security department of the U.S. Army shared the Administration's target of combating extremism and nuclear proliferation by combatting climate change. This, says Hartman, will help the world feed itself and serve to resolve, even prevent conflict. It's about diffusing conflict, stabilizing weak nations and capacity building, said Hartman.

One might gather that sustainability could not only change your bottom line. It might even change the world.



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Mandatory Benchmarking: Multifamily energy disclosure requirements



For more information, go to www.nwp.com/benchmark

TOWN	LAW / ACTION	BLDG SIZE	DISCLOSE TO	PENALTIES FOR INCOMPLIANCE	ANNUAL DEADLINE
Austin	Energy Conservation Audit & Disclosure (ECAD) Unlike many other energy disclosure laws, Austin does not require multifamily owners to report annual building usage data for energy or water. (However, energy audit is required every 10 years and high use properties have mandatory usage reductions.)	All complexes (no minimum size)	Residents and buyers upon request or lease renewal; audit results also must be posted at property	Class C misdemeanor and subject to fine up to \$500. If criminally negligent, a fine of up to \$2,000 may be assessed.	N/A
Atlanta	Commercial Buildings Energy Efficiency Ordinance Multifamily owners must report their usage for energy. Energy audit required every 10 years.	≥ 50,000 sq. ft. by 6/1/2016 (≥ 25,000 sq. ft. by 6/1/2017)	Government agency (who will disclose on public website) annually	Written notice of first violation; Fine of \$1,000 if 20 days late, an additional \$1,000 every year thereafter	June 1
Berkeley, Calif.	Berkeley Energy Saving Ordinance (BESO) Multifamily owners must report their usage for energy and water. All buildings > 4 units must complete energy assessment.	≥ 50,000 sq. ft. by 10/1/2016 (eventually phasing in all buildings > 4 units by 2020)	Government agency annually	TBD	October 1
Boston	Building Energy Reporting and Disclosure Owner must report whole building data for energy and water. This includes aggregated resident data which can be obtained from the utility providers. (Also, every 5 years an energy assessment or energy action is generally required.)	> 35,000 sq. ft. or 35 units by 5/15/2017	Government agency (who will disclose on public website) annually	Non-residential tenants: \$35 per violation for not supplying owner with energy data. Residents face no fines. Owners pay \$75-\$200 / day depending on size / use of building up to \$3,000.	May 15
California (statewide)	California's Assembly Bill 802 of 2015 Details TBD. California Energy Commission has been directed by legislature to adopt regulations providing for public transparency of benchmarking energy use data for commercial and multifamily buildings.	≥ 50,000 sq. ft. (by anticipated initial deadline of 4/1/2019 for multifamily)	Government agency (who will disclose on public website) annually	TBD	April 1 (anticipated)

TOWN	LAW / ACTION	BLDG SIZE	DISCLOSE TO	PENALTIES FOR INCOMPLIANCE	ANNUAL DEADLINE
Cambridge, Mass.	Building Energy Use Disclosure Ordinance Owner must report whole building data for electricity, natural gas, steam, fuel oil, and water. This includes aggregated resident data which can be obtained from the utility providers.	> 49 units	Government agency (who will disclose on public website) annually	City will issue written warning for first violation. Any subsequent violations can be up to \$300 per day.	June 1
Chicago	Chicago Energy Use Benchmarking Owner must report whole building data for energy. This includes aggregated resident data which can be obtained from the utility providers. An engineer must examine data every 3 years and certify data to the City.	≥ 250,000 sq. ft. (≥ 50,000 sq. ft. by 6/1/16)	Government agency (who will disclose on public website) annually	\$100 to building owner for first violation, \$25 per day after that if not fixed.	June 1
DC	Clean and Affordable Energy Act Owner must report whole building data for energy and water. This includes aggregated resident data which can be obtained from the utility providers.	> 50,000 sq. ft.	Government agency (who will disclose on public website) annually	DDOE will issue a written warning. If violation is not corrected after 30 days of written notice, DDOE can fine owners up to \$100 per day.	April 1
Kansas City, Mo.	Energy Empowerment Ordinance Owner must report whole building data for energy and water.	≥ 100,000 sq. ft. by 5/1/2017 (≥ 50,000 sq. ft. by 5/1/2018)	Government agency (who will disclose on public website) annually	Written warning for first failure to comply; fine of up to \$500 if compliance not met within 60 days of warning	May 1
NYC	Local Law 84 Owner must report whole building data for energy and water. This includes aggregated resident data which can be obtained from the utility providers. Audit required every 10 years on buildings > 50,000 sq. ft.	> 10,000 sq. ft	Government agency (who will disclose on public website) annually	\$500; continued failure \$500 per quarter with a maximum of \$2,000.	May 15



TOWN	LAW / ACTION	BLDG SIZE	DISCLOSE TO	PENALTIES FOR INCOMPLIANCE	ANNUAL DEADLINE
Philadelphia	Building Energy Benchmarking Ordinance Owner must report whole building data for energy and water.	≥ 50,000 sq. ft.	Government agency (who will disclose on public website) annually	\$300 fine for the 1st 30 days, and then \$100 per day.	Nov. 1
Seattle	Building Energy Benchmarking and Reporting Program Owner must report whole building data for energy. This includes aggregated resident data which can be uploaded to a property's ENERGY STAR account by the utility providers. (Seattle's 2016 building energy law that requires "building tune ups" every 5 years does not appear to impact multifamily buildings, but only commercial buildings.)	5+ units	Government agency (who will disclose on public website) annually; residents and buyers upon request	Quarterly fines \$500-\$1,000 based on building size. Owner and residents first violation: \$150.	April 1

Some jurisdictions have passed energy disclosure laws that currently do not apply to multifamily: Minneapolis, Portland, San Francisco, Montgomery County (Md.), and the state of Washington. Areas expected to add similar legislation include Columbus, Ohio, Denver, Houston, Los Angeles, Orlando, Salt Lake City, San Diego/Chula Vista, Santa Monica, Calif. This chart is merely an overview and not intended to be a substitute for legal advice.

ENERGY STAR® Portfolio Manager integration

NWP can automatically upload data from your common area energy and water invoices into this popular tool. Learn more at: <https://nwp.com/utility-management/utility-expense-management/>

Whole Building Energy Data

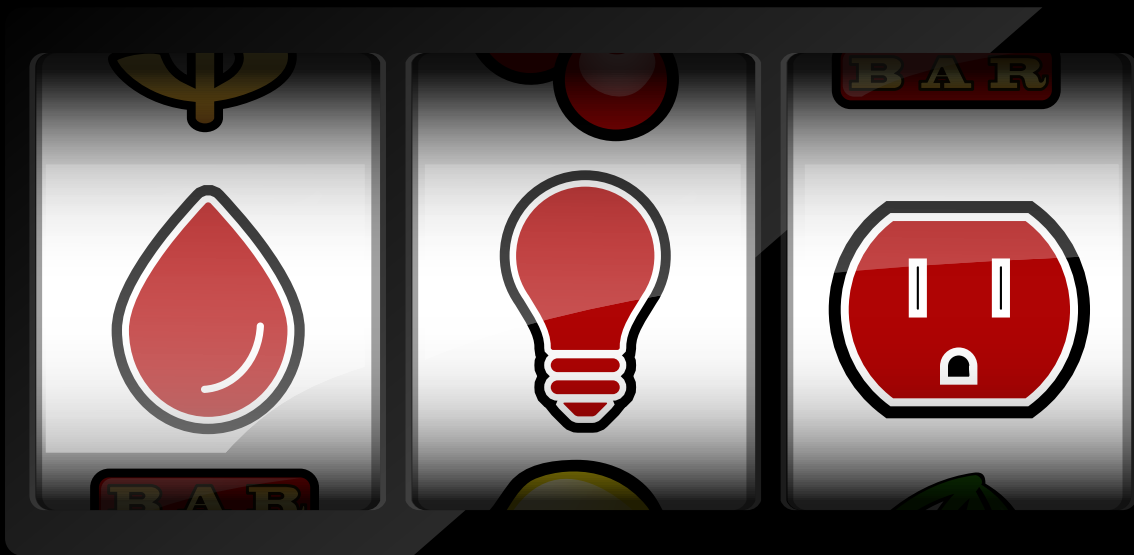
For ENERGY STAR® scores, certification, and local energy disclosure regulations, whole-building energy data (including all in-unit energy usage even when paid directly from resident to utility provider) is generally required. Obtaining all the required energy data can be a challenge for multifamily communities, but more and more utility providers have started to make this data available. EPA maintains a list of utility providers that have agreed to provide this additional data at: https://www.energystar.gov/buildings/tools-and-resources/utilities_increase_access_energy_data_help_commercial_customers_benchmark

Reporting and Benchmarking

Beyond tracking your properties' utility usage merely where required, benchmarking is your essential pulse on the market, and indicates how your properties measure up. You can't manage what you don't measure. Know exactly how all your properties are performing and what your utilities are really costing.

NWP's advanced analytics are a powerful suite of reporting tools dissect your utility data at the portfolio level, the property level and even the account level. NWP's Benchmarking and Budgeting Tools turn complex data into actionable insights. Learn more at: <https://nwp.com/advanced-analytics-and-reporting/>

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