

## ***Resolution Encouraging Permanent Federal Low-Income Household Water Assistance Program***

*Whereas* on March 13, 2020, President Trump declared a national emergency in response to COVID-19. This followed the U.S. Department of Health and Human Services (“HHS”) declaration of a nationwide public health emergency on January 31, 2020, pursuant to 42 U.S.C. 247d, and the World Health Organization (“WHO”) declaration of a pandemic on March 11, 2020;

*Whereas* on December 27, 2020, the Consolidated Appropriations Act of 2021 became law and provided \$638 million to HHS and the Administration for Children and Families to prevent, prepare for, and respond to coronavirus, for necessary expenses and for grants to carry out a low-income household drinking water and wastewater emergency assistance program (“LIHWAP”);

*Whereas* LIHWAP provides funds to low-income household with water and wastewater bills;

*Whereas* LIHWAP grants are available to states, the District of Columbia, the Commonwealth of Puerto Rico, U.S. territories, federally and state recognized Indian tribes, and tribal organizations that received low-income household energy assistance program (“LIHEAP”) grants in fiscal year 2021;<sup>1</sup>

*Whereas* under the Consolidated Appropriations Act of 2021, it was provided for and directed that the Secretary shall allot LIHWAP grants to a State or Indian Tribe based on the following: (i) the percentage of households in the State, or under the jurisdiction of the Indian Tribe, with income equal to or less than 150 percent of the federal poverty line, and (ii) the percentage of such households in the state, or under the jurisdiction of the Indian Tribe, that spend more than 30 percent of monthly income on housing. Provided further, that up to 3 percent of the amount appropriated in this section shall be reserved for Indian Tribes and tribal organizations;<sup>2</sup>

*Whereas* on March 11, 2021, an additional \$500 million was appropriated in the American Rescue Plan Act (ARP) of 2021 in emergency spending to assist low-income households with water and wastewater bills. The \$500 million in funds were specifically appropriated to HHS for the LIHWAP grant program, for fiscal year 2021, out of any amounts in the treasury not otherwise appropriated to remain available until expended. As before, LIHWAP grants were provided to States and Indian tribes to assist low-income households, particularly those within the lowest incomes, that pay a high portion of household income for drinking water and wastewater services, by providing funds to owners or operators of public water and wastewater systems or treatment works to reduce arrearages of and rates charged to such households for such services;

*Whereas* States, the District of Columbia, Territories, and Tribes/Tribal organizations, that are current fiscal year 2021 LIHEAP grantees, wishing to administer LIHWAP, must submit an application for funds by submitting a LIHWAP Plan no later than October 15, 2021, covering the grant period of May 27, 2021, through September 30, 2023;<sup>3</sup>

*Whereas* on July 21, 2021, the Office of Community Services (“OCS”) published an information memorandum for distribution to program administrators on benefit policy and matrix resources for fiscal year 2021. In this memorandum, three priority groups are identified: 1) households with disconnected water

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<sup>1</sup> <https://www.acf.hhs.gov/ocs/programs/lihwap>

<sup>2</sup> <https://www.acf.hhs.gov/ocs/law-regulation/lihwap-laws-and-regulations>

<sup>3</sup> <https://www.acf.hhs.gov/ocs/policy-guidance/lihwap-2021-11-action-letter-october-fy2021>

services, 2) households with pending disconnections of water services, and 3) households seeking help with current water bills;<sup>4</sup>

*Whereas* on July 23, 2021, OCS published an information memorandum regarding the use of funds. This memorandum makes clear that LIHWAP does not have permanent statutory authorization nor further appropriations after current funding runs out;<sup>5</sup>

*Whereas* on September 28, 2021, OCS published an information memorandum on categorical eligibility for fiscal year 2021. This memorandum clarifies that households that currently qualify for: LIHEAP, Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program, and/or means-tested veterans programs (payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978), can be included in grantees' LIHWAP eligibility procedure.<sup>6</sup> Means-tested eligibility ensures that the most needy are receiving assistance on their water bills;

*Whereas* on September 30, 2021, OCS published an information memorandum regarding renter households for fiscal year 2021, ensuring that low-income households whose water utilities are provided and/or controlled by a landlord are equally served under the program;<sup>7</sup>

*Whereas* the Senate passed the Drinking Water and Wastewater Infrastructure Act of 2021 on April 29, 2021, which includes a pilot rural and low-income water assistance program run by the Environmental Protection Agency ("EPA").<sup>8</sup> The House of Representatives introduced the Low-Income Water Customer Assistance Programs Act of 2021 on May 18, 2021, and calls for a permanent program also administered by the EPA.<sup>9</sup> The Infrastructure Investment and Jobs Act, awaiting final vote in the House, includes a "Needs Assessment for Nationwide Rural and Urban Low-Income Community Water Assistance" and a pilot program run by the EPA. Inclusion of water assistance programs in recent legislation demonstrates the public need and political will for such a program, albeit with minor modifications listed below;

*Whereas* LIHWAP as currently administered is emergency legislation and is not a permanently authorized program;

*Whereas* water is a basic need, and access to adequate water and wastewater service is threatened as a result of a complex set of factors, including the expense of replacing and maintaining aging infrastructure in both urban and rural areas, as well as declining customer bases to share the expense of those needed upgrades in rural areas, areas with a disproportionate share of residents already paying a high portion of household income for drinking water and wastewater services; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2021 Annual Meeting and Education Conference, urges Congress and the Administration to support legislation, budget measures, and regulations that provide assistance to the development and deployment of permanent low-income household drinking water and wastewater assistance programs that are available to all customers regardless of utility ownership; *and be it further*

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<sup>4</sup> <https://www.acf.hhs.gov/ocs/policy-guidance/lihwap-information-memorandum>

<sup>5</sup> Ibid.

<sup>6</sup> [Ibid.](#)

<sup>7</sup> [Ibid.](#)

<sup>8</sup> <https://www.congress.gov/bill/117th-congress/senate-bill/914/text>

<sup>9</sup> <https://www.congress.gov/bill/117th-congress/house-bill/3293/text?r=1&s=2>

*Resolved* that a permanent federal low-income drinking water and wastewater assistance program should be funded at levels equivalent to other federal low-income utility assistance programs.

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*Sponsored by the Committee on Water*

*Adopted by the NARUC Board of Directors on November 9, 2021*