

MISSISSIPPI DEVELOPMENT AUTHORITY

**RATEPAYER AND WIND POOL MITIGATION
PROGRAMS**

RECOVERY ACTION PLAN AMENDMENT 3

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RATEPAYER AND WIND INSURANCE MITIGATION

Overview

The Fiscal Year 2006 Department of Defense Appropriations Act (H.R. 2863) includes \$29 billion for specific needs arising from Hurricane Katrina that are not covered by the Stafford Act. This \$29 billion includes funding for activities in Mississippi, Louisiana, Alabama, and Florida ranging from homeowner assistance to social services, rebuilding of federal facilities in the affected areas (e.g., levees, VA hospitals), helping states which are housing evacuees, and replenishing the accounts of federal agencies which have been involved in the recovery (e.g., the Department of Defense). Therefore, not all of the \$29 billion will be spent in Mississippi, Louisiana, Alabama, and Florida. Additional assistance is provided through other pieces of federal legislation.

Specifically, \$11.5 billion has been made available to the states of Mississippi, Louisiana, Alabama, and Florida through the Department of Housing and Urban Development's (HUD) Community Development Block Grant Program (CDBG). These monies have been designated for "disaster relief, long-term recovery and restoration of infrastructure in the most impacted and distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005." The Legislation also provides for the following:

- allocation by the Secretary of HUD of the \$11.5 billion to the affected states, with no state receiving more than 54% of the total amount; and
- designation by the Governor of an entity or entities to administer the state's allocation of funds; and
- submission of a plan to the Secretary of HUD detailing how the funds will be used, with up to 5% of a state's allocation authorized to be used for administrative expenses.

In Mississippi, the Mississippi Development Authority (MDA), which already administers CDBG funds provided by the federal government each year, will administer Mississippi's share of the Hurricane Katrina CDBG funds.

To that end, the MDA has prepared this Partial Action Plan Amendment for Ratepayer and Wind Insurance Mitigation with regard to approximately \$410 million (\$360 million specific to Ratepayer Mitigation and \$50 million for Wind Insurance Mitigation) of the \$5.058 billion federal appropriation administered by the HUD for disaster relief and long-term recovery related to the consequences of Hurricane Katrina in Mississippi.

The CDBG Disaster Recovery Partial Action Plan and Proposed amendments/ and their status include:

- Homeowner Assistance Grant Program - \$3.26 billion, approved by HUD and operational
- Public Housing Program - \$105 million, available for public comment
- Regional Infrastructure Program - \$500 million, available for public comment
- Economic Development & Community Revitalization Program - \$300 million, under discussion with HUD

1). Ratepayer Mitigation

Hurricane Katrina inflicted widespread destruction upon the energy utility infrastructure, resulting in extensive disruptions in service to business and residential communities throughout Mississippi. The utility companies responded rapidly in the aftermath of the disaster to restore services to all impacted customers. The costs to deliver emergency and temporary services and to rebuild damaged infrastructure for permanent service delivery have been considerable. At present, these costs are being carried by the affected utility companies to the extent not covered by their insurance providers. Ultimately, as required by Mississippi law, the prudently incurred costs to deliver emergency and temporary services and to rebuild damaged infrastructure for permanent services, in excess of insurance proceeds, after being approved by the Mississippi Public Service Commission for jurisdictional utility companies, will be passed through to the jurisdictional ratepayers.

Mississippians throughout the state and particularly in the Gulf Coast Region have experienced significant losses as a result of the impact of Hurricane Katrina, including financial losses. To defray passing all the costs of preparing for and performing utility repairs and restoration related to Hurricane Katrina on to its citizens who have already suffered significant loss, the State seeks to mitigate those costs and the ultimate charge to the ratepayers.

The objective of the Ratepayer Mitigation Plan is to protect business and residential customers from bearing the entire cost of the utility infrastructure restoration and rebuilding. \$360 million in funds will be allocated through this program and will offset emergency response, restoration and rebuilding costs incurred by the utility companies that would otherwise be passed through to the ratepayers. Such costs are those prudently incurred by the utility companies after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses and after these costs are certified as provided for herein. By State law, costs which are reimbursed under the Ratepayer Mitigation plan, cannot also be included in a rate increase to consumers.

Program Eligibility

Eligible applicants for this program are limited to electric and gas utility companies certificated by the Mississippi Public Service Commission and with service territory in the affected area in the State that incurred costs resulting from Hurricane Katrina. Prudently incurred costs, as required by Mississippi law, and as approved by the Public Service Commission for jurisdictional utility companies, will be passed through to the jurisdictional ratepayers. Such costs include those charges allocated to wholesale customers (including Electric Power Associations (“EPA”) of Mississippi Power Company (“MPC”) as their share of the eligible costs of restoration. These wholesale customers are eligible for an allocation of funds to defray their share of these costs in an amount not to exceed \$10 million in total. The allocation of the cost of restoration determined by MDA for this purpose will be included in the total allocation of CDBG funds to MPC for credit against charges allocated to the respective wholesale customers.

The CDBG funds may only be used for restoration and recovery, not foregone revenues.

Eligible Costs

Eligible utility companies may submit a request for reimbursement of eligible costs which include costs for: (1) preparing for and providing emergency and temporary service response and permanent restoration of utility service to Mississippi businesses and residents who experienced outages as a result of Hurricane Katrina and (2) service interference and the rebuilding and improvements of utility infrastructure in the wake of Hurricane Katrina. Lost revenues and business interruption losses are not eligible costs under this plan. Additionally, costs that would have been incurred as part of normal operations are not eligible.

With respect to claims for costs of damages sustained as a result of Hurricane Katrina, the reimbursement of costs covered under any applicable insurance policy shall be primary to any consideration for receipt of funding through this Partial Action Plan. As such, coverage under all applicable insurance policies shall pay first, or be subrogated back to the State, in the event that coverage was in place. Any un-reimbursed eligible costs that remain after receipt of all applicable insurance recoveries may be submitted for consideration under this Plan.

In the event that eligible costs exceed the allocated funds of \$360 million, or additional amounts as may be allocated, there will be a proportional allocation to the applicants based upon their certified costs.

Review and Approval of Eligible Costs

The Mississippi Public Service Commission is the state agency that analyzes, certifies, and approves all jurisdictional utility company costs and rates. Under this program, costs for which a utility company is seeking ratepayer mitigation must be submitted to the Commission and the

Mississippi Public Utilities Staff, who will follow their normal processes and methodologies for analyzing, auditing, validating, and certifying costs to determine eligibility under the Ratepayer Mitigation Plan. Utility companies are required under Mississippi statutory law to allow the Mississippi Public Utilities Staff access to the financial books and records of the company as needed, in order to ensure confirmation of expenditures claimed for ratepayer mitigation. Such access must also be extended to federal officials in accordance with administration of the federal funds for this program. Utility companies seeking reimbursement must disclose all related insurance coverage and the status of pending and settled claims. The Mississippi Public Utilities Staff, after analyzing and auditing the pertinent records, will submit a recommendation to the Mississippi Public Service Commission, which will then provide to MDA an Order determining and certifying the total un-reimbursed costs eligible for ratepayer mitigation. Based on this Order and information, MDA will determine the amount of ratepayer mitigation for each applicant as provided hereinabove.

2). Wind Insurance Mitigation

The Mississippi Windstorm Underwriting Association (MWUA) is a statutorily created, legislatively required, unincorporated association of all insurance companies writing property insurance in Mississippi on a direct basis. Every insurer is required to be a member of the Association and to proportionately participate in the losses of the association. MWUA provides a market for windstorm and hail insurance by mandatory participation by property insurers operating in Mississippi. Any person having an insurable interest in real property in Harrison, Hancock, Jackson, Stone, George and Pearl River Counties may obtain wind and hail coverage from MWUA. MWUA does not operate to make a profit. It is overseen by a board appointed by the Commissioner of Insurance for the State of Mississippi.

As a result of Hurricane Katrina, 16,000 policy holders in the MWUA, almost all of whom have already incurred devastating personal losses from the storm, are facing up to a 400% increase in their annual premiums for wind and hail insurance. This economically debilitating increase results from a spike in wind risk reinsurance rates for high risk properties on the Mississippi Gulf Coast as a result of Hurricane Katrina. Currently a MWUA policy costs \$2,376 per year for \$100,000 coverage on contents and \$200,000 for the structure of a frame house south of Interstate 10 with a \$500 deductible. Under the new requested rates, the annual premium for the same house and contents will be \$11,826.

Prior to Hurricane Katrina, MWUA wrote approximately 16,000 wind and hail policies for property on the Mississippi Gulf Coast with a total combined insured value of approximately \$1.8 billion. Virtually all of these properties had been rejected for coverage by private insurers. These are policies of last resort for the property owners and mortgage lenders.

For the 2005 hurricane season, MWUA maintained \$175 million in reinsurance coverage and has incurred losses in excess of \$600 million. It is expected that these losses will climb to \$720

million. This will require member companies to fund an estimated \$545 million loss above the \$175 million available reinsurance coverage.

Post Katrina, MWUA has raised its reinsurance limits to \$350 million for the 2006 hurricane season. The cost for \$350 million in reinsurance for the 2006 hurricane season is \$43 million - up almost \$34.2 million from 2005's \$8.8 million premium. Without reasonable reinsurance, insurers will be reluctant to write property insurance anywhere in Mississippi because of exposure to MWUA assessments

This increased cost will be passed through to the consumer. In fact, MWUA has filed for rate increases to raise the additional \$34.2 million cost for reinsurance caused by this post-Katrina surge. This rate increase request has been filed with the Commissioner of Insurance for the State of Mississippi. His role, similar to that of the Public Utilities Staff and Public Service Commission with regard to utility companies, is to analyze, validate and verify rates charged by insurance companies in the State.

In addition to the \$360 million for utility customers, the State will make a grant of up to \$50 million, (payable over 2 years) to the MWUA to defray the additional cost to the consumer of wind insurance obtained from MWUA. The Commissioner of Insurance will validate and verify the rate request of the MWUA and attest to MDA that the grant payment is appropriate and accurately supported. While this grant will not negate the need for a rate increase, it will certainly reduce the size of the rate increase. Because rate hearings are currently underway, it is difficult to determine the final impact. If rates increased from 75-150% (for \$100,000 in contents and a \$200,000 framed house), rates would be in the range of \$4,000 - \$6,000.

The surge in reinsurance costs for the wind pool plan is directly related to the cost of and lessons learned from Hurricane Katrina. The five times increase is a spike in reinsurance costs. Many industry observers believe that absent another huge storm, reinsurance costs will substantially decrease for the 2007 hurricane season. With a grant to cover the surge in reinsurance cost, the Association can reduce the amount of premium increase needed for 2006. If the reinsurance cost goes down as expected in 2007, a four times premium increase will not be necessary. If reinsurance rates do not go down in 2007, the MWUA will have to request a rate increase to fund the cost of reinsurance, but the 16,000 policyholders will have had two years to recover from Hurricane Katrina losses before facing this additional cost.

Mitigation of these costs is integral to the recovery of the Gulf Coast. If insurance becomes unaffordable, financing and rebuilding efforts become much more difficult. Subsidizing this program over the next 2 years will reduce the impact of the increased reinsurance premiums resulting from Katrina. Additionally, it is anticipated that the adoption of stronger building codes will have a mitigating impact, as seen in the State of Florida.

Monitoring

The analysis and verification of eligible costs as performed by the Mississippi Public Utilities Staff and by Commission of Insurance's Offices will serve to validate amounts paid under this program.

Investigation and Mitigating Occurrences of Fraud, Abuse and Mismanagement

MDA will work with the State Regulatory Agencies and HUD to develop procedures for mitigating instances of fraud, abuse, and/or mismanagement. The Auditor of the State of Mississippi will have an investigative team assigned to investigate suspected instances of fraud. A significant control element will be that MDA and the Regulatory Agencies have specific segregated duties, with verification and controls at all levels.

Complaint Referrals

Complaints alleging a specific violation of a statutory or regulatory requirement, including Congressional inquiries, received by HUD at the Headquarters, Regional, or Field Office level will be forwarded to the appropriate State office for the response.

Eligible Activities and National Objectives

Eligible activities included in this partial plan include:

- 1) Planning and administrative costs estimated as less than 5%. The national objective criteria do not apply separately to planning and administrative activities.
- 2) Ratepayer Mitigation Plan – total estimated amount of \$360 million. This program will meet the objective of urgent need.
- 3) Windpool Mitigation Plan – total estimated amount of \$50 million. This program will meet the objective of urgent need.

Environmental

MDA will work with HUD to develop and implement appropriate environmental reviews and/or assessments.

Citizen Participation Plan

MDA will solicit public comments on this amendment and include them, with responses, in the final plan submitted to HUD for approval.

Substantial Amendments

The State recognizes that any change which changes the nature, purpose, or scope of the programs contained herein will constitute a substantial amendment requiring public comment and approval by HUD. Additions or deletion of program activities or changes in beneficiaries would also constitute the need for a program amendment requiring public comment and approval HUD.

Waivers

Due to the nature of these recovery programs and its impact on residents throughout the recovery area, the State is requesting a waiver of the 50% low/moderate requirement. Additionally, should there be any concern with the eligibility of the wind pool mitigation program, MDA is requesting waivers to allow this program to be implemented as described.

Solicitation for Public Comment

The State of Mississippi has published this amendment to solicit public comment for approximately 10 days, which ended June 24, 2006. This plan was made available on the www.mississippi.org website and at county courthouses and administrative offices, and city halls. Comments were received either by fax or email via a comment form located on the website.

As required by the regulations, a summary of any comments or views received (the number received is shown in parentheses) by the June 24, 2006 deadline along with our responses are as follows:

- **We support using grant funds for mitigation purposes but are opposed to any legislation associated with additional insurance increases outside the coastal zone. (2)**
- **We are opposed to any legislation that will make non-coastal Mississippians pay larger home insurance or business insurance premiums in order to lower insurance coverage for the Mississippi Gulf Coast. (1)**

Response – Legislation associated with increasing insurance rates is not part of this action plan, so no modifications have been made to the action plan.

Requested Waiver

1. The State of Mississippi Ratepayer and Wind Pool Mitigation program is designed to reduce future rate increases for consumers regardless of income level, therefore it is requested that the requirement that 50% of funds for activities that benefit low and moderate income persons at 42 USC 5304 (b)(3)(A) and 24 CFR 570.484 be waived as well as certifications/assurances (i)(2) & (3).