MULTI FAMILY

Journal of Utility management

THE LATEST RESEARCH AND MODELS ON
OPTIMIZING UTILITY USAGE IN MULTIFAMILY

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Election 2012: Groundhog Day

PAGE 8

SUPPLEMENT TO
MULTI HOUSING PRO magazine


ENERGY STAR
Partner of the Year Award

The Environmental Protection Agency (EPA) is fast at work. In the past 90 days, regulations.gov has added 6,125 regulations and notices. Just one example addresses exterior paint, and its volatile organic compound emissions, a ruling certain likely to affect multifamily operations: "We are approving a local rule that regulates these emission sources under the Clean Air Act," the EPA states.

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We thought those days would never end. Alas, recycling is here to stay, and regulation is heading our way to make certain it leaves a lasting impression. But don't throw the compactor out with the legwarmers just yet.

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With 114,567,000 of the country's population living in multihousing communities, the sector ripe for energy-efficiency. *(source: NMHC)*

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Journal of Utility management

An ounce of preparation

No doubt, our nation's energy is in a state of flux. Never before have we seen such an onslaught of federal, state and local regulation, sometimes in direct contradiction. It's further confounded by differing charters of thought, political environments, and even Acts of God.

Last month, super storm Sandy knocked out power to over 8.5 million customers in 21 states; many apartment dwellers. As many remain without utilities even today, Governor Andrew Cuomo of New York, convened a commission to investigate what he called a "labyrinth" of regulatory agencies and utilities to investigate their failure to prepare. As Cuomo looks to overhaul the system, it won't be hard to garner support as most agree that the country's infrastructure is in serious need of updating; the complexity of delivering services is only confounded by a growing maze of federal, state and local processes.

Such complexity continues to expand on the federal front; the number of government regulators has increased by 13 percent, while widening its operations budget to over $54 billion.

In recent months, the EPA devised scores of new rules ranging from tougher water guidelines, to restrictions on greenhouse gas emissions, delaying the effective dates of said rules until after the election. Just recently, a U.S. Senate Committee projected that the majority of looming EPA rules would significantly impact gas prices, home energy costs, and the overall cost of doing business, leaving property owners perplexed at how to best prepare for the impending changes.

Rising energy prices tend to have a lagging economic impact, says James D. Hamilton, professor of economics at the U.C., San Diego. "Unless income also rises—which isn't happening for many people now—higher fuel costs will eventually displace other expenditures."

Property owners may be best advised to shore up to avoid exposure and mitigate risks in times such as these, versus the natural inclination to cut dollars and processes.

Still, there remain some certainties on the road ahead. We will face renters who share the same concerns as their landlords with regard to the impact of energy costs on their income. How we, as owners and managers, derive new and innovative processes and methods to combat these rising costs will be that which shapes our outcome.

Source Annual "Regulator's Budget" compiled in 2011 by George Washington University and Washington University in St. Louis. EPA Impact study is derived from the U.S. Senate Committee on Environments and Public Works Minority Committee.

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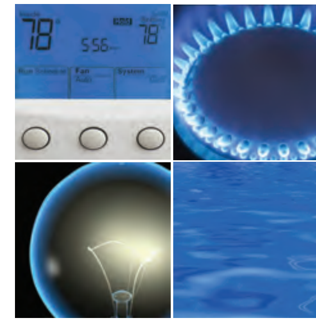
Utility Management Advisory

OUR MISSION

The **Utility Management Advisory** is a forum to leverage multifamily owners' real-world experiences and perspectives into information that will drive education to policy makers and property owners, and dispense tangible, actionable recommendations. This alliance will improve multifamily owners' and managers' ability to: conserve, save money, serve residents, while protecting and enhancing their fiscal bottom lines and property values, and staying ahead of emerging policies and requirements.



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Flashdance and the compactor

When evaluating trash enclosures, configuration, and community requirements, remember the movie, *Flashdance*. Not as much for the pressure washing of Jennifer Beals, as for the film's powerful and innovative use of legwarmers. Remember legwarmers? They were iconic in the 80s.

Like legwarmers, compactors were iconic multifamily trash enclosures. In the 1970s and early 80s, as per-pick-up trash costs increased, owners and managers looked for meaningful ways to reduce the number of pick-ups at communities; enter compactors. We saved thousands of dollars, annually, by squishing our waste, and reducing the number of pick-ups. It did not matter whether the community was a stand-alone building, or a palatial garden-style community, compacters made sense.

During the 80s, the Internal Rate of Return (IRR) on a compactor could be less than four years in some markets. Since compactors have a useful life of about 15 to 20 years, compactors were awesome.

However, by 1989, consumers began to demand recycling. Recycling did to compactors what grunge did to legwarmers.

As residents became environmentally-aware, demand for trash options outside "squish it," became more common. And with consumer adoption of recycling, came laws, like AB 939 requiring property owners to maintain certain percentages of recycle-versus-trash. Currently, trash providers regularly audit to determine if communities of five-units, or more, have appropriate trash-versus-recycle ratios. If we do not meet those requirements, we may be penalized. The need for trash, and recycling bins in the enclosures became prevalent.

What was wrong with compacting? In a garden style-community, where the trash enclosures are not large enough to contain **both** a compactor for trash, and bins for recycling, the compactor represents a cost center. Since the cost-per-pick-up on a compactor is typically more than that dumpster, **and** you can reduce your costs by adding recycling bins while decreasing the number of trash bin pickups, then your compactor might have reached functional obsolesce, making it cost-effective to remove the compactor. In many instances, the compactor itself is recyclable. A recycler may remove it at no cost to you, or actually **pay** you for the scrap metal.

Times have changed, and the IRR of a compactor has changed, even doubled in some markets. Additionally, when completing your analysis, be sure to look at the electrical load of your compactor; typically compactors run on 240 volts, and are motion-triggered. If you are in a region with high electricity rates, you could be in for a shock.

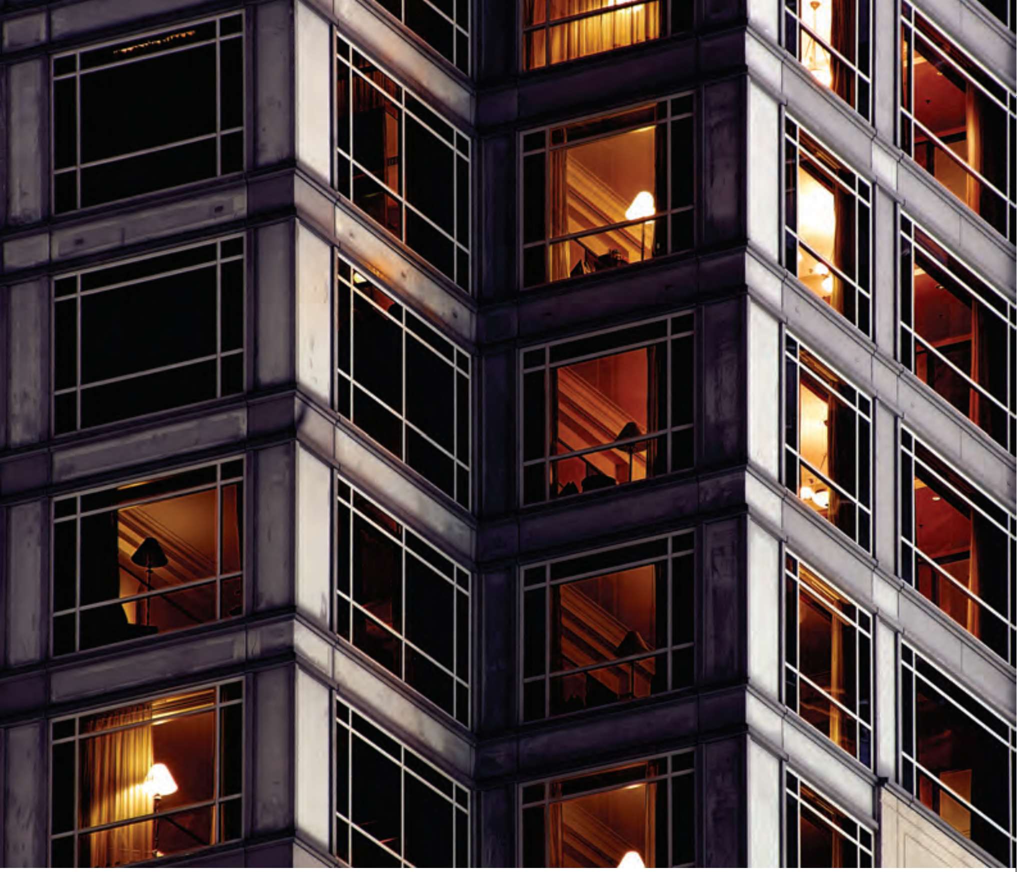
You should also consider the lower maintenance requirements of bins, when compared to compactors; there is no grease (from the trash bins themselves), and they do not require the same routine maintenance. Additionally there are cosmetic differences between bins and compactors. By removing the compactors, you eliminate the juice that is squeezed out when the compactor crushes its contents.

Remember Han Solo, Luke Skywalker and Princess Leah in the compactor on the Death Star in the *Empire Strikes Back*? Remember the black, murky sludge in which our heroes waded? We'll call that juice. In space, that goo can simply be jettisoned into the vast emptiness, with no repercussions. In our communities' trash rooms and enclosures, it delivers a memorable odor, and possibly afford us a super-sized rat colony to boot.

Please don't get the impression that legwarmers and compactors no longer have purpose. I love them both. I just believe that now, 30 years later, we must be smarter about our application. If your property is in a city like New York or San Francisco, your building may not offer open space for multiple bins, and may require a compactor to maintain a sanitary environment. If you have a building where you have both recycling and trash enclosures, you might be able to achieve a simple pay-back on your compactor. The right application matters.

Tread cautiously—if you have a giant garden-style community with loads of tiny trash enclosures, and you are still using compactors, as a friend, I am obliged to tell you that you might be wearing legwarmers over your jeans.

Author 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 senior ancillary services manager 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 drive.



Targeting utility use in apartments

The American Council for Energy-Efficient Economy (ACEEE), with the support of the John D. and Catherine T. MacArthur Foundation, is undertaking a multi-year project to improve and expand utility programs to improve the energy efficiency of multifamily housing.

The goal of the project is to expand the number of utilities offering multifamily energy-efficiency programs, and increase utility spending and savings for these programs by at least 25 percent by the end of 2015. The project will encourage the creation and expansion of comprehensive building upgrade programs for market-rate, and affordable, multifamily housing through partnerships between utilities, and the housing community. ACEEE is partnering with CNT Energy to actively engage utilities and housing groups; facilitate peer-to-peer learning; and provide resources to utilities, regulators, and housing stakeholders.

Multifamily buildings present a tremendous opportunity for improving energy-efficiency. CNT Energy and ACEEE recently completed a report, funded by the MacArthur Foundation, entitled *Engaging as Partners in Energy Efficiency: Multifamily Housing and Utilities*, which highlights the opportunity to improve the efficiency of multifamily buildings. Current programs have shown that comprehensive retrofits can cost-effectively improve the efficiency of multifamily buildings by 30 percent for natural gas, and 15 percent for electricity. Nationwide, at 2010 national average energy prices, this level of savings would translate into annual utility bill cost savings of almost $3.4 billion for the multifamily sector.

Utility programs provide significant funding, $7 billion in 2011, for energy efficiency improvements. This spending could increase to $16.8 billion by 2025, representing a significant opportunity to leverage utility resources to expand programs targeted toward multifamily buildings. The variety of utility programs. and the policies that govern them, means that no single policy will address multifamily buildings nationwide.

But in a utility program environment, where very few programs are designed specifically to serve multifamily buildings, there is much room for improvement across the country. Diverse and complex ownership structures, and utility bill payment responsibilities for market-rate and affordable multifamily housing, mean the multifamily market has unique program needs, requiring utilities to work with multifamily building owners to develop programs that match. By partnering with building owners and other multifamily stakeholders and policymakers, electric and gas utilities can create improved programs for multifamily buildings and achieve greater cost-effective energy savings.

This project combines outreach, research, peer-to-peer exchanges, and technical assistance to encourage and assist utilities to offer quality multifamily programs. Key components include a working group of electric and gas utilities that are interested in implementing comprehensive programs to reduce energy use in multifamily buildings within their service areas. With participation from multifamily housing experts, this group serves as a peer-to-peer support and learning network.

Resources for utilities, housing, community groups, and others to help them pursue multifamily energy efficiency programs. These resources include:

- A baseline assessment of the existing multifamily utility programs in the metropolitan areas with the largest number of multifamily apartment units;
- A primer on the multifamily housing sector written for utility program managers;
- Case studies detailing existing exemplary multifamily utility programs and providing program planners with information on program design, costs and savings, participation rates, and lessons learned;
- Resources to assist housing groups, and utilities, in effectively partnering, and more.

For more information go to aceee.org/multifamily-project. The American Council for Energy Efficient Economy conducts in-depth technical and policy analyses, advising policymakers, collaborates with businesses, government officials, and public interest groups. ACEEE was founded in 1980 by leading researchers in the energy field. Projects include: energy policy (primarily federal and state), research (including programs on buildings and equipment, utilities, economic and social analysis. ACEEE is America's leading center of expertise on energy efficiency with a reputation for quality, credibility, and a bipartisan approach. ACEEE's technical work is widely relied upon by policymakers, business and industry decision-makers, consumers, the media, and other energy professionals.

Election 2012—Groundhog Day

With the counting finished, the American populace seemingly voted for the political status quo in what many pundits believed would be a "change" election.

With the counting finished, the American populace seemingly voted for the political status quo in what many pundits believed would be a "change" election. President Barack Obama won four more years after defeating his Republican challenger, Mitt Romney, by an electoral vote tally of 332—206. In securing victory, Obama carried the important swing states of Virginia, Florida, Ohio, Colorado, New Hampshire and Wisconsin, albeit by smaller margins than he carried them in 2008. While Democrats claimed a mandate for their vision and policies as a result of Obama's reelection, as well as their hold of the Senate, Republican leaders pointed to the successful defense of their majority in the House of Representatives as evidence that the country is not ready for tax increases and increase in governmental regulations.

In short, none of the branches of government changed hands on election night, with the Democrats holding the presidency and adding two seats to their Senate majority while Republicans held serve in the House. For a country reportedly weary of partisan gridlock in Washington, voters may have chosen more of the same. The election left Democrats five seats shy of sixty in the Senate, meaning the Republican filibuster remains alive and well. And while eight House races are too-close-to-call, Republicans have won at least 233 seats, fifteen more than needed to retain control of that chamber.

The most pressing question for business owners and multifamily professionals is this: what does a continued, divided government mean for the future of the fiscal cliff, environmental regulations, taxation, Dodd Frank, and the health care law?

On January 1, the country will fall over what economists, and financial observers, call the "fiscal cliff," unless the current lame duck Congress, and president, come to a deal to extend the tax cuts that are set to expire, and prevent the deep spending reductions known as sequestration.

The Congressional Budget Office (CBO) estimates that if the cuts in spending and tax increases become a reality, the financial shock to the American economy would be more than $500 billion. CBO calculates that gross domestic product would be slashed by four points, sending the country back into a recession. Unemployment would rise by a percentage point with the loss of two million jobs. Among the taxes set to expire are the "Bush" tax cuts and the payroll tax holiday signed into law by Obama. Many of the spending cuts would affect the defense industry, and have a heavy negative impact on employment in the Washington, D.C. metro area, including southern Maryland and Northern Virginia. Apartment owners in these jurisdictions, pay attention. If no action is taken before the New Year, it is possible that the new government could retroactively fix the problem.

As with every important issue in Washington, Republicans and Democrats are divided on how to handle the impending crisis. Democrats and Obama have signaled that they want spending reductions on entitlements limited, and to raise taxes on wealthy Americans; Obama defines wealthy as individuals making more than $200,000 per year, and couples filing jointly earning more than $250,000 per year.

Republicans maintain that taxes should not be raised on anyone in a weak economy. Instead, they hold that America's burgeoning budget gap should be closed by decreasing corporate tax rates on businesses to spur growth, and ending tax loop holes, and subsidies, to create more revenue.

On the night of the election, John Boehner, Speaker of the House of Representatives, stated that the Republican victory in the House meant the country had voted against tax increases. Democrats argued that their wins in the Senate and President Obama's reelection meant Americans wanted a more balanced approach to the crisis with spending cuts and tax increases on the wealthiest.

In the days after the election, both sides are, at least, feigning the possibility of a compromise in the lame duck session. Obama has invited congressional leaders to the White House for talks. Boehner has acknowledged that the country wants the two sides to work together. If this sounds familiar, it is. Obama invited Republican leaders to the White House in his first term, and neither side was able to resolve the budget problem. In the end, look for the politicians to enact non-permanent stop-gap measures to be resolved later in 2013. This will mean continued uncertainty and weak growth as businesses continue to operate in a cloudy regulatory environment.

Maintaining the status quo of the House, Senate and presidency, does mean an answer to the question of whether or not the Affordable Care Act will be implemented—it will. Republican challenger Mitt Romney promised, on the campaign trail, to repeal the most unpopular portions of the law, and many Republican House and Senate candidates ran on pledges of repeal. Now, with Democrats in control of the Senate and presidency there is no chance the law will be repealed. The Supreme Court ruled, in June 2012, that the insurance mandate requiring most people to purchase health insurance, or pay a penalty, was constitutional, upheld by the tax and spend clause afforded to Congress.

Heads up: Operational touch points your multifamily operation may want to review in the months ahead:

CREDIT REPORTING

RESIDENT APPLICATION PROCESS

RENT COLLECTION

UTILITY PAYMENTS

Some state governments may not elect to expand Medicaid, or to set up the insurance exchanges provided for in the Act—arguing that the law does not compel them to do so.

Businesses have begun to react to the requirements to provide insurance, or pay penalties, by cutting back on the number of full-time employees on staff. For example, Darden Restaurants, which owns Olive Garden, Long Horn Steaks, and Red Lobster, is reportedly testing a new business model that limits the hours of on-site employees to below full-time employment in anticipation of higher healthcare-related costs. If other companies elect this strategy, watch in the short-term for the U-3 rate of unemployment to continue to fall, but for wages and earnings of individuals to decline as more people are forced to accept part-time, rather than full-time work.

Like the Affordable Care Act, the Dodd Frank Wall Street Reform, and Consumer Protection Act, will be the law of the land for the foreseeable future. The law was signed by President Obama in the wake of the Great Recession, and regulates financial institutions and other entities engaged in transacting financial business with consumers. Like many complex pieces of federal legislation, the law delegates much of the actual rule-making power to the federal administrative agencies controlled by the executive branch. The regulations are far from complete at this time, and are still being written. Critics of the law have complained that regulators will subject the financial industry to overly burdensome regulations that do little for consumers and will make credit more difficult to obtain.

Apartment owners and managers should be aware that though the focus of the law was Wall Street and consumer credit institutions, the regulations are being written very broadly, and could affect multifamily residential companies transacting business with residents (consumers). Areas to watch are credit reporting, and the resident application process, debt/past-due rent collection, and utility payments.

Owners and managers should have attorneys periodically review their operations in these areas for compliance with federal and state laws, and make sure to work with suppliers that are legally compliant, as well.

President Obama's reelection will also mean that the Environmental Protection Agency (EPA) will continue to place an emphasis on green technology and regulation. Apartment owners and managers have already reported more audits for lead-based paint compliance at subject properties; this will continue. Moreover, watch for EPA and other federal agencies to attempt to benchmark "appropriate" levels of use for energy, and other commodities like water at commercial and multifamily residential properties. While no federal mandate retrofitting properties to comply with green regulations is on the horizon, benchmarking the utility output of properties could be the first step in that direction.

With respect to the budget crisis and fiscal cliff, the divided federal government will continue to kick the can down the road, opting for short-term solutions instead of comprehensive reform. As such, more financial burden will be felt at the state and local levels, causing these jurisdictions to seek new, and creative sources, of revenue. Higher fees and usage taxes on businesses will rise as a result.

Apartment owners and managers should be aware of this trend, and retain counsel to advise them of the ever-increasing list of new federal, state and local rules. Multifamily companies are best served to work with reputable suppliers that employ, or retain their own legal professionals to ensure compliance with expanding regulations.

Author Michael Semko is deputy general counsel 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.

Green roof gardens and certain water features are just a couple of the features that earn LEED credits.

Is it too easy being green?

Across the U.S., the Green Building Council has helped thousands of developers win tax breaks and grants, charge higher rents, exceed local building restrictions and get expedited permitting by certifying them as "green" under a system that often rewards minor, low-cost steps that have little, or no, proven environmental benefit.

The council has certified 13,500 commercial buildings in the U.S. as green, and has become one of the most influential forces in building design by helping persuade public officials, and private builders to follow its rating system known as LEED.

More than 200 state, city and federal agencies require LEED certification for new public buildings, even though they have done little independent, or meaningful, research into its effectiveness. LEED can add millions to construction costs while promising to cut utility bills and other expenses.

Los Angeles, Miami, Boston, San Francisco, Baltimore, Washington, and roughly 85 other cities require some private commercial buildings to follow LEED. And nearly 200 jurisdictions give LEED builders tax breaks, and other incentives.

LEED, or Leadership in Energy and Environmental Design, awards buildings points for features that aim to minimize emissions, water use, waste and indoor pollutants. A new commercial building needs 40 out of a possible 100 points for certification.

Most design teams has won a point for including someone who has passed a LEED exam. Thousands more have won points for giving office workers their own light switches, views of the outdoors, or temperature-control mechanisms, which can include operable windows or desk fans. More than 6,000 buildings received credit for using structural steel or concrete, common building materials considered green because they are made from recycled material.

"People have a tendency to buy points—they buy that bike rack even though there's no value in it," said Kansas City, Mo., architect Bob Berkebile, who helped create LEED in the 1990s and remains a strong proponent. "It's unfortunate. That's just where we are at this time."

Yet environmentalists and experts widely praise LEED for sparking environmentalism in the building industry.

"LEED put this on the agenda single-handedly, and rallied a mass of people interested in green buildings who didn't have a framework," said University of California engineer Arpad Horvath, whose 2006 study criticized LEED for not considering the lifetime effect of its various points.

LEED also expanded green practices such as energy modeling of buildings, and of green products such as low-flush toilets, low-emitting paints and materials made from wood that is sustainably harvested.

"LEED has been one of the most significant drivers of forest conservation in history," said Corey Brinkema, president of the Forest Stewardship Council U.S., which promotes sustainable forestry.

LEED's growth has been driven partly by the building council itself, a 13,000-member non-profit chiefly run by architects, builders and building suppliers. Many specialize in —and profit from—the type of design the council certifies and promotes. The council collects up to $35,000 in fees for each LEED certification.

Building council members have boosted their own LEED-related businesses by helping persuade officials to require or reward LEED certification. LEED also helps developers market buildings to tenants and investors, and collect higher rents and sales prices, University of California economist Nils Kok said.

"A lot of the fuel for LEED is marketing advantage," said Bill Walsh, executive director of the Healthy Building Network, which promotes non-toxic building materials. "People are interested in how they get the (LEED) credits, not in thinking deeply about it."

But LEED does not require designers to take specific steps beyond meeting minimum standards in water and energy conservation, recycling and indoor air quality. Designers chart their own course to certification, choosing from roughly 50 options that range from minimizing light pollution, and storm water runoff, to maximizing interior daylight and ventilation. More options bring higher certification levels—from Silver to Gold to Platinum—and sometimes bigger tax benefits.

The most popular LEED option—earned in 99.7 percent of buildings—has no direct environmental benefit, but generates millions of dollars for the building council by giving one point if a design team has a LEED expert. People become experts by passing a LEED course and paying $550 to $800 to a non-profit that the building council created in 2007.

More than 90 percent of the buildings got points for using indoor paints, adhesives and flooring that aim to protect occupants' health by emitting fewer contaminants. Widely-used, the materials add little cost, and have no impact outside the building.

Another easy point, earned by 91 percent of the buildings, is for using building materials with recycled content. That includes steel and concrete, standard building materials that usually yield a point for being made within 500 miles of a building site.

At the other extreme, only 14 percent of buildings generate renewable energy, and 12 percent include major water-reduction steps such as using waterless urinals or treating sewage on site.

The Tower Companies, a Maryland developer, got a $1 million windfall by adding last-minute features to an office tower near Washington, D.C. Aiming for Gold certification when construction began in 2007, company officials realized when the building was nearly finished that they were close to reaching Platinum. They added preferred parking spots for hybrid cars and a system that channels cooling-system water to outdoors landscaping—and turned a $530,000 property-tax break for Gold, into $1.6 million for Platinum.

The money was not the goal, said David Borchardt, Tower's chief sustainability officer. But the extra incentive for Platinum certification "more than made up for the cost" of the two extra features, he added.

In 2009, responding to criticism, the building council revised LEED to put more emphasis on energy conservation.

But the revision increased the uncertainty about LEED and highlights a central problem: LEED certification is awarded before occupancy. Points for minimizing energy and water use are based on projections, not on actual energy and water use.

"That's like the ranking of football teams before the season starts," said Oberlin College energy expert John Scofield, who testified before Congress in May.

Designers can earn up to 19 points for projecting lower-than-average energy use. The projections come from computer models that analyze hundreds of features such as insulation and sun exposure. Such models are good at comparing designs to show which would use less energy. But they are bad at quantifying actual energy use, which depends largely on how a building is used and maintained.

"Buildings have a poor track record for performing as predicted during design," the council itself reported in 2007. "Most buildings do not perform as well as design metrics indicate."

The Environmental Protection Agency says "it is a common misconception that new buildings, even so-called 'green' buildings are energy-efficient." The EPA's voluntary EnergyStar program certifies only buildings that prove energy efficiency over a year of occupancy, and rates buildings every year.

A little-noticed study of Navy buildings showed that four of 11 LEED-certified buildings used more energy than a non-LEED counterpart. Of the seven others, four were better than their counterparts by 9 percent, a level of improvement that is insufficient to earn any LEED points.

LEED tries to address the problem by offering one point for buildings that measure actual energy use. Only 23 percent of the LEED-certified buildings have taken that option.

Building council SVP Scot Horst has long pushed to require LEED-certified buildings to report their energy use, but faces resistance. "A lot of people don't want to disclose that information—they feel like somehow their energy data is like dirty laundry and shows they haven't connected their ability to use energy wisely," he said.

A new version of LEED, likely to become mandatory in mid-2015, will require building operators to write a plan for running a building efficiently, and to tell the council a building's energy, and water use, for five years. In recent years, the council has started to review energy and water use for LEED buildings that volunteer the information, and tells owners how they are doing compared to projections.

The new version requires low-emitting paints, and other items to pass lab tests, and LEED-friendly materials to demonstrate a wide range of environmental benefits.

Some officials shun LEED or require builders only to follow its guidelines without getting certification. Kentucky law urges school districts to get new buildings certified by LEED, or by the EPA. The overwhelming number opt for the EPA because it's free and requires energy efficiency.

Governors, mayors, state legislators, and federal administrators, have been forceful LEED advocates who helped it flourish nationwide. About 26 percent of LEED-certified buildings are government-owned.

But officials have embraced LEED and similar standards "often without fully understanding their benefits, trade-offs and costs," says a 2009 study by the National Institute of Building Sciences, a research group.

The federal General Services Administration (GSA), which owns and leases 9,600 buildings, gave crucial support in 2003 when it began requiring LEED certification for its new and substantially-renovated buildings. Every federal department now follows green building practices along with 35 states. Roughly 170 cities give LEED builders tax breaks, grants, expedited permitting or waivers allowing them to construct larger buildings than local law allows. Roughly 2,000 developments, buildings, and homes, have received $500 million in tax breaks nationwide.

Excerpt Thomas Frank, Christopher Schnaars, Hannah Morgan, *USA Today*.

Counting the cost

Current economic conditions are compelling multifamily operators to control costs more than ever. However, the unintended consequences of cutting certain services may actually be more costly, even detrimental, in the long-run.

Case in point: One owner who used a utility billing provider to bill residents, decided to bring the function in-house to save money. While on it's face it may have seemed like a great way to trim costs, the owner didn't take into account that we are entering the most heightened regulatory environment in the history of our country. As well, cost recovery has truly become a complicated field.

What could go wrong with doing it yourself? Here are just a few ways that a good utility billing provider, that is, one with a knowledgeable and experienced team, can actually save you money:

Regulation and compliance

Regulatory requirements vary by jurisdiction, and utility billing may be regulated by multiple levels of government, depending on the property's location. Regulations are complex, vastly different by region, community type, and service provided, and will effect how utilities are billed, bill content, reporting, and much more.

Owners who bring billing in-house, often follow the same "simpler is better" logic in modifying their utility bills. For example, implementing a flat fee, whereby an owner discerns a set amount to charge residents each month, is a frequent mistake.

After all, it's not illogical to think the owner could effectively control costs on the back-end, and that by normalizing the amount paid by residents each month, resident satisfaction will increase.

However, the owner is likely opening the asset to large-scale exposure, as well as leaving recovery dollars on the table by issuing a flat fee, particularly in such a highly-fluctuating market.

Further, if the flat fee is too high on a per-unit-basis, it may result in collecting more from residents for a billing period than was billed by the utility. This "profit" is a gigantic red flag. Such revenue can result in the owner being regulated as a public utility (time and cost prohibitive for owners).

Conversely, an owner who sets too low a flat fee may be giving away the shop, and missing potential recovery. To make matters worse, flat fees may not be authorized in your jurisdiction, even prohibited. One example: flat fees are not an authorized billing methodology in the State of Texas.

Pass-through fees such as administrative costs, associated with billing are another potential landmine owners face. This traverses multiple levels of regulation depending on the location of the property, and may be allowed or prohibited depending on a number of factors. Such fees may be used to determine whether a profit is realized, or not. In order to effectively mitigate liability, an in-house billing team must appropriately calculate, generate and transmit bills, while accurately passing the costs through to residents. Otherwise, utility billing fees expose owners, not only to regulatory issues, but to consumer protection issues, as well as other liability.

Most state and local jurisdictions also have regulated what must appear on resident bills, the timing of bill delivery, and the term given to the resident to remit.

An in-house billing team may make every effort to provide a bill that is simple-to-understand, but fails to comply with legal requirements, such as inclusion of consumer protection information. Such errors can lead to big problems.

A matter of practicality

One man's (owner's) simplifying, is another man's (government or watchdog) cutting corners. An in-house billing team must also consider the time it takes to properly and quickly handle resident billing disputes, ongoing compliance, such as quarterly reports and annual registrations, all while assuring that bills are accurate.

Proper time must be allotted to review the property's master-metered utility bills and research new line items, fees, charges and rates, to determine whether said charges and rates may be allocated to residents.

Failure to properly include new charges, fees, or rate increases, can easily result in under-recovery. Conversely, wrongfully including a fee, or charge, in violation of a statute, rule, or regulation, creates legal exposure. Owners may wish to include additional utility charges, or other commodities (such as trash and recycling), on resident bills. Aside from the regulatory issues involved in determining whether these charges can be allowed, an owner must manage lease language, resident notification, and resident complaints. The list goes on, as does the asset exposure, and potential for loss of revenue.

What are the stakes?

The stakes for getting in-house billing wrong vary by jurisdiction. Some jurisdictions do not have set penalties for violations, or even guidance to advise owners how to comply. Yet, owners are just as culpable when utility billing is incompliant. And the deck is stacked against landlords as residents can also turn to consumer protection statutes when they feel wronged.

In a very public battle in 2006, disgruntled residents filed a complaint against one owner regarding their utility bills. All things considered, the owner decided to cooperate with the District Attorney, even though no formal law, statute or regulation, prohibited their billing practice. In order to avoid litigation, the owner paid over $600,000 in fines and penalties, and agreed to reimburse residents amounts collected. The total fiscal impact to the owner was in the millions.

Some jurisdictions are quite prescriptive on penalties. With regard to water and sewer billing in Texas, a violation can result in repayment of three times the overcharge, compensation of one month's rent, and payment of court and other costs incurred by a resident in pursuing the owner. In Florida, the Miami Consumer Protection Division can issue fines and penalties up to $2,500 per violation.

While the road to hell is paved with good intentions, according to a Chinese proverb, owners seeking more control, even simplicity, may be accomplishing exactly the opposite by bringing billing in-house. They may also pay for the privilege through less revenue recovery, as well as taking on significant exposure just as regulations climb. Reputable billing providers deliver institutional knowledge and processes that maximize recovery while mitigating risk.

Owners may be better served to consider their overarching objectives. If it's to control costs, mitigate exposure, and place a level of protection around their asset, a billing partner is the only choice.

Author Michael Foote, is regulatory and corporate counsel for NWP Services Corp.

Just do something... to start

I've been to a few multifamily events this year dealing with utility management and conservation. It is great to see our industry embrace the efforts to be more environmentally friendly.

With regard to conservation, the theme of "just do something" seemed to resonate from the sessions I attended. As I thought about that concept, I wondered if just doing something is enough.

How do you figure out what that something should be? How do you know if it's working, or if you spent dollars in the right place? In the sea of dual flush flappers, low-flow toilets, lighting retrofits, and power cogeneration, where do you start?

Over the past years, we have implemented a number of green initiatives across our portfolio. For example, our corporate office has a recycling program, as do many of our communities. We've installed CFL lighting, and water conservation devices. And, we are migrating to an entirely paperless workplace at our communities, and corporate office.

If you subscribe to the "just do something" philosophy, you could argue that these programs are successful without further review of the projects. Taking the next step, and measuring your progress and results, does not have to be complicated.

I'm not one who suffers from paralysis by analysis, but I do like to know when my efforts have real impact. To show how far you have moved the needle, planning and analysis are necessary.

Level the playing field and start with consumption

Here's one way to get started: I group my apartment communities by type, in order to compare like communities. I derived four groups: garden, garden + townhome, townhome, and mid-rise.

Next, determine the unit of measure. I decided to base my review, and selection process on consumption. Focusing on consumption takes the rate variable out of the equation. If consumption has decreased, cost will decrease. Depending on your available tools, determining which of your communities are the largest users of gas, water, and electricity could be a daunting task. Fortunately, I have access to all of my utility payment, and consumption information, online through my convergent billing vendor.

Don't have this option? All is not lost. There may be others in your company who track this information. Check with your accounting staff, as they may track consumption, along with monthly expense information. Check with the person, or team, in charge of your budgets; they may track this for utility budgeting purposes.

A simple spreadsheet can bring the picture into focus

Place the aggregated community consumption information into a single spreadsheet. In the spreadsheet, create separate tabs for gas, water and electric. Sort by community type, and consumption, and the largest energy consumers become evident.

As you might imagine, being a predominantly garden/midrise company, we don't have any real utility hogs, but this quick analysis does spotlight a few communities. To dial the analysis in a little further, factor in unit count to see who is consuming the most, on a per-unit basis. The communities using the most of each commodity should become your target for improvement.

The next natural step is to take a deep dive into the target communities to uncover why their consumption is so high.

Author Timothy Haddon is director of ancillary services with Associated Estates.

Utilities turn focus to energy efficiency

Northwest power utilities have been pushing for energy conservation. It's a way they can keep up with their customers' future demand for electricity. There are plenty of incentives if you buy an energy efficient appliance. But these days, utilities are finding more inventive ways to promote awareness.

Keith McIndoo and ten of his family members recently enjoyed a Saturday night in style. They were chosen from among thousands of contestants to get free food, drinks, and an RV complete with four big screen TVs for one night. A furnished tailgate party for McIndoo to watch his favorite team—the Boise State Broncos.

"I was pleasantly surprised because I'm a big BSU fan," McIndoo says.

All the free stuff came from a contest by the Northwest Energy Efficiency Alliance. It represents energy producers and utilities that want customers to save electricity.

The alliance got McIndoo and others in the Northwest to "like" it on Facebook when they entered the giveaway contest. That gives the utilities access to thousands of people they can reach with tips and encouragement to save energy.

You might wonder why power companies want to sell less electricity. It's because reducing demand may be the only way for utilities to meet their customers' energy needs twenty years from now.

Ty Stober represents the Alliance. He puts the importance of energy savings into perspective.

"If we were able to switch all of the televisions in the Northwest to the most energy efficient models available today," Stober says, "we would save enough energy to power 290,000 homes in the Northwest."

Stober's group isn't the only one turning to social media and contests to encourage consumers to cut back on electricity. In Washington state this year, the Chelan Public Utility ran an energy-saving contest. It is awarding a prize to the customer who can save the most energy.

The Environmental Protection Agency is also using social media to promote a contest to accelerate energy efficiency. Its Battle of the Buildings competition is using social media tools like Flickr and Twitter to encourage landlords to update their apartments and commercial buildings with energy-efficient toilets and solar panels.

That's also the approach behind a Northwest contest called the "Kilowatt Crackdown." Commercial building owners in Portland and Boise that take part can use online tools to compare their energy use.

Utilities are convinced these efforts can pay off by helping them avoid the need for new power plants.

Mark Stokes is a manager at Idaho's Power's energy planning team. Idaho Power serves nearly 500,000 customers in Idaho and eastern Oregon.

"So, to the degree we can use those kind of programs and implement those more cost effectively than going out and building new physical generation resources they are a good deal," Stokes says.

Idaho Power just finished a 300 Megawatt gas fired power plant this past summer. The utility's 20-year plan calls for just one more plant to be constructed. That would be finished by 2025.

But Idaho Power doesn't have any other large power generation in its plan to meet electricity demand for the next 20 years. That might be surprising, considering that it expects demand to nearly double in that time.

Idaho Power has looked at the costs and challenges that come with generating more electricity by burning coal or gas, harnessing nuclear power, or capturing the natural energy of wind, the sun, the earth or hydropower. And it's looked at the benefits of conservation.

Idaho Power is not alone. Says Stober: "Energy efficiency is a great way for us to make sure that we've got power resources covered going into the future."

But are the utilities' contests and social media messages working?

McIndoo, the tailgate party prize winner from Idaho, says he just bought a new energy efficient TV. Not because he was urged to but because it just made sense financially.

"Just with the economy the way it is—anything you can save these days is a blessing you know," McIndoo says. "A penny saved is a penny earned."

Now there's an idea that may pay off for individual customers and big utilities alike: saving on the power bill.

Author Aaron Kunz, *Idaho News*

The true cost of water

A team of researchers from the University of Texas at Austin released a report on the level of energy use in water delivery to citizens of the U.S., finding that no less than 12.6 percent of the nation's total annual energy consumption is devoted to the task.

The team traced water from its source to the taps of average American households and back again. The study focused on each aspect of water delivery, including pumping from natural sources, building and maintaining reservoirs, treating the water for safety and then pumping it to individual residences, and businesses, including those in the industrial sector.

At its end, the study found that water treatment and delivery is one of the most expensive public endeavors in the U.S., requiring an amount of annual energy equivalent to the annual consumption of 40 million Americans. The sheer expense of maintaining and delivering fresh water serves to underscore just how precious that commodity is, potentially leading government policy toward saving water in the name of saving energy.

"Energy and water security are achievable, and with careful planning, we can greatly reduce the amount of water used to produce energy, and the amount of energy used to provide and use water," said Michael E. Webber, associate professor of mechanical engineering at the U of T at Austin, and director of the project. "In particular, our report shows that because there is so much energy embedded in water, saving water might be a cost-effective way to save energy."

The data used in the study was obtained from the U.S. Energy Information Agency, the U.S. Department of Energy and several private sources.