Thirst for Power. Thirst for Savings.

As utility costs continue to rise, many companies are seeking alternative energy sources and additional revenue opportunities.

BY LAUREN BOSTON

Water and sewer bills are growing faster than medical costs, almost as fast as college tuition and much faster than food prices, according to a recent study by Michigan State University. With this knowledge, many say that it's more imperative than ever for multifamily housing owners to pass utility costs to their residents and use benchmarking tools to gauge consumption—both of which can increase NOI.

Mary Nitschke, Director of Ancillary Services for Prometheus Real Estate Group, says her company's greatest opportunity for increased revenue simply comes from leveraging the utility-management practices it already has in place.

"All of us may have changed a few light bulbs, scattered some recycling bins around the property and installed a smattering of low-flow toilets, but the problem is that we cannot always tell if what we have done is successful—virtual payback versus actual—and if we have addressed the correct issues for our communities."

Nitschke says it is important for the industry to use benchmarking and sorting tools to determine which properties consume more utilities than other similar properties in the same market.

"We need to understand how those properties performed in the market to see if the new technology has been commissioned correctly or if we have low-hanging fruit we haven't considered because we are looking in the wrong direction," she says.

Nitschke says she has "found solace" in UMAdvisory.com, a peer group in which she can interact with professionals outside of her company to discuss utility management as a tool to strengthen the company.

"Within my organization, my experience is limited," Nitschke says. "It is so nice to be able to have peer-to-peer interaction and discussion with regards to utility management."

The Natural Solution

Utility conservation and monitoring aren't the only ways owners can cut energy costs.

In the 16 states where there are alternative utility suppliers, managing the supply cost has dramatically decreased utility expenses.

In Texas, for example, communities with natural gas

have discovered a new way to increase savings.

In late 2011, the utility supplier in the Houston market decreased its load qualifications from 9125 MCF to 365 MCF annually—opening up business for smaller players and enabling local communities to seek an alternative provider for the first time, according to Energy Advisory Service.

Resource Residential was one of the first companies to make the switch.

Kelli Tomczak, Vice President of Asset Management for Resource Residential, says in order to use an alternative supplier, the company had to be in good standing with the utility provider. It also had to install a telemetry device on the meter to the property to collect the meter reads, install a telephone line to the telemetry device so that the reads could be sent to the alternative supplier and maintain the telephone line.

Although the upfront cost to install the telemetry device was more than $2,000—in addition to a monthly telephone-line fee—Tomczak calls it a worthwhile investment. Savings for the first year after switching suppliers was approximately 29 percent (for that group of properties) compared to the prior year, she says.

In summer 2012, the utility provider introduced four new options, eliminating the upfront costs in favor of a simple $45 monthly charge.

Jeff Sherman, Vice President of Information Technology for Milestone Management, says 15 of his company's Houston properties moved to alternative suppliers in early 2012. He says the total gas expense on those properties has decreased by more than 20 percent.

Calling Out Consumption

With an increasing emphasis on water and energy conservation, about 30 cities are expected to pass mandates in the next 15 months that will require apartment communities to report on consumption.

Following the lead of benchmarking forerunners Seattle, Austin, Chicago, San Francisco and New York City, these cities will require multifamily properties with 10,000-square-feet or more to provide data, according to John Lis, Velocity.

Most recently, New York City began releasing data, ranging from site energy-use intensity to carbon emissions, on 3,000 buildings. This year, more than 12,000 communities, including apartment buildings and condominiums, will share energy and water data in the market.

Lou Schotsky, Vice President of Investments and Sustainability for Equity Residential, says providing this data is not difficult—it just takes time.

"As long as you have utility usage data, providing what they need is just an administrative task," he says. "We are already sharing water and energy data in New York and some other municipalities. It can be challenging when you are asked to provide consumption data for an entire building because sometimes we don't have that and need to request it from the utility company—but this is just more time-consuming, rather than complicated."

If and when jurisdictional mandates are passed, property owners likely will be required to input comprehensive data from energy- and water-related devices and consumption into the Environmental Protection Agency's Portfolio Manager, an online repository.

'Dirty Data'

Although it can be a challenge to avoid "dirty data" while establishing benchmarking at the same time, Lyn Lansdale, Vice President of Strategic Business Services for AvalonBay Communities, says one key is to perform periodic spot checks and audits of the data to identify and correct problems or reporting errors.

"Realistically, however, there is no way to completely avoid the problem of billing errors on the part of the utilities that can result in dirty data," says Lansdale, who already provides required consumption information on AvalonBay's New York City and Seattle communities. "Sometimes it can take many months to get a billing error or missing bill resolved with a utility."

In addition to the "garbage-in, garbage-out" data issue, the actual measurement of the energy benchmarks being mandated in cities is currently a difficult proposition for multifamily owners.

The mix of commercial and residential usage in multifamily properties makes gathering information difficult, if not impossible. Apartment unit utility bills are considered individual residences to a utility provider. However, a property is responsible for gathering the information, but the utility provider will only release this information to the resident.

Once the information is gathered and compiled, a true multifamily benchmark has yet to be developed by the EPA and its Portfolio Manager benchmarking tool.

AUM Chairman and CEO Michael Miller has been directly involved, ensuring multifamily interests are considered in governmental efforts to develop a true energy efficiency benchmark.

"We began working with Fannie Mae and the EPA in May 2011 to develop a data taxonomy for a real multifamily benchmark," Miller says. "And while there is progress being made, I would not expect a multifamily benchmark that is useable for energy efficiency until late 2013 at the earliest. The EPA does provide a Statement of Energy Performance (SEP), but that does not include a benchmark score, just an Energy Usage Index (EUI) of usage per gross square foot. The EUI is not an indication of true energy efficiency because it does not take into consideration amenities, occupancy, weather, etc."

—NAA's Lauren Boston

NSC *For a list of NAA National Suppliers Council members who provide utility management services, please see* *pages 77 and 78.*

Did You Know

Submeter hardware and installation typically cost $150 to $350 per unit. If a $40 water bill—per unit, per month—is recouped, the investment can pay for itself in four to nine months, according to Steve Hirsch, Commercial Water & Energy Co. If a property cannot accommodate submeters, or where the owner does not want to invest in hardware, RUBS (ratio utility billing) is an alternative means to recoup water costs—as well as other expenses.

Five Legal Concerns in Utility Programs

One of the most daunting problems affecting owners choosing to pass on energy costs to residents is the legal jurisprudence governing the utility industry. Landlord-tenant statutes rarely contain the relevant laws prescribed by governmental entities. While the federal government is contemplating the requirement of benchmarking energy output by privately held apartment communities and other commercial properties, most of the regulations come from state and local governments as well as administrative agencies.

Companies operating in several localities in a single state may be faced with separate legal regimes requiring different lease-agreement disclosures, billing methods and prohibitions. While RUBS billing for gas may be legal in one county, it may be illegal in another part of the state. Compounding the problem, local regulations may change quickly, often without much notice to business owners.

Unfortunately for apartment companies, the penalties assessed against illegal billing methods can be draconian. In addition to requiring the repayment of erroneous amounts collected, judgments can include treble damages (three times the amount of the actual damages) and attorneys' fees. Class-action status may be granted and because state statutes of limitations can be quite long, several generations of residents may be entitled to collect from the management company and owner.

Apartment communities should audit their billing providers to make sure the suppliers have effective legal teams in place to monitor the ever-changing legal landscape.

Below are five legal issues a company faces when implementing a utility-billing regime:

1. **What law applies?** Does the state, locality or public service commission's rules for RUBS billing at your community apply? Perhaps it is all three.
2. **Battle of the rule-makers.** What should a company do when the laws enacted by the state legislature conflict with the county or public service commission? As always, it depends.
3. **Passing through a service fee.** Can a service fee be added to a bill? It may depend on the type of commodity being charged.
4. **Common area charges.** How much of the common area usage may a company pass through to residents in a 92-percent occupied building, for example? Proceed with caution.
5. **The "Regulation Man" cometh.** Energy efficiency and the benchmarking of output could be around the corner.

Source: Michael Semko is the Deputy General Counsel for NWP Services Corporation.