STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision	)	**CASE 14-M-0101**

TRACK 2 COMMENTS OF AARP

AND

PUBLIC UTILITY LAW PROJECT of NEW YORK, INC.

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July 18, 2014

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TRACK 2 COMMENTS OF AARP AND PUBLIC UTILITY LAW PROJECT of NEW YORK, INC.

AARP and the Public Utility Law Project of New York, Inc., ("Utility Project") appreciate the opportunity to provide input to the Staff and Commission with respect to the Regulatory Changes and Ratemaking Questions prepared by Department of Public Service Staff (Staff) and issued on May 1, 2014 in this proceeding. These questions are identified as Track 2 of this Reforming the Energy Vision (REV) proceeding and will form the basis for further workshops and a forthcoming straw proposals that will be issued for comment later this fall.

AARP is a nonprofit, nonpartisan organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP has members residing in each of New York's counties and representing all segments of the socio-economic scale. Moreover, a substantial percentage of AARP's members live on fixed or limited incomes and depend on reliable electric service for adequate heat, lighting, and powering life-saving medical devices.

The Public Utility Law Project of New York, Inc. ("Utility Project") is a nonprofit organization representing the interests of low and fixed income residential utility consumers with a focus on affordability, universal service, and customer protection. In preparing these comments we have been assisted by Barbara R. Alexander, Consumer Affairs Consultant.

AARP and the Utility Project's comments on these Regulatory Changes and Ratemaking Questions do not respond to all the specific questions raised in this document, but we reserve the right to comment at a later time. Several of the questions posed overlap each other and are duplicative, while other questions are broad or do not include definitions of terms used. These comments are based on the key and over arching consumer protection principles that AARP, the Utility Project and NYPIRG have recommended that the Commission follow throughout the REV proceeding and that are being filed separately. A copy of those key principles is attached to these comments.

RESPONSES TO TRACK 2 QUESTIONS

Outcomes-Based Ratemaking

The Staff's questions do not define this term, "outcomes-based ratemaking" or describe how it is different from current regulatory policies and laws mandating outcomes of safe and adequate service at just and reasonable rates. The questions appear to assume that something is wrong with the current statutory and regulatory mandates and that significant and even dramatic changes in current regulatory and ratemaking policies should be considered and potentially adopted. In light of the current technological and customer usage trends identified in the Staff Report, it is appropriate to review ratemaking policies and goals. However, it is premature to conclude that dramatic changes in the current regulatory structure are either necessary or appropriate at this time. It is more likely that changes in usage and penetration of some technologies and distribution generation projects will occur gradually. Therefore, the Commission should consider the implications of these developments and how they may interact with current regulatory policies without implementing dramatic or radical changes on a "hurry up" time frame. One of the more prudent steps might be to consider modest changes and implement pilot programs and smaller scale programs to determine if the change or changes have the desired impact or if there are unintended consequences. If there is one conclusion that can be drawn from the reform movements that have occurred in the regulation of electric service in the last 40 years it is that there will be unforeseen and unintended consequences if regulators move too rapidly or make significant changes too quickly. Furthermore, some of the proposed policies and reforms should only be considered after consultation with other policymakers, including the Legislature, prior to any conclusions or implementation by the Commission.

(1) Incentives and disincentives in current ratemaking

RESPONSE: Any system that awards incentives to utilities should also include penalties for failure to achieve identified goals. With limited exceptions, the Commission lacks statutory authority to impose direct financial penalties for failure to comply with a statute, rule, or order other than through the cumbersome Section 25 penalty process. As a consequence existing incentive mechanisms are adopted by agreement with utilities in rate cases as to the standard, how it is measured, and the consequences of not satisfying the standard.

In considering proposals for possible reforms or changes in this area, the Commission should take into consideration the need for incentives to ensure compliance with important consumer protections and other indicia of affordability of service. There are no existing incentive mechanisms for utility compliance with HEFPA, and there is no history of penalties imposed for non-compliance with, for example, requirements relating to the prompt provision of service upon request by an applicant, or for wrongful service termination. There is no performance incentive to reduce threats of service termination or actual service terminations.

Under current rate plans, strong incentives are placed on utilities to cut costs and, in many cases, this incentive has worked to the detriment of customers and customer service. Utilities have closed many customer service walk in centers where customers can meet face to face with company personnel to discuss shutoffs, negotiate payment plans, and lodge complaints. These services have been displaced by internet based communications and call centers that do not fully substitute for walk in service. Also, many customers do not have telephone service: New York state is 48th lowest of the 50 states with regard to household telephone service subscribership.[1] Many elderly customers do not use the internet. Many customers have hearing problems, and others language difficulties that make telephone call centers difficult to navigate. Many customers who have exhausted their remedies under HEFPA may qualify for emergency aid to pay bills based on a shutoff notice. Utilities could do more to assist customers in obtaining financial aid to pay bills short

[1] New York Utility Project, *Telephone Subscribership Of New York Households Declines Again In 2013: New York Now 48th Of 50 States*, at http://bit.ly/1nHVthR.

of termination. A performance incentive to reduce reliance on service interruption would encourage better customer service to those at risk of being shut off.

Should rewards (revenue adjustments) be provided for superior reliability, service, or safety performance?

RESPONSE: The Commission should recognize that "rewards" will result in higher costs imposed on customers and that the definition of "superior" is highly likely to be difficult and controversial to determine. Utilities should be required to provide reasonable levels of service quality and reliability for all customers. Similar to Distributed Generation investments, those who would benefit or desire a higher level of investment or quality standard than what is considered reasonable should be required to pay the additional costs to obtain this service.

(2) New outcomes/metrics

What new targeted performance incentive approaches should be considered?

RESPONSE: The Commission should consider metrics and performance targets that include the following indicia of affordability and customer service:

- Measures of affordability of service by comparing bills with income, including poverty ("energy burden");
- Price stability for default service;
- Reduction of shutoff notices as the primary means of collecting overdue bills;,
- Reduction of service terminations for collection purposes;
- Increased successful referrals of customers for assistance from HEAP and 131-s program;,
- Reduction in late charges paid by customers, including low income;
- Reduction in shutoffs and reconnections;

- Same day reconnection of customers who pay or make arrangements to pay after shutoffs;
- Tracking customer bills served by ESCOs to compare to default service;
- Increased enrollment in or expansion of low income programs; and
- Implementation of consumer protections for residential and low-income customers in the retail energy market.

What specific outcomes of REV should be incentivized?

RESPONSE: Every incentive given a utility comes at a cost to ratepayers. Incentives that cause increased costs shifted to ratepayers should be used sparingly. The Commission should make no changes unless lower customer bills actually occur as a result of the REV initiative compared to what would occur without the REV policy.

What percentage of utilities' potential earnings or how many basis points of earnings should be tied to these incentives at standard and superior performance levels?

RESPONSE: AARP and the Utility Project do not agree with additional earnings and incentives that would result in higher rates for electric service. ROE levels and earnings sharing thresholds could be reduced when targets are not met. The Commission should seek additional statutory authority where necessary to impose sanctions on its regulated entities for the failure to meet adequate and reasonable performance standards.

How should a distribution system efficiency incentive be designed?

RESPONSE: The term "distribution system efficiency" is not defined. Is this phrase intended to refer to reliability of service? If so, the status of reliability of service is already regulated and reported down to the circuit level in New York.

If this phrase is intended to refer to voltage level and line losses, that level of "efficiency" can also be regulated with performance standards and evaluated during rate cases. If the intent of this question relates to the planning and implementation of distributed generation and other grid related investments, AARP and the Utility Project recommend that the Commission require the distribution utility to develop an "efficiency" plan that evaluates a wide range of potential scenarios to enable the location and potential investment in distributed generation, grid resiliency, and demand response programs where they are likely to have the most beneficial impact on customer costs and bills. Any predicted benefits should be required to be demonstrated as having occurred in order to obtain full rate recovery of prudent costs.

Can utility incentives stimulate changes in customer behavior?

RESPONSE: The term "customer behavior" is not defined. Incentives paid to utility shareholders are unlikely to influence customers behavior. To the extent that the Commission's question relates to the design of electricity rates, offering efficiency and demand response programs and rate design options that are likely to result in bill reductions in excess of the costs to implement the program should be considered. However, as previously determined by the Commission, the full deployment of new metering, communications, and data managements systems may cost more than the likely results in terms of either usage reduction or demand response when other less costly options are considered. Finally, there are examples of well-designed and cost effective demand response programs implemented by distribution utilities in other restructuring states that have resulted in widespread customer enrollment, such as the Baltimore Gas & Electric Peak Rewards program.[2]

Can utility performance targets and incentives be helpful in ensuring reasonable working relationships between distribution utilities and market participants such as ESCOs or DER providers, for example facilitating interconnections or encouraging microgrids?

RESPONSE: The history of wasteful and costly ratepayer subsidies for ESCO migration should not be repeated. No one today can accurately identify the technology or services that customers will want or that the competitive market may develop and consumers will adopt. AARP and the Utility Project urge this Commission not to embark on another foray into promoting or subsidizing particular forms of energy products and services that is best left to the competitive market and the consumer demand. Rather, the Commission should focus on ensuring nondiscriminatory access at reasonable prices for those entities that seek to interact with the distribution system and ensure that cross subsidies are not created for non-participating customers, such as the significant subsidies transferred to customers who are not participating in net metering programs under current regulations and ratemaking policies.

In general, the costs of transactions for the benefit of ESCOs and DER providers must be borne by those entities (or their participating customers) and not by the general body of ratepayers who are not customers of ESCOs or DER providers

[2] Under this program, BGE offers and installs a new thermostat or other control device for customers and in return offers several levels of credit associated with several levels of BGE's control of the thermostat on critical peak event days, typically 10-12 summer afternoons. The demand response that results from this program has been bid into the PJM capacity market and the resulting revenues returned to its customers to partially offset the costs of the program. This program predates the installation of smart meters and operates independently of smart-meter enabled programs. See, http://www.bge.com/smartenergy/smart-energy-rewards/Pages/default.aspx

What utility incentives are necessary to promote comprehensive integrated resource planning at the distribution level that would consider all DER alternatives to satisfy system expansion, system replacement, and / or to meet clean energy goals?

RESPONSE: No incentives should be necessary for a utility to be required to evaluate the potential for distributed generation and demand response programs or to better coordinate existing efficiency programs in the context of the current capacities and needs for its distribution system and communicate those needs and potential integration of DER on a regular basis with DER and other third party providers. The commission could adopt a rule requiring utility distribution system least cost planning to incorporate consideration of potential "DER alternatives" and to require justification for not adopting reasonable DER measures believed by the Commission to be cost effective. Also, the Commission could conduct audits, or require outside audits, of utility proposals for major system expansion or replacement, starting at a given threshold, to determine if he utility expansion or replacement decision is cost effective in comparison with reasonable alternatives. Furthermore, the Commission has the authority to order a rate case disallowance of recovery of costs for any imprudent system expansions or replacements that are not least cost or which are inconsistent with commission policy.

Are there examples for multi-year performance metrics which would be superior in providing value to customers compared with an annual metric?

RESPONSE: Obviously, some performance objectives may better lend themselves to a multi-year overview (such as grid resiliency), but others are more properly tracked and evaluated quarterly or annually (such as affordability and indicia of bill collection). New York has extensive experience with multi-year rate plans and should evaluate the effectiveness of those rate plans prior to adopting any new and untested multi-year performance metrics or even determining whether any such metric would provide value to customers and in what manner.

(6) Benchmarking

Societal values – are there appropriate metrics over which the utility has less than full control that can be useful in promoting public policy goals (e.g. fuel diversity, CO2 reduction, new market development) while also being manageable for the PSC?

RESPONSE: The Commission should focus primarily on ensuring that the costs that ratepayers incur directly relate to the duties and obligations of the regulated distribution utilities, considering any state or federal mandates, as applicable. For example, if New York pursues greater energy efficiency to meet new federal air regulations, then metrics should be in place to ensure emissions goals are met.

(7) Utility as DSPP and as DER-owner: neutralizing incentives

Can ratemaking or structural mechanisms be established to remove the utility bias in favor of DER investments owned by the utility or its affiliates?

RESPONSE: The questions of utility ownership and any real or perceived bias should be addressed in the larger context of the role of DER in the REV. This issue is likely to be controversial and require a wide range of opportunities for comment and exploration of the role of the utility as a DER provider or planner under various alternatives and conditions.

(8) Removing bias toward increasing capital expenditures

RESPONSE: The type and cost of capital expenditures and the reliance on the proper mix of capital and O&M costs by the distribution utility should be subject to Commission directive and review. This review and directive should not be a formulaic approach but rather a review of how each utility has performed its mandated duties to provide required services at a reasonable price. This will require a review of a utility's customer service policies as well as how the utility interacts with DER providers. With proper oversight, there is no bias to capital investment.

The current ratemaking paradigm provides utilities with earnings based on the size of the rate base (amount of infrastructure investment). Are there other ways to provide utilities with earnings that would not be dependent upon/linked to the size of a utilities rate base?

RESPONSE: The state and federal Constitutions and state statutes require the regulator to fix rates at a level that gives the utility a fair opportunity to earn a reasonable return on investment. The Commission should not consider additional incentives and rewards without the means to link the utility's performance with actual outcomes that benefit all customers in obtaining and maintaining affordable and essential electric service. Earning should also be negatively impacted for failure to meet required objectives and outcomes.

Rate Design

(1) How do the customer incentives and disincentives under current rate design affect DER participation?

RESPONSE: This question is overly broad. Many factors affect DER participation including the income of the ratepayer, the location of the residence, the ownership of the structure (ownership versus rental), the economics of the transaction from the perspective of the third party provider, as well as some local zoning and planning considerations, etc. Rate design issues such as net-metering may entice some ratepayers to invest in solar when their residence is one that is not cost effective for solar panels. The goal should be to ensure that non-participating customers do not subsidize those who use DER and that customers are not encouraged to invest in technology that is not suitable, cost effective, or affordable for them.

(2) Tariffs for DSPP products

How should non-monetized benefits and costs (e.g., carbon) be accounted for in rates, if at all?

RESPONSE: The Commission should not reflect non-monetized societal cost and benefits in rates since rates should reflect prudent investments and expenses that can be linked to ratepayer benefits. Cost effective compliance with state and federal environmental regulations will be included in rates to the extent applicable.

(3) For each of the products and services to be procured by the DSPP, how should the pricing be determined? (If the answers differ by product, please specify to the extent possible).

RESPONSE: The suggestion that the current regulated distribution utility should be transformed into an entity that is obligated to procure DER and related products and services on behalf of its customers should not be taken as a given, but thoroughly debated. To the extent that there are specific products and services that should be procured, it would be the Commission's obligation to determine that such services and products would ensure reasonable rates and adequate service quality. In specific situations where the utility is authorized to procure services and products, the price should be determined based on traditional cost of service ratemaking principles.

Should pricing be determined through a market mechanism which might reflect locational based marginal pricing?

RESPONSE: AARP and the Utility Project object to any suggestion that the regulated distribution utility could rely on wholesale market spot prices to pass along costs to regulated ratepayers.

Should pricing be determined via request for proposals and individually negotiated contracts? Should individually negotiated contracts be made available for public inspection?

RESPONSE: Prices charged by the DSPP should be subject to Commission oversight and approval; all contracts should be public.

Should pricing be administratively determined to provide an incentive to achieve a predetermined outcome? If so, what level of granularity is needed (e.g., peak/off-peak vs. hourly)

RESPONSE: Generally, pricing should not include incentives since it is highly unlikely that the Commission could determine the proper incentive or understand the regulatory and competitive market implications or impacts associated with any administratively determined incentive. In other words, the Commission may not have total control over all the actors or their responses to what appears to be a fair or reasonable incentive. Finally, incentives incurred by the distribution utilities have to be paid for by their regulated customers and thus cause a potential discriminatory impact between regulated and non-regulated recipients and providers.

Should the pricing vary by time and / or geographic location?

RESPONSE: AARP and the Utility Project object to any form of mandatory or opt out time-based rates. Time-varying rates for residential customer is contrary to the current statutory directive that time of use rates must be optional for New York's residential customers.

Should the pricing be differentiated for products related to reliability, economics, or public policy?

RESPONSE: This is a broad question and it is not clear as to the scope or the basis for price differentials by regulated utilities. It may be appropriate to differentiate between basic electric service and default supply service from options that allow for increased functionality or alternative rate designs as long as they are available on a nondiscriminatory basis. At times differentiated pricing is appropriate, such as to assist low income customers to obtain and maintain basic electric service. Any differentiated pricing that is designed to promote a particular technology or impact customer behavior should be carefully reviewed and used rarely. AARP and the Utility Project object to any suggestion that consumers should pay a premium rate for reliable service or that electric service should be priced based on wholesale market spot prices or marginal prices.

(4) For each of the products and services to be offered by the DSPP, how should the pricing be determined? Should delivery services be unbundled into reliability, power quality, ancillary services components and other value added services? What value added services need to be unbundled?

RESPONSE: AARP and the Utility Project object to any suggestion that products and services offered by the regulated utility be unbundled and disaggregated so that customers who could not afford "Cadillac" services were obligated to obtain any lesser quality regulated distribution service for "economy car" prices. The Commission's recent investigation into the retail energy market should have made it very clear that consumers are currently overwhelmed trying to understand retail electric offers, the difference between flat and variable rates, etc. Unbundling distribution service will only serve to add more layers of complexity, causing some consumers to pay too much and others to go without a basic necessity of life, electricity.

(5) New rate designs

Should the products and services procured and offered by the DSPP be offered on a service class basis or uniform pricing for all customers? If the answer differs by product, please specify.

RESPONSE: Again, this question is too broad and without context for AARP and the Utility Project to provide a detailed response at this time. The rates for any regulated service offered by a distribution utility should be non-discriminatory and based on traditional cost causation principles. The price may differ by product because of the underlying costs and/or location of the service (relating to the issue of whether additional distribution related investments are required to provide the service).

Should rates for products or services procured to achieve certain incentives, like more efficient utilization of the distribution system through peak load reductions, be set by the Commission or allowed to be set by the utility companies as necessary?

RESPONSE: No. Monopoly distribution utilities should not be allowed to set prices outside the regulatory purview of the Commission. To the extent that a distribution utility is authorized to offer an optional time-varying rate or demand response program, it should do so based on an analysis that shows that the benefits in the form of reduced electricity prices to all customers will be greater than the costs. The determination of whether such an optional program should be offered should be based on the evaluation of the products and services available in the current competitive market and the added benefits that could be obtained by a regulated program that ensures that the wholesale market value of such a program can be captured and returned to distribution service customers and offset the costs incurred to offer and implement the program.

Should the current volumetric rate designs used to recover embedded costs be revised to move toward fixed pricing? What are the tradeoffs or unintended consequences of moving towards fixed pricing that should be considered?

RESPONSE: No. AARP and the Utility Project oppose moving costs toward fixed pricing. Any change in rate design is going to impact customers by creating "winners" and "losers" compared to the current rate design and cost recovery principles. Rate design is a zero sum game. Therefore, the Commission should carefully review any proposals for significant changes to the current rate design policies for their impact on lower income and lower usage customers. Fixed price recovery of embedded costs will adversely affect low usage residential customers by causing higher bills and sending the wrong signal with regard to encouraging energy conservation.

To what extent should the existing revenue decoupling mechanisms (RDM) continue to be applied and what modifications would be necessary?

RESPONSE: Any change to the regulatory structure would necessarily require a review of the current RDM and consideration of whether it is appropriate. For example, should the Commission increase fixed monthly charges, a decoupling mechanism would not be appropriate.

Should lost revenues due to customer bypass be fully, partially, or not included and recovered in the RDM, or some other, reconciliation process?

RESPONSE: Lost revenues due to customer bypass should be recovered from those customers in standby service charges or in the case of complete bypass, in exit fees. Non-participating customers should not subsidize customers who choose alternative technology or seek to leave the system. Appropriate stand by charges and exit fees should be structured to eliminate the adverse impact on all non-participating customers because the value of the distribution system is vital to maintain.

How can rates best be structured to equitably share system benefits among participating and non-participating customers (i.e. customers without DER onsite)?

RESPONSE: AARP and the Utility Project do not support allocating costs for DER services and products to non-DER customers. To the extent that DER projects on a system wide basis result in benefits to non-DER customers, these benefits should be reflected in the form of lower electricity prices.

(6) Enhanced service and basic service

How should default service be defined?

RESPONSE: Default service should be defined as a least cost and "plain vanilla" generation supply service that is procured in a competitive manner in the wholesale market pursuant to a Commission approved portfolio of contracts that are designed to provide a reasonable level of price stability over a 2-4 year period to residential and small commercial customers. AARP and the Utility Project strongly support the reform of the current default service policies that overly rely on shorter term wholesale market contracts and price signals. .

Should the DSPP offer default service and if so what products and services should be included and what rate design should be employed?

RESPONSE: The DSPP is a utility and is required to provide service to all who request it, without discrimination, at just and reasonable rates. PSL § 65. Thus it is required to provide "default service" to all customers who do not take service from others, and to all applicants for service. As stated in the Staff REV Report, p. 59: "For those customers that do not have or desire to have DER behind the meter, default service must continue to be available on reasonable terms."

Should there be different levels of default service, for example basic and enhanced and what features would each have?

RESPONSE: No. Default service should be a standard generation supply service that does not require customers to choose options or other more expensive services. The Staff REV Report states at p. 59: "The definition of default service will need careful examination and development in this proceeding with the understanding that participation in DER must be by consent, not imposed on customers." AARP and the Utility Project agree that any additional or optional services offered by the distribution utility must be "by consent and not imposed on customers" and that default service is necessary for those customers who do not or cannot take optional service.

(7) Standby rates

How can the current standby rate design be revised to reflect the diversity of DER and the unlikelihood that all DER resources would fail at once and all during the system peak hour?

RESPONSE: The design of the standby rate should set a price for service if a self-generating entity for any reason does not run and distribution and/or generation service must be provided from other sources. The rate should compensate the utility for the full cost of maintaining the capacity and distribution resources to serve in the event the customer's DER service is insufficient to meet his/her needs or stops for any reason. The charges for standby service should not be so low as to in effect shift to other customers the costs of maintaining the capability to provide service upon demand in the absence of DER resources.

CONCLUSION

AARP and the Utility Project appreciate the opportunity to comment on these Track 2 questions, and welcome the opportunity to comment further as more definite proposals are generated in this proceeding.

July 18, 2014

Respectfully submitted,

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By: _
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Attachment:

Letter from AARP, NYPIRG and Utility Project
regarding consumer protection principles.

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July 18, 2014

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RE: Cases 14-M-0101: Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision (REV)

Dear Secretary Burgess:

The signatories of this letter submit the following consumer protection principles to help guide the Commission's consideration of the future role of the New York distribution utilities and potential changes to the policies and regulations impacting the affordability of electric service in New York. The Commission has asked many of the right questions about the potential impact of current trends in technology and customer energy use and has correctly identified the need to explore the implications of the various mandates for efficiency, clean energy, renewables, retail competition, and grid resiliency on consumers.

AARP is a nonprofit, nonpartisan organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP has 2.6 million members residing in each of New York's counties and representing all segments of the socio-economic scale. Moreover, a substantial percentage of AARP's members live on fixed or limited incomes and depend on reliable electric service for adequate heat, lighting, refrigeration, air conditioning, and powering life-saving medical devices.

The Public Utility Law Project of New York, Inc. is a not for profit organization representing the interests of low income persons in utility and energy matters. The Utility Project focuses upon issues affecting universal service, affordability, and customer protection.

NYPIRG is a nonprofit research and advocacy organization whose mission includes advancing the interests of residential ratepayers and other consumers. NYPIRG's long history in this area includes its push for the creation of a Citizen Utility Board ("CUB") in New York and greater transparency and accountability in the energy marketplace. NYPIRG is also active in advancing clean and renewable sources of energy, efficiency measures and addressing head on the root causes of global climate change.

The purpose of this letter is to share concerns about the process and direction of this proceeding and urge the Commission to hold fast to several critical and essential over-arching objectives throughout its consideration of the wide range and potentially dramatic changes in ratemaking policies and new potential mandates raised in the Staff Report. We have accompanied our key policy recommendations with suggested questions that we propose that the Staff and the Commission answer during the consideration of the REV initiative.

The growing evidence of late payment, non-payment, and disconnection of essential electricity service for millions of New York residents, particularly those of modest or low income, underscores why affordability and consumer protections must be a fundamental goal for this proceeding.

A recent analysis of utility collection activity reports by the Public Utility Law Project of New York, Inc. shows that millions of New York consumers have fallen behind in making payments for essential utility electric and gas services. As a consequence, they face added late charges and threats of service termination for bill collection purposes. Nearly three hundred thousand New Yorkers face actual service termination each year. Almost 12% of New York's electric customers have an arrears balance that is more than 60 days old. About 6.7 million termination notices were issued to customers in 2012.[1] In 2013, 7,090,315 final termination notices were issued. Current data shows a worsening trend, with even more increases in shut off notices in 2014, indicative of unaffordability due to high ESCO prices and higher default service prices.

To ensure that any changes resulting from the REV benefit New York's residential consumers the Commission and Staff should:

Ensure that essential electricity service is affordable for all New York households. New mandates that may flow from this proceeding should not result in higher costs and bills.

The potential environmental benefits that are anticipated from a successful outcome of the REV process must not come at the expense of residential ratepayers.

[1] The Utility Project's analysis of this data is available at: http://bit.ly/Lv4VFB.

Consumers repeatedly hear that new technologies and programs will give them "control" and enable them to lower their home energy bills. Yet all of these new technologies and programs are likely to come with a cost, sometimes a significant cost. For many consumers, the additional costs may not offset any potential savings, particularly when utilities are allowed to recover lost or reduced revenues through decoupling or other means. Indeed, in other states mandates related to energy efficiency and renewable energy have been subject to backlash and repealed in a few instances.

The risk to consumers is even greater with some of the suggestions considered in the REV to adopt policies and programs that result in higher prices and costs imposed on ratepayers in return for projected environmental benefits to be provided by unregulated entities that cannot be held accountable for delivery. We are particularly concerned about the implications of shifting cost recovery from kWh rates to fixed monthly costs or demand charges for residential customers. These proposals are likely to adversely impact lower usage customers, many of whom are elderly and low income, and we fear will send a signal that would discourage investment in efficiency, threatening the affordability of service by those least likely to be able to respond to these rate changes.

When considering reforms to current ratemaking policies, the Commission should view calls for incentives and rewards with careful scrutiny. At their most basic, rewards and incentives for shareholders result in higher rates and prices to be imposed on ratepayers to achieve something that is either an obligation by the regulation distribution utility or a desire to achieve something in addition to what is an otherwise required level of performance. Incentives to utilities are often not transparent to ratepayers. More efficient and effective oversight of the efficiency, distributed generation, and renewables mandates does not necessarily require incentives and rewards for shareholders. The focus should be on achieving efficiencies and lower costs for New York ratepayers.

We believe the following questions need to be answered:

- What are the likely costs and bill impacts on ratepayers for proposed new programs or changes in current programs?
- What bill and affordability impacts will occur with proposals to shift cost recovery from kWh rates to fixed charges or demand changes?
- What bill and affordability impacts will occur if current surcharges and mandated costs are shifted to base rates?
- What is the rate impact of current mechanisms and future proposals for incentives and rewards for utilities? On what grounds is it determined that incentives are necessary to achieve performance? How are consumers ensured incentives are tied to performance that matters?

- What is the current distribution of federal and state (ratepayer) funded low income programs in terms of funding, coordination and delivery compared to the need and how will that distribution be impacted by REV?
- What are the bill impacts on participants compared to current costs and mandated surcharges and programs?

Ensure a more stable and least cost default service for residential customers and review current mandates, prior to embarking on the REV.

Our groups welcomed the Commission's reforms adopted in its Order in Case 12-M-0476 (Proceeding on Notion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State), issued on February 25, 2014. However, many of those key reforms have been stayed[2] and remain in limbo. AARP also filed comments raising concerns about the Commission's proposal to promote "value added" services by ESCOs.[3] It is well-documented that the "Polar Vortex" impacted short-term prices in the wholesale market, resulting in unprecedented price increases imposed by ESCOs on customers under variable price contracts. The fact that default service prices also showed immediate and short-term increases is equally disturbing.

Unlike other restructuring states, New York's default service policies and purchasing strategies rely far too heavily on monthly and short-term wholesale spot market prices and contracts based upon them. Further, other states are examining current mandates regarding renewable energy and net metering polices to ensure costs imposed on ratepayers are fair. The Commission's REV proceeding should consider the need for reforms in the retail market on a level with the consideration of new programs.

The following questions are raised in this regards:

- What are the bill impacts of customers served by ESCOs over the last year and how do those bill impacts compare to default service prices?
- What reforms should be considered and included in the REV to ensure that default service is based on a portfolio of a prudent mix of contracts types and terms to ensure stable and least cost service for residential customers?
- How can the Commission properly monitor and enforce essential consumer protections for the retail market and is there a need for additional statutory authority?
- How will "value added services" offered by ESCOs and other third parties impact affordability for consumers? Will "value added services" exacerbate misleading marketing or require more oversight by the Commission?

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[2] The Order Granting Requests for Rehearing and Issuing A Stay was issued on April 25, 2014.
[3] The comments of AARP and the Utility Project in Case 12-M-0476 regarding proposed revisions to the retail market structure are available at http://bit.ly/1lc8jRq.

- What are the costs being incurred by other ratepayers to support the current net metering policies? What are the demographic and housing implications of continuing or expanding these subsidies?
- What impact has the lower cost of distribution generation and solar PV in particular had on whether such subsidies should be continued or eliminated?

Ensure that residential consumers can properly and fairly participate in the REV process.

The current REV process is in need of considerable reform. The Commission has adopted a schedule that includes at least two tracks (one for general policy and another for ratemaking reforms) and numerous working groups that are holding weekly meetings. The participants in this process to date overwhelmingly reflect commercial interests with the funding and resources to push their various agendas to the detriment of the ability of residential consumers and utility customers to participate. Even a casual perusal of the working group mailing lists to date indicates that utilities, third party providers, ESCOs, and state energy agencies dominate the list of participants, but that the participants associated with residential customers and low income customers are almost non-existent. This situation is exacerbated by the lack of any fully funded independent consumer advocate for utility customers in New York, a lack that puts New York among the minority of other states in this regard.[4] In June 2013, Governor Andrew Cuomo's Moreland Act Commission on Utility Storm Preparation and Response found that New York needs "a robust, permanent, professional consumer advocate office to represent ratepayers."[5] This lack of adequate consumer representation means that the Commission cannot rely on the stakeholder processes to generate solutions that place a priority on the direct interests of New York consumers.

Ensure promised benefits are delivered to ratepayers.

Current trends with respect to the disbursement of new technologies and customer usage behavior, along with ongoing and new mandates for efficiency, renewables, net metering, and investments to ensure grid resiliency and reliability need a careful review to ensure that essential electricity service does not result in the "haves" and "have-nots." Any proposed alteration of ratemaking policies must be carefully examined to ensure that essential electric service is affordable. Programs and policies that promise benefits in return for higher costs must be tied to obligations to deliver those benefits to all customers, including those who cannot participate in new technologies.

- What are the demographic characteristics (including age, income, and geographic location) of those who take advantage of new technologies, efficiency programs, and distributed generation investments?

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[4] On March 12, 2014, the New York Assembly passed its version of the State Operations budget bill, A.8555-C, Part N, which beginning at page 62 creates a new state office of the utility consumer advocate. However, the final budget bill adopted by the Legislature eliminated this provision.
[5] The Moreland Commission Final Report is available at http://on.ny.gov/1nELV2V.

- What are the housing profiles of those who can or do participate in these newly available programs and investments, such as in-home technologies, distributed generation, electric vehicles, and microgrid development?
- How will any proposed reforms in mandates or programs impact the range of residential customer income and housing profiles?
- How can the Commission ensure that the wide range of programs it has already authorized and imposed on distribution utilities or that are being implemented by NYSERDA with ratepayer funds are properly and efficiently coordinated and implemented to achieve the least cost and most effective results?
- On what grounds can promised or estimated benefits be tracked and ensured for delivery to ratepayers?
- Who bears the risk that costs will be as estimated and that benefits occur as promised? Will the utility be held accountable if promised benefits are not achieved? How can residential ratepayers be held harmless if providers underperform?
- What is the jurisdiction of the Commission in the development and funding of programs designed to impact the supply portion of the customer bill in light of the current wholesale markets subject to FERC's jurisdiction? How can the Commission ensure that efficiency, and new distributed generation programs actually return value to all customers in the form of lower electricity prices?

Thank you for the opportunity to provide these recommendations. Please do not hesitate to contact us to discuss any of these concerns or issues further.

Respectfully submitted,

s/ Beth Finkel
AARP

s/ Russ Haven
NYPIRG

Public Utility Law Project of New York, Inc.