STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 14-M-0565 - Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers.

RESPONSE OF AARP AND PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC. TO STAFF QUESTIONS

I. INTRODUCTION

AARP and the Public Utility Law Project of New York, Inc. welcome the opportunity to respond to the policy and program issues identified by the Staff in the January 16, 2015 Notice Inviting Comments issued in this proceeding. AARP, a nonprofit organization, helps people over the age of 50 to exercise independence, choice, and control in ways beneficial to them and to society as a whole. AARP members, many of whom live on low or fixed incomes, need affordable, reliable utility service. Approximately 2.5 million AARP members reside in New York. The Public Utility Law Project of New York (the “Utility Project”) is an independent not for profit organization representing the interests of low and fixed income residential utility consumers. Our responses to the Staff’s questions are premised on a number of preliminary policy recommendations that should impact the Staff’s Report that is required to be provided to the Commission.

First, we support rates and rate design policies that ensure affordable electric and natural gas prices and rates for all customers. Unfortunately, many New Yorkers suffer from unaffordable utility service and suffer extreme challenges in paying for their most basic needs for electricity and heat. According to the most recent data from the Energy Information Administration, New York’s residential electric rates are consistently 60+% over the average price for electricity elsewhere in the U.S while the rates paid by industrial customers are below the national average.  

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1 “The primary purposes of this proceeding are to provide the opportunity to standardize utility low-income programs to reflect best practices where appropriate, streamline the regulatory process to conserve administrative resources, and ensure that these programs continue to be consistent with the Commission’s statutory and policy objectives.” Notice Inviting Comments, Case 14-M-0565, Jan. 16, 2015.
2 While AARP and the Utility Project are concerned about reasonable and affordable rates for all customers, our experience and recommendations are primarily directed to residential customers. In contrast to residential rates 56% above the national average, electric rates for New York’s industrial customers are 6.9%
below the national average. EIA, New York Price Differences from Average, Most Recent Monthly, Nov. 2014, 
In 2013, New York’s residential electricity prices were the 2\textsuperscript{nd} highest in the U.S. – higher than even Alaska and second only to Hawaii.\textsuperscript{3} This is not a tolerable or acceptable result in a state that is one of the nation’s largest producers of low cost hydropower.\textsuperscript{4} Continued growth of residential electricity rates creates an untenable situation for many New Yorkers, particularly for those with modest or fixed incomes. This trend toward high residential electric prices has had a related and dramatic impact on the number of customers in debt to utilities, the growing amount of arrears, suboptimal bill payment trends, increased shutoff notices, increasing terminations for bill collection purposes, higher arrears balances on closed accounts, and the need for increased Emergency HEAP and public assistance to address threatened and actual shutoff situations.

A recent analysis of data of investor-owned utilities in New York State by the Public Utility Law Project (Utility Project) documents the basic fact that electric and gas utility service is not affordable for many residential customers of the state’s utilities. The utilities’ reports to the Public Service Commission indicate that as of December 31, 2014, 977,484 residential utility customers (almost 1 million) were more than 60 days late in paying their bills. This was 12% of the state’s residential customers, who owed the utilities almost $970 million for charges outstanding more than 60 days after payment was due. This exposes many customers to PSC-authorized late payment charges, set at a rate of 18% per year – far above the utility’s cost of capital or its authorized overall return on equity -- making collection of interest on residential customer debt a highly rewarding profit center. In the twelve months ending December 31, 2014:

- Utilities sent more than 7.2 million final termination notices to their residential customers.
- 7% of residential customers received shutoff notices in December 2014.
- Utilities terminated service to more than 268,000 residential customer accounts as a bill collection measure.
- Terminations rose for the first time since depths of the financial crisis in 2009 and were higher than any year since 2010.

\textsuperscript{3} U.S. Energy Information Administration, New York State profile, available at: \texttt{http://www.eia.gov/state/?sid=NY\#tabs-5} In contrast, rates for New York’s industrial customers are 14% below the national average.\textsuperscript{4} Significant benefits from low cost Niagara and Saint Lawrence hydropower was shifted from residential customers to business customers in 2011, in a move opposed by AARP. See \textit{Raiding Niagara}, NYUP, June 2, 2010.
Case 14-M-0565
Residential Customer Accounts of New York State Investor-Owned Utilities Past Due More Than 60 Days, 2005 - 2014

Dec-14, 977,484
Jan-05, 783,727

Up 25% since 2005

Source: Utility Collection Reports To NYS Public Service Commission

Case 14-M-0565
Amounts Owed Over 60 Days By Residential Customers of NYS Investor-Owned Utilities 2005 - 2014 ($'s in Millions)

Jan-05, $303
Jan-15, $689 Million

Up 127% since 2005

Source: Utility Collection Reports To NYS Public Service Commission
Case 14-0565
Residential Final Termination Notices Issued By NYS Investor-Owned Utilities, 2005 - 2014

<table>
<thead>
<tr>
<th>Year</th>
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<td>2013</td>
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<td>2014</td>
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Up 44% since 2005

Source: Utility Collection Reports To NYS Public Service Commission

Case 14-M-0565
Annual Residential Accounts Terminations By NYS Investor-Owned Utilities, 2005 - 2014

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<thead>
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<td>2014</td>
<td>268,142</td>
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Up 6% since 2005

Source: Utility Reports To NYS Public Service Commission
There is a high degree of poverty and near poverty among older New Yorkers. For example, in a recent AAARP study 48% of New York City seniors age 65+ stated that they are extremely or very concerned about their inability to pay the monthly utility bills. 63% stated that their utility bills had gone up in the last two years, a clear perception that restructuring and reforms have not resulted in the promised result of lowered costs for residential consumers. 5 Three fourths of NYC seniors 65+ receive Social Security benefits. In 2012 the average yearly Social Security benefit for a New York State recipient age 65 and older was $15,580. 6 Many households living mainly on income from Social Security who do not receive public assistance or SSI are nevertheless eligible for and receive need-based assistance for food, energy, and medical care in programs such as Supplemental Nutrition Assistance Program (SNAP), Home Energy Assistance (HEAP) and Medicaid. These programs reach economically vulnerable households whose incomes are above the official federal poverty guidelines, but who have frequently insurmountable challenges to paying their energy bills. For example, the New York HEAP program income eligibility limit is set at 60% of the state’s median household income or 150% of poverty, whichever is higher depending on household size, and New York’s SNAP program can reach households at 200% of the federal poverty guideline. 7 Yes these households who are at 150% and up to 200% of the federal poverty guidelines still suffer from inability to pay their utility bills.

5 AARP, The State of the 50+ in New York City (July 2014).
6 Ibid.
AARP has also evaluated and graphically demonstrated the impact of this trend toward unaffordable electric and gas service in a landmark study of the scope and scale of terminations of service by New York utilities and documented that many New Yorkers fear the impact of unaffordable utility bills given their economic circumstances:

- In a study of utility terminations in the years 2005-2010, based on reports filed monthly by New York’s gas and electric investor owned utilities, these utilities reported to the PSC that they terminated residential service to more than 1.7 million residential ratepayers in New York State. AARP’s analysis of this data revealed an unacceptably high level of service termination, wide variations among utilities, and significant seasonal variations in every utility’s termination practices. Con Edison
shut off service at least 5,000 times per month in every month of the year, while other
utilities, e.g., National Grid and National Fuel Gas, virtually halted all service
terminations for nonpayment in January and February. For example, Con Edison,
with 2.82 million total customers, terminated service to 8,754 of them in January,
while National Grid, also a large utility with 1.45 million customers, terminated
service to just 7, and National Fuel Gas, with 460,000 customers, terminated service
to just 6. Utility service terminations for nonpayment peaked in May 2010 at more
than 42,000. In contrast, service to fewer than 10,000 customers was terminated in
February. The large numbers of customers with arrears, the large numbers of
customers receiving threats of shutoff, and the large numbers of customers actually
terminated indicate that a chronic, major affordability crisis exists for New York’s
residential utility customers.\(^8\)

This information is crucial to the comments and recommendations we propose in this proceeding. Our comments reflect our concern that New York must undertake a deep soul searching analysis of its present and future policies with respect to how electric and gas service is regulated and priced for residential consumers. New York’s historic policy of ensuring reasonable and affordable service to all New York households is in jeopardy. Therefore, our comments in this proceeding, responsive to the questions asked, should also be viewed in light of our joint comments in the Reforming Energy Vision (REV) and Clean Energy Fund (CEF) proceedings that express a major concern with new initiatives that may exacerbate the affordability crisis in New York for large numbers of residential customers, or fail to utilize available funds being collected under Commission order for public purposes to provide meaningful redress to those whose bills are not affordable.\(^9\)

II. SUMMARY OF AARP AND UTILITY PROJECT RECOMMENDATIONS

Having expressed our concerns about the affordability crisis for New York consumers, particularly its electric residential consumers, AARP and the Utility Project offer the following high level policy reforms that should be adopted in this proceeding:

- The current programs implemented by New York’s electric and gas utilities are insufficient to meet the need due to their program design, insufficient penetration level, and inadequate funding level, particularly for residential electric customers. Our comments identify the best practices among the current programs, and identify some programs that are addressed to problems that have little or nothing to do with relief for low/fixed income consumers in their obligations to pay monthly utility bills. For example, several New York programs have an emphasis on reducing and compromising over outstanding arrears balances, but do not offer any significant support to ensure that bills for current service are affordable for program participants.

\(^8\) AARP, New York’s Utility Termination Storm: A Quiet Blackout (March 2011).
\(^9\) Cite and link to our REV and CEF comments.
AARP and the Utility Project support the development of a statewide “Affordability Rate” for essential electric and natural gas service for qualified residential customers. This program should first emphasize a significant discount on the entire bill and not simply offer a modest fixed monthly bill credit that is not related to the customer’s actual bill amount. The resulting bill reduction should attempt to reduce the price disparity between New York’s residential electric rates and the average U.S. residential rate in a meaningful manner. While there are several acceptable program designs for affordability programs in other states, such as a percentage of income payment program that AARP has supported, our recommendation to focus on a percentage reduction on all aspects of the total bill is the simplest approach because it reflects the current program design for some New York utilities and it can be implemented directly by the utilities.

An Affordability Rate should be available not only to the “traditional” low-income households (i.e., those with annual household income at or below 150% of federal poverty guidelines or those enrolled in HEAP in New York), but also to those who are above this income limitation and suffer significant indicia of inability to afford electric and gas service. We suggest that reduced rates should be available to those with household income at or below 200% of federal poverty level, consistent with upper eligibility levels for the New York SNAP program. At a minimum, the New York programs should use criteria of the New York telephone lifeline program. The Lifeline program includes the following eligibility triggering criteria:

- Medicaid
- Supplemental Security Income (SSI)
- Low Income Home Energy Assistance Program
- Safety Net Assistance
- Section 8 Federal Public Housing Assistance
- National School Lunch Program
- Eligibility based on income
- Temporary Assistance for Needy Families
- SNAP (Supplemental Nutrition Assistance Program, formerly known as Food Stamps)
- Family Assistance
- Veteran’s Disability Pension (non-service related)
- Veteran’s Surviving Spouse (non-service related)
- Bureau of Indian Affairs (BIA) General Assistance
- Head Start (Tribal Land residents only)
- Food Distribution Program (Tribal Land residents only)

The use of the 200% of federal poverty criteria for this program as a catch-all income qualifier for those not in the list of programs would mirror the discount programs in effect in Massachusetts and California.
AARP and the Utility Project endorse the use of the underlying programs approved by the Commission for the Telephone Lifeline program as eligibility criteria for entry into any utility affordability program. It is particularly important that methods be developed to ensure that all eligible customers are enrolled in the utility programs in the least cost and most efficient manner. While systems of manual enrollment may be necessary, they should be kept to a minimum through use of confidentiality-protected data matching protocols. Additionally, due to the high level of “churn” in the population of customers who receive eligibility-triggering assistance, there must also be annual or semi-annual verification and re-enrollment processes, so that eligible consumers do not drop out of the program while still eligible for the low income/Affordability Rate.

Arrears management programs could be continued or developed in addition to the Affordability Rate, but these programs, the expense of which increases the utility’s overall revenue requirement, should be cost effective and reflect a secondary purpose in terms of emphasis. We recommend that expenses for arrears management programs be evaluated for cost effectiveness and success in furtherance of universal and continued service objectives.

We recommend scrutiny of existing public aid programs for customers who receive shutoff notices or whose service is shut off for bill collection purposes. Many customers in financial distress need a “one-shot” grant of utility assistance under Social Services Law § 131-s to re-stabilize household budgets. This program, which was designed to be able to reach customers above the public assistance eligibility levels, has become unreasonably restricted. Removing aid restrictions would promote continued service, further public health and welfare, and could lessen some burdens now shifted to all utility customers through uncollectible bills and high collection costs.

The impact of funding the revenue responsibility for a robust reduced rate program is a significant issue with important statewide impacts and implications for the public health and welfare. Nothing in the public domain or released by the Staff to date, however, would allow the public to model various rate options to eligible customers and calculate potential bill impacts of establishing an Affordability Rate. This lack of information must be remedied so that projections of the cost of such a rate might be more accurate. Given the lack of data in the record of this proceeding, time limitations, and the possibility of variation among the utilities, we recommend further that the Commission direct the utilities to file proposals for low income rate reductions meeting standards prescribed in this case including their formulae for allocating the incremental costs of the new program in a reasonable and equitable manner. Such utility proposals might include the repurposing of current surcharges, 10 For example, “SNAP participants tend to enter and leave the program frequently. From 2004 to 2006, half of all new participants received SNAP benefits for 10 months or less, and 58 percent left the program within 1 year. Of those who left SNAP, 42 percent returned within a year.” USDA Food and Nutrition Service, Office of Research and Analysis, DYNAMICS OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION IN THE MID-2000s, September, 2011, available at http://www.fns.usda.gov/sites/default/files/DynamicsMid2000_Summary.pdf.
instead of reducing them as proposed by NYSERDA, as AARP and the Utility Project have proposed in the “Clean Energy Fund (CEF)” case, broadening its purpose to include both “Clean Energy and Affordability.”¹¹ Utilities should be required to file plans for affordable rates in their rate proceedings proposing options for new rate designs and reallocation of revenue so as to achieve the affordability objectives in reasonable ways.¹² Other states have achieved this in a variety of ways, and there may be different solutions proposed by the utilities which take into account a variety of variables that make it wiser for them to propose solutions than to prescribe a single methodology at this time. In this regard, AARP and the Utility Project have identified the existence of repurposed surcharge funds available as documented in the CEF proceeding and recommends, as in our Comments in that case, that instead of slight reductions to all customers, some of these funds be used to replace foregone revenue due to enhancement of reduced rates. In addition to the Affordability Rate, we recommend that the Staff and the Commission address several additional issues in this proceeding:

Affordability is not merely an issue with rates and bill amounts, but it is closely tied to other indicia of regulated utility service. We are particularly concerned with respect to the data that AARP documented in its “Quiet Blackout” Report on terminations.¹³ Based on that analysis, some utilities follow vastly different policies concerning when terminations take place and there is an apparent difference in the volume and timing of residential terminations that needs attention and explanation. We urge the Staff and the Commission to address this issue in this proceeding. To the extent possible, such termination policies must be adjusted to adhere to a statewide best practice, and to maximum compliance with applicable law, policy and/or regulation.

III. RESPONSE TO THE STAFF QUESTIONS

1. Overall Policy

a. How do we achieve the goal of affordability most effectively, and at minimum cost?

RESPONSE: As indicated in our Introduction, we recommend that the Commission undertake a

¹² Alternatively, an outside date should be set for filing of affordable rate design proposals, no later than July 1, 2015.
serious review of its policies governing electric and natural gas service for New York customers that goes beyond affordability for lower income households. Rather, this issue permeates all aspects of the Commission’s activities and has particular importance in light of the potential new mandates and programs being considered in the REV proceeding and that have apparently been adopted in the Commission’s Track 1 REV Order issued February 26, 2015.  

To the extent that the Commission seeks to reform and enhance the programs targeted to lower income households, AARP and the Utility Project recommend an Affordability Rate that is targeted to households who would qualify for Telephone Lifeline service or who have annual income at or up to 200% of federal poverty level. This Affordability Rate should provide a percentage reduction on all aspects of the customer’s bill on a monthly basis. Utilities should be required in their next rate filings to propose an affordability rate that should reflect a reduction in the total bill, identify the eligibility criteria under which such a rate would be awarded, include rate design and revenue allocation changes to implement it, and identify bill impacts of the changes.

Our preliminary recommendation is to consider a discount of 30%-35%. The type of program eligibility criteria we advocate is used in the telephone lifeline program and in several existing low income rate programs of the utilities. It is also the most straightforward to explain when educating the public about the program and how to apply for entry.

b. What is the level of affordability that should be achieved? How should the appropriate “energy burden” (i.e., the percentage of a customer's income that is spent on energy) or level of affordability be determined?

RESPONSE: Since there is no public data associated with this particular proceeding or included in the Commission or Staff documents to date about the current “energy burden” or the impact of the current programs on this “burden,” it is difficult to make a recommendation in this regard, but as noted above we believe a 30-35% reduction is just and reasonable. Our recommendations also reflect the concerns raised in the Draft State Energy Plan about affordability of essential electric and gas service for low income customers and the discussion of the various robust discount and other affordability programs included in that Report.

c. What is the appropriate level of funding? How much assistance should be provided by ratepayers, in light of taxpayer and privately funded assistance?

RESPONSE: Affordable service is a policy goal that, like other Commission initiatives, can and should be implemented without undue burden on other customers and customer classes. It is not possible at this time to provide a specific response to this question citing dollar amounts however, due to the lack of data from the utilities that might make such a projection possible by consumer advocates. To be able to do so, data about the type of assistance that is under consideration and the pool of eligible customers must be identified and evaluated to consider the revenue responsibility shifts and the bill impacts of various program proposals. Such data is not currently

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available but should be developed and considered in the context of the Staff’s development of its report to the Commission.

We note that other states have strong reduced rate programs reaching a large percentage of eligible customers, with revenue forgone from the reduced rate customers reallocated to all other customers and customer classes. We specifically take note of Massachusetts, New Jersey, California, Arizona, Nevada, Washington, and other states. All of these states have strong low income rate programs whose revenue implications are reflected in customer rates, compared to the disparate and relatively small programs that currently exist in New York. We reiterate therefore that utilities should be required to file proposals in their 2015 and subsequent rate proceedings for implementation of the policies established in this case, identifying reasonable rate design and revenue reallocation options, efficient outreach and enrollment systems, and identifying bill impacts on other customers and customer classes.\(^\text{15}\)

Furthermore, as set forth in our comments in the CEF proceeding, there is the potential for the use of revenue from current surcharges that is not otherwise committed but is already collected from all customers that should be considered as a potential resource for resolution of new bill impact concerns. We urge the Staff to specifically address this issue in its Report to the Commission.

d. How can benefits be maximized and costs minimized?

i. What approaches maximize the benefits to participating customers?

RESPONSE: The concept of “maximizing benefits to participating customers” is a function of not only program design but the costs of implementation and the degree of difficulty or interest in the implementation of these programs by state agencies not under the jurisdiction of the Commission. The two basic designs of robust affordability programs in other states reflect the Percentage of Income Plan (PIPP) and the Percentage Rate Discount. While our comments do not recommend a PIPP approach at this time, we acknowledge that it is an acceptable program design model and has beneficial features, including the individualized calculation of a customer benefit based on the customer’s household income and actual energy bills. However, we do not recommend this program design in our Comments because of the existence of the current discount programs in effect in New York and the significant and resource-intensive coordination that would be required with other state and local government assistance agencies to design a computerized system to exchange data with the utilities and calculate an individualized payment requirement.

As stated in our CEF comments, we support a percentage rate reduction based on the total bill or each component of the total bill. Under this approach, the reduction can be uniformly applied at a standard percentage (e.g., Massachusetts and California).

The rate reduction approach is easier to implement, lessens the administrative costs and privacy concerns of developing the necessary exchange of data under programs driven by individual income analyses of eligible consumers, and can be applied on a monthly basis based on the customer’s actual bill by the utility with a computerized billing system that is programmed with the ordered percentage rate reduction. This would be implemented similar to other tariffed

\(^{15}\) For those utilities with rate proceedings that have completed before this Affordability proceeding, we advocate the filing of such proposals in their next rate proceeding.
rates that are designed and applied to the customer’s bill on a monthly basis. Under this approach, all qualified participants would receive the same percentage of bill payment assistance. AARP and the Utility Project therefore recommend that a rate reduction system be required in New York. Our recommendation is also a reflection of the need to reform the existing New York reduced rate programs on a statewide basis and implement a more robust program in a relatively near term period.

ii. Can waste and administrative costs be further reduced?

RESPONSE: AARP and the Utility Project would characterize “waste” as costs that are expended for administrative oversight and implementation that could be avoided with a simpler approach to the calculation and delivery of the bill payment assistance. Furthermore, if properly designed, the assistance program should make the resulting bill more affordable and, thus, result in more frequent and fuller payments by participating customers. It is not necessary to create a new or different bill collection system. In addition, we note that the need to reduce the percentage of income dedicated to energy bills was referenced in the Draft State Energy Plan.  

e. How specifically can utility programs be better coordinated with the Home Energy Assistance Program (HEAP), fuel funds, and/or other forms of assistance?

RESPONSE: In particular, we object to eligibility criteria that focus on past payment of the utility bill or indication of “crisis” in utility bill payments. Criteria such as these are not indicative of energy burden, household income, or the choices that many consumers face in their allocation of household income for food, medicine, shelter, etc. Regardless of the level of rate reduction, there will be a continued need for crisis assistance to forestall or remedy service terminations. This is because many household budgets are fragile, many household are in debt, or lack significant savings to withstand unplanned new costs, price spikes, or interruption of income. Once the utility enrolls the customer in the affordability program, the utilities will still need to educate customers on current programs that may provide financial assistance in paying utility bills in an emergency basis.

f. Are there barriers to non-utility entities offering assistance programs which are not funded by ratepayers, and if so, how can they be removed?

RESPONSE: It is not clear which “non-utility entities” are referred to in this question. If this question is referring to third party suppliers or ESCOs, we are not aware of any retail competition state that relies on third party suppliers to create and deliver bill payment assistance programs to residential customers. Obviously, third party suppliers can do so, but this would not

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17 The possible exception to this trend occurred in Texas where the Legislature ordered a bill reduction be given to low income electric customers. Third party suppliers were required to provide this reduction since they are the only entities that bill and collect for electric service in Texas, but the benefits were recovered from all ratepayers through the distribution side of the bill. This program was routinely “raided” by the
be in their financial interest since they have no way to reflect these benefits on their balance sheets. ESCO prices are not regulated by the State of New York and cannot be compelled or relied upon to provide affordability programs. We generally support third party programs designed to reduce utility bills through energy efficiency and conservation measures and urge that a fair share of repurposed CEF funds be reserved to address low-income customer needs.

2. General Program Design Issues
   a. Should a uniform statewide program be created? If not, to what extent should diversity among utilities in the design of affordability programs be allowed?

RESPONSE: We have reviewed the current New York electric and gas low income payment and arrears management programs, and offer the following comments about program design. Based on our review and our understanding of programs in other states, New York should adopt a uniform statewide Affordability Rate as the minimum requirement for all gas and electric programs. The current programs are operated with different eligibility criteria, different program designs, and several of them are overly focused to arrears management and budget bill features, rather than being responsive to the ongoing bill payment needs of the most needy customers. Our concerns reflect the following aspects of the current programs:

Most of these programs, with some exceptions for natural gas customers, do not include a discount or bill payment assistance on the total bill. Rather, there is an emphasis on modest fixed credits in the range of $5 to $15 per month. This means that eligible customers are not obtaining bill payment assistance based on the actual total electric (or in some cases, the natural gas) bill on a monthly basis. AARP and the Utility Project agree that a suite of acceptable low income programs might address arrears reduction and arrears forgiveness. Here, however, our focus is on reform and reduction in the ongoing current bills that are not affordable, and which build up new arrears. Over time, other things being equal, we believe the amount of arrears should moderate. However, there are aspects to some of these current programs that appear overly complicated and eliminate many needy customers from any assistance at all because the programs' primary focus appears to be a relatively narrow attention to arrears and required monthly payments.

As a primary matter, AARP and the Utility Project support reasonable bill payment assistance in the form of reduced charges or rate reductions on the entire bill. Arrears reduction and forgiveness programs should be a secondary aspect of the overall program and should not disqualify customers from regular bill payment assistance. For example, we do not recommend that the National Grid (f/k/a Niagara Mohawk) program be the focus of any “best practice” or statewide implementation. Under this program, customers are only eligible for the Affordability Program if they have a “documented inability to pay” that is interpreted to mean that the customer has not defaulted in a prior payment plan, has an arrears of not less than $100 or more than $2,000, made some attempt at regular payment in the past year, or they have failed to comply with this program in the recent past. The program enrolls customers in a 24-month payment program and requires that the customer pay 95% of their electric bill and 92.5% of a combined gas/electric bill in full and on time every month to get the arrears forgiven. As a result, out of 81,842 HEAP customers served by the Legislature for other state budgetary needs and the program was eliminated over a year ago. AARP would not recommend such an approach be adopted in New York.

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utility, only 4,830 are deemed eligible for low income assistance under this program design. Even more of a concern, is that less than half of those who actually enroll in the program complete it as required. Furthermore, there is no basis for the assumption that requiring payment of 92% to 95% of the annual electric/gas bill is affordable or reasonable for the household income of these eligible customers. Instead, it is more likely to trigger another payment crisis.

In contrast, we endorse the approach used by Con Edison gas\(^{18}\) and KeySpan to establish categorical eligibility for a wide range of assistance programs that require a demonstration of household income: HEAP, Medicaid, TANF, Public Assistance, SSI, Food Stamps, Veteran’s and Surviving Spouses Disability Pension, Child Health Plus, and local housing vouchers paid by the county/city government. Also, as we have previously indicated the programs should follow the Commission– approved eligibility standards for the telephone lifeline program, with a catch-all category for households with incomes up to 200% of the poverty line. With regard to qualification based on income alone, we recommend that the utilities contract with local social assistance or community action agencies to determine qualification under this feature of our recommended program. These administration costs should be relatively minor since intake and qualification based on household income is a standard practice at these agencies. AARP and the Utility Project endorse what appears to be a common feature of the current programs with regard to the forgiveness of reconnection fees for participating customers, but note that this feature is a very low cost component of the overall programs. Also, there is a policy question whether a utility should receive reconnection fees after it has shut off and reconnected any low income customer when, for example, the cost of disconnection and reconnection might have been avoided at less cost and less risk to public health and welfare with assisted referral of the customer for assistance to forestall termination.

A review of the annual reports on the current electric and natural gas low income programs do not provide any information on how participating customers are served by any of the no-cost efficiency and weatherization programs implemented by NYSERDA or any other entity. As a result, there is little public information readily available about the impact of those programs (which should, if they are properly implemented and targeted, provide cost effective efficiency measures for high-use low-income customers) on the affordability of electric or gas service, on the customers enrolled in these programs, or their impact on lowering the costs of bill payment assistance. This lack of data about how customers participating in these programs are served by no cost weatherization and efficiency programs is a significant defect that should be remedied by Staff as it prepares its report in this proceeding.

b. What additional benefits and costs are introduced by implementing a portfolio of assistance programs to address a range of customer-specific needs, as opposed to a single program?

RESPONSE: While we strongly recommend that a statewide Affordability Rate be the primary focus of this proceeding, there is no reason to oppose or prevent additional programs in addition to the primary statewide feature that we have described in these Comments. Also, as previously mentioned, the Commission and utilities should explore whether improvements in the current taxpayer funded crisis assistance programs are feasible. If the Commission takes bold action to

\(^{18}\) Con Edison’s electric rate reduction program should be expanded to include Medicaid recipients as eligible, which would make it comparable to the utility’s gas program.
make rates more affordable, the need for and amount of crisis assistance needed by customers may be reduced, and a better balance between affordable rate designs and the role of publicly funded crisis aid to alleviate household emergencies may be possible.

c. What is the appropriate level of benefit per participant?

RESPONSE: Again, a useful response to this question would require an analysis of the costs and bill impacts associated with a range of bill discounts or any other program design. The Draft State Energy Plan specifically identified the affordability of essential energy services for New York consumers and specifically referenced the existence of several state robust affordability programs, including the current California and Massachusetts discount programs. We recommend that, consistent with the concerns identified in the Draft State Energy Plan, utilities file plans for new rate designs and implementation of an affordability program reflected in our comments, identifying revenue reallocation and rate design options, bill impacts, and potential means for mitigating impacts. Under this approach, the plans filed will be open to further comment and Commission modification, and may be better than more prescriptive requirements at this time.

d. Should a basic level of assistance be provided to all eligible households (i.e., broad-based approaches), or should more assistance be directed to those most in need (i.e., targeted approaches)?

RESPONSE: Our previous comments have addressed this issue. While a more targeted approach can take into account the individual household income and energy burden, the means to develop and implement such a program would require participation by other state social assistance agencies and a substantial level of resource commitment by those agencies to ensure that the proper data exchange with the utilities is developed and implemented. We recommend an Affordability Rate program approach, as suggested in the Draft State Energy Plan.

e. If funds are targeted, is it more important to direct funds to households with the lowest incomes, the highest bills, the largest arrears, or those at greatest risk of termination?

RESPONSE: The targeting of utility bill payment assistance is unlikely to be possible. In a general sense, however, customers are pre-targeted when they seek help and receive benefits in the variety of eligibility conferring benefit programs.

19 We have recommended in the CEF cases that repurposing existing surcharges is one way to backfill the revenue shortfall from enhanced rate reductions. There may be other ways to reduce impacts. For example, the amounts needed to be reallocated might be affected by rate design reforms such as inclining block delivery rates, or by use of refunds or other one-time funds to mitigate short term bill impacts and avoid bill shock when implementing the more robust reduced rates.

20 This is the method the Commission used when it implemented its 1996 deregulatory “Vision” in the competitive opportunities case.
f. What are the least-cost approaches to administering targeted programs?

RESPONSE: The least cost approach is to reduce rates through the implementation of a percentage rate reduction for qualified customers and to encourage the use of computer matching to verify eligibility. Manual enrollments through individual applications and application handling should be minimized to the extent possible.

3. Program Type

   a. Comments are solicited on the advantages and disadvantages of each of the following approaches:
      i. Fixed Discount
      ii. Percentage Discount
      iii. Volumetric Discount, including whether volumetric discounts should be capped; and if so, at what level (e.g., providing a discounted block reflecting average usage for low income households, with subsequent usage blocks at full rate)
      iv. Percentage of Income Payment Plan (PIPP)
      v. Arrears Forgiveness
      vi. Reconnection Fee Waiver
      vii. Other program types (please specify)

RESPONSE: We reiterate our responses set forth above. We also recommend a percentage of total bill discount because it is a reflection of the customer’s actual electric and gas bill. Arrears management or forgiveness programs should be viewed as an adjunct to the rate discount and not operated to be the main feature of an affordability program. All future programs should continue the current practice of a reconnection fee waiver.

   b. What is the appropriate balance between funding for rate discounts, arrears forgiveness, reconnection fee waivers, and/or other types of assistance?

RESPONSE: We recommend that the primary focus be on the creation of a percentage of total bill rate reduction called an Affordability Rate. Weatherization and efficiency programs should additionally be promoted, particularly for those eligible for the reduced rate who have above average usage. Utilities should be required to provide referrals to those implementing low income or no cost weatherization and efficiency programs for low income customers based on highest usage and highest bill discounts. Assuming that there is sufficient funding to address these customers, the resulting delivery of efficiency and weatherization programs will, in turn, reduce the costs of the Affordability Rate. The Commission should require more coordination of the two

21 Keyspan calls its low income rate a “Reduced Residential Rate”, a suitably descriptive name which need not be changed.
4. Determining Eligibility/Enrollment

   a. How can eligibility for utility affordability programs best be determined?
      i. Who should determine eligibility?
      ii. Should eligibility consider other financial assets, in addition to income?
      iii. Should current eligibility criteria be expanded to encompass more households?
      iv. What improvements should be made to eligibility criteria?

   RESPONSE: We recommend that utilities use the eligibility criteria used in the Telephone Lifeline program, including a household income of up to 200% of federal poverty guidelines. We anticipate the vast majority of enrollees would receive the reduced rate by virtue of their receipt of benefits, eligibility for which is verified by other agencies. It would be burdensome and expensive for the State’s disparate utilities to create and implement individual or different eligibility criteria. We recommend that the Commission require the utilities to rely primarily upon the eligibility criteria used by current means-tested financial assistance programs. It is our assumption that using a standardized set of eligibility criteria would be more cost effective and less expensive to implement by the social assistance agencies as well as the utilities. We note here, in addition, that if our recommendation is implemented statewide, it is our assumption that this would significantly increase the number of customers eligible for the Affordability Rate for some of New York’s gas and electric utilities. Our recommendation also includes the option for a customer not otherwise participating in these programs to apply based on 200% of federal poverty guidelines in a manner set forth in each utility’s plan to implement this program. We also assume that this option can be implemented by contracting with a local social assistance or community action agency to perform this function at relatively low cost since this type of determination of income eligibility is at the core of the current mission of these agencies.

   b. If enrollment is not automatic, how can the number of eligible households enrolled be maximized? Can better ways be found to reach more of the eligible population, and if so, what are they?

   RESPONSE: We recommend that enrollment be automatic to the extent possible. Coordination with other agencies administering need-based qualifying programs to include any necessary consents in their application systems to permit sharing of eligibility data with utilities will expedite enrollment. Utilities should be required to adopt a tariff requirement that information regarding qualification for reduced rates shall be used only for the purpose of administering the reduced rate, absent specific permission from the commission for any other uses. Prior to the implementation of more efficient computerized systems to provide proof of eligibility from the agency to the utility, we recommend the approach used by the Telephone Lifeline Program in

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22 For example, low income ESCO customers may be protected from paying more for ESCO service than if they had not switched. Information that the customer is eligible for reduced rates could legitimately be used for that purpose.
which the customer provides proof of participating in the underlying program directly to the utility using a variety of such proofs as described in the application.

c. How can it be ensured that benefits are only paid to customers who are eligible?

RESPONSE: If the customer meets the required eligibility criteria, they are “eligible” for the benefits of the Affordability Rate. If this question is aimed at how customers can be verified for renewal every year, AARP and the Utility Project suggest that the utilities conduct a computerized match with the assistance agencies on an annual basis and/or conduct a required verification with participation customers based on their current income and enrollment in underlying programs. Customers should be notified of the reason for their termination from the program and how the customers can reapply with one or more of the assistance agencies or seek an individualized determination of household income to remain in the program.

5. Program Evaluation

a. What are the criteria the Commission should use to evaluate the effectiveness of different approaches? Some potential criteria for consideration include the following:
   i. Participation rates among eligible households
   ii. Level of administrative costs/percentage of program budget disbursed as participant benefits
   iii. Average dollar benefit per recipient
   iv. Average reduction in participant energy burden and/or bill amount
   v. Reductions in utility arrears and/or bad debt
   vi. Reductions in termination rates among eligible households
   vii. Percentage of participants who are current on their bills (i.e., not in arrears)
   viii. Rate/bill impacts on non-participating customers
   ix. Other criteria (please specify)

RESPONSE: The Commission should require utilities to gather and report this type of data and make use of it to determine whether program reforms may be required or whether utilities are implementing the required program in a cost effective and efficient manner. Much of the information is now collected on a total customer basis in monthly collection activity reports. Basically, there could be a similar report regarding the subset of customers receiving the reduced rates.

b. How should utility benefits (e.g., reduced arrears, collection costs, write-offs, etc.) be weighed relative to participant benefits (e.g., maintaining service/reductions in terminations, increased affordability, and reduced energy burden)?
Utilities should reflect the actual impact of these programs in their base rate cases and provide data that compares the collection costs associated with participants and non-participants in the mandated affordability programs. When “weighing” utility benefits relative to participant benefits, the Commission should recognize that “utility” benefits are those that should inure to all customers in the form of lower costs for arrears and uncollectible expense.

6. Please comment on any other relevant matters that are not specifically addressed above.

RESPONSE: We seek to raise another issue for the Staff’s consideration in this proceeding that have not otherwise been identified or discussed.

AARP’s and the Utility Project’s analysis of terminations for New York’s residential customers indicates that utilities take a significantly varied approach to the timing of terminations and the volume of relying on this method of bill collection for all residential customers. It is likely that a high percentage of these terminations are directed to households with low or modest incomes. AARP and the Utility Project suggest that the Staff examine termination policies and related practices and investigate why these disparities occur and whether a statewide program that regulates termination practices – and potentially forbids them – during extremely cold winter months and during periods of extreme heat should be adopted.

IV. CONCLUSION

As AARP and Utility Project noted at length above, there are 4 important reforms that must be achieved through this proceeding.

First, the Commission must establish and mandate an Affordability Rate that is meaningful and robust in the range of 30%-35%.

Second, this Affordability Rate must be mandated statewide.

Third, the eligibility criteria for such an Affordability Rate should be identical to the “Lifeline” rate criteria used by telephone utilities, and should include households/individual residential customers up to 200% of the poverty line.

Fourth, utilities should be ordered to file an Affordability Rate in their rate proceedings and adjust their revenue assumptions around the existence of such a rate. These filings should include a just and reasonable design to recover the incremental costs of the new programs. In this regard, we reiterate our recommendation that unspent CEF funds be considered for funding for our Affordability programs.
Dated: March 4, 2015 Respectfully submitted,

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