

Hon. Kathleen H. Burgess,
Secretary
Three Empire Plaza
Albany, New York 12223-1350

August 24, 2015

Re: Case # 14-M-0565 Proceeding on Motion of the Commission to Examine Programs to
Address Energy Affordability for Low Income Utility Customers

Dear Secretary Burgess:

Please see the attached comments of 34 organizations and elected officials in the above referenced proceeding on the energy insecurity crisis in New York. We look forward to future opportunities to engage with the Public Service Commission and Department of Public Service staff on this important proceeding.

Respectfully submitted,

Jessica Azulay
Program Director
Alliance for a Green Economy

(On behalf of the organizations listed at the end of this document.)

We the undersigned 34 organizations and elected officials submit these comments out of concern that New York's low-income households are suffering under unjust and unreasonable utility rates. We call on the Public Service Commission to address the magnitude of the problem by establishing an ambitious and adequate program to immediately meet the needs of low-income New Yorkers for essential energy services.

We were pleased that the Public Service Commission launched this proceeding in January of 2015 to deal with the skyrocketing number of utility service terminations, 277,000 households as of November 2014, as well as the large amount of arrears, \$756 million, owed by customers. The Commission noted that "energy services are essential to the safety and well-being of all residents of the state, it is the State's and the Commission's policy that the continued provision of gas, electric and steam service to residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest."¹

It is clear that current assistance programs, including the Home Energy Assistance Program (HEAP) and utility-run low-income discount programs are entirely inadequate to stem the rising number of shutoffs and arrears in New York. The Commission and the utilities it regulates have a responsibility to ensure reliable service at just and reasonable rates. **When utility service is shut off because people cannot afford their bills this mandate is not being met. For many New Yorkers, utility service is neither reliable, nor are the rates just and reasonable.**

While we applaud the Commission for initiating this proceeding, we were bitterly disappointed in the proposal by Department of Public Service Staff ("Staff Report"). We had hoped to see a response that addresses the magnitude of the crisis and the needs of low income families based on the Order directing this affordability proceeding.

Fully one-quarter of the state's population is in the low income category.² The low income population includes 4,936,500 individuals according to the most recent census data. The recession and very slow economic recovery have made living conditions even more difficult for those at the bottom of the economic ladder. Exacerbating this situation are the severe budget cuts in federal programs for low income households. As a consequence, the principal program relied on to provide energy assistance, HEAP, is only helping 1.3 million households, and far fewer, only 316,443 households, receive additional assistance from utilities. Only 12% of utility customers receive utility low income benefits, but the percentage is variable from a high of 22% for Con Ed customers to a low of 4-7% for customers of Central Hudson, Orange & Rockland and NYSEG.³

The Staff Report recommends that in all parts of the state, other than New York City⁴, low-income utility discount programs should only be open to people who receive a utility HEAP discount. There are severe limitations of the HEAP program for low-income households, including short windows for applying, lack of adequate funding for everyone who applies, and

¹ Public Service Law, §30, Home Energy Fair Practices Act (HEFPA).

² Final NY State Energy Plan, 2015, p. 15.

³ Utility Intervention Unit, NY Dept. of State, Responses to Questions, PSC Case 14-M-0565, Mar. 4, 2015, p.3

⁴ DPS Staff are recommending that Con Ed continue its existing program in NYC and Westchester.

qualifying criteria. Staff's proposal will lock out the 50-70% of low-income New Yorkers who are eligible for HEAP, but do not actually receive it.⁵ Even the majority of those who obtain HEAP will not necessarily receive utility assistance because the Staff proposal will only apply to the 25% of HEAP recipients whose HEAP payments go directly to the utility companies.

Staff recommends only a small increase in spending by utilities from \$136 million to \$179 million annually statewide for low income households. Proposed spending amounts to less than a penny out of a dollar of utility revenues (0.67%). Given utility revenues in the billions of dollars, we believe New York must do far better than this.

This proceeding provides the opportunity for the Commission to improve people's lives and the economies of our low-income neighborhoods by declaring that people will no longer have to forego other basic necessities in order to keep the lights on, their refrigerators running, and their homes at a livable temperature. The Commission should consider best practices in other states, including the level of funding other states allocate to their low income utility assistance programs, as well as the recommendations of the advocates' organizations in this proceeding.

Above all, the eligibility and benefit levels must be expanded to meet the immense need of the low-income population. It is the Commission's responsibility in this proceeding to order the creation of appropriate administrative systems for qualifying and enrolling low income residents in the program and for identifying sources of revenue and financing mechanisms to accomplish this goal. Where the development of administrative systems would require the cooperation of other state agencies and the utilities, the Commission can and must advocate for this cooperation.

Below are our recommendations for accomplishing this urgent task:

- The Commission must create a comprehensive low-income discount program open to all low-income households, not just those who are lucky enough to somehow obtain a utility HEAP benefit.⁶ Advocates' recommendation for automatic enrollment using Lifeline criteria should be adopted.⁷
- New York will need a statewide implementing agency as other states have. New York's Office of Temporary and Disability Assistance (OTDA) needs more resources to provide information and file matching for utilities about eligible households. We must ensure that OTDA has the resources it needs for this program.
- The utilities must provide meaningful discounts in the form of real rate reductions of approximately 40% for low-income households. There are various ways to accomplish

⁵ The UIU was told by OTDA that only 30% of New Yorkers who are eligible for HEAP actually receive it. DPS staff cite the figure is 50%.

⁶ Since Congress cut the HEAP budget by 60%, administrators accept applicants only until they run out of money. Enrollment periods are narrow, occurring just a few months out of the year.

⁷ Lifeline criteria enable automatic enrollments if you are eligible under other benefit programs: Medicaid, SNAP (Supplemental Nutrition Assistance Program), TANF (Temporary Assistance to Needy Families), SSI (Supplemental Security Income), Section 8 Federal Public Housing Assistance, LIHEAP (Low Income Home Energy Assistance Program), National School Free Lunch Program. Customers not receiving these benefits, but below 135% of the poverty guidelines are also eligible.

this, including provision of an affordable block of energy as part of the monthly service charge, creating an across the board discount of 40%, or designing a program that calculates individual households' energy burden and reduces it to 6% of income. Meaningful change must move away from regressive rate design. The current staff proposal is inadequate compared to actual energy costs for heating and electricity.

- The program must have a significant increase in funding for utility assistance. We call for a program that provides at least \$600 million in assistance. Other states are spending 3-4 times what we are currently spending per individual customer to ensure affordable service. A more rational and equitable formula for contributions to the low income program must be devised than charging all customers a fixed annual surcharge of \$20 on their electricity bills and \$35 on their gas bills for the proposed low income program. (The current program is half these amounts.) At the Technical Conference in late July staff failed to offer an explanation for how these contribution levels were even established in the first place.⁸ Walmart and Chase Manhattan Bank should not pay the same surcharge as a residential customer. This arbitrary formula could not be more regressive. The Commission should look at utility profits as a possible source for additional revenues, where utilities are failing to provide reasonable and affordable rates to all of their customers. It is the epitome of injustice for utility shareholders to profit while their low-income customers' safety, health, and economic security are jeopardized.
- Energy conservation, efficiency, and weatherization services should be part of all low income programs. In general, state and utility programs have funded low hanging opportunities for efficiency at industrial and commercial entities, while low income households have not received proportional benefits, even though they have paid more than their fair share for these statewide programs. Popular education around energy conservation and investments in energy efficiency retrofits are cost effective ways to address the root causes of this crisis for many households and are proven ways to reduce future bill amounts and arrearages. To the extent that pre-existing deferred maintenance issues are a barrier to energy efficiency retrofits, comprehensive funding must be made available to remedy those issues as well.
- The Commission should consider a program like "CleanCARE" being developed by IREC for California.⁹ This proposal would allow low-income discount recipients to redirect their discounts into shared renewable energy projects, giving low-income people a choice in where their electricity comes from and reducing their utility costs. Such a program will also leverage ratepayer dollars to meet multiple policy goals at the same time.
- Better data collection is needed for low income communities to understand the barriers to obtaining energy assistance, including for emergencies, the reasons for terminations in service, and how low income residents with unique medical

⁸ In response to a question from National Fuel Gas.

⁹ Interstate Renewable Energy Council, Inc. (IREC) Proposal March 16, 2015, "CleanCARE—Investing in Communities." <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M148/K824/148824274.PDF>

needs are identified and protected. We support the staff's proposal to monitor termination rates among low income customers.

- Utilities must be monitored for racial discrimination and other abuses. The PSC should also collect information needed to document and monitor patterns of racial discrimination in who is being shut off. Some organizations in the Energy Democracy Alliance have seen communities of color disproportionately impacted by terminations. The crisis of affordability that has necessitated this proceeding must also be understood as a product of racism, which will require concrete and targeted interventions, informed by relevant data. We recommend that utility shutoffs be reported and analyzed by census block.
- The Commission should use its regulatory authority to prevent shutoffs during the cold period of November through April. This is a critical matter of safety, health and wellbeing that cannot go unaddressed. Staff acknowledged that terminations may be used too aggressively with low income customers. More information and evaluations are needed associated with terminations during the cold period of the year. It is appropriate as part of this proceeding for the Commission to consider the relationship to HEFPA, the Home Energy Fair Practices Act. Procedures taken by utilities to avoid terminations in the cold period should be scrutinized and best practices developed. A full record should be developed to inform PSC reviews in regular rate cases as well as to identify if there is a need for any amendments to the Home Energy Fair Practices Act, such as a moratorium on shutoffs.
- Customers need protection from utility shutoffs and help with understanding their rights and their options when confronted with threats of service termination. Utility companies should be required to go through a mediation process with customers before terminating service, and customers should have access to independent advocates who speak their language and can help them access assistance.
- Low-income people also need better representation and influence over utility rates, utility programs, and in PSC proceedings. In the development of the Staff Report, low-income individuals or community groups whose work is embedded in low-income neighborhoods were not systematically consulted. In fact, we see no evidence that any low-income people were consulted at all. This is unacceptable and calls into question the very legitimacy of this proceeding and the recommendations put forth in the Staff Report. Low-income people, and the membership organizations they work through, are *the* experts on how the current programs are failing their communities. They are also in a unique and critical position to assist in the development of workable solutions and an end to utility abuses. The Commission must approve intervenor funds for community groups to be able to participate in rate cases and policy proceedings. This will likely help bring down overall energy costs as well as provide an avenue for the needs and voices of low-income people to be heard at the PSC.

- An Energy Affordability Intergovernmental Agency Task Force was recommended by the Utility Intervention Unit, to facilitate regular sharing of information about program design, implementation and effectiveness among government providers of services and benefits. The Task Force could achieve greater coordination of programs, lower costs and increased effectiveness. We believe that this Task Force could more fully analyze the problems faced by low income consumers in a long term effort and arrive at more comprehensive solutions than is possible through a brief PSC proceeding. Staff indicated that the PSC does not have authority to order other agencies to do something, but we believe the PSC can certainly recommend the creation of this Task Force. Many state agencies have key responsibilities related to low income households and would want to participate in a coordinated effort. NYSERDA, for instance, has placed a heavy emphasis on inter-agency and multi-stakeholder collaboration in its Clean Energy Fund proposal.

Low income New Yorkers deserve more from this proceeding, and all New Yorkers do better when we make sure that everyone has a livable income and basic energy service. While such indirect benefits for all New Yorkers have not been calculated, we know from other economic studies that this is true.

We are all calling for major reform of low income utility assistance programs so that all consumers have affordable energy.

Thank you for attention.

Respectfully submitted,

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