STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service.	Case 19-E-0378
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service.	Case 19-G-0379
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation.	Case 19-E-0380
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Gas Service.	Case 19-G-0381

AARP NEW YORK
POST-HEARING BRIEF

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I. INTRODUCTION

DPS Staff and the Companies' oral responses to hearing questions and written responses to information requests confirm and reinforce the descriptions of the flaws inherent in the Electric Joint Proposal (JP) contained in the pre-hearing submissions of AARP, PULP, Indicated Environmental Parties and UIU.[1] The evidentiary hearing revealed a lack of due diligence on the part of the two key supporters of the Electric JP as to why they included certain provisions in the settlement document. The absence of due diligence regarding the HEAP denial letter and the Senior Customer Study raise doubts about the claimed merits of other Electric JP provisions. Despite prompting by PULP (Tr. 67-70), DPS Staff and the Companies' apparent lack of awareness about allegations of misdirection and coercion of ratepayers who receive termination letters, which appears in the "Filed Documents" section of the RG&E gas and electric proceedings dated June 30, 2020,[2] undermines the validity of assurances that DPS Staff and the Companies read all submissions filed in the four proceedings. Tr. 239-54.[3]

These flaws are in addition to the proposed double-digit delivery rate hikes that were not acceptable even prior to the collapse of the New York economy in March. According to a filing made by NYSEG/RG&E, NYSERDA and other utilities in July 2020, 3.5 million of the State's households qualified as low-income or moderate-income prior to the financial and economic impacts of the pandemic.[4] NYSEG/RG&E and the other authors noted, "The number of households qualifying as LMI in New York is generally expected to increase as a result of higher unemployment and reduced economic activity caused by the pandemic."[5]

Double-digit delivery rate percentage increases far exceed historic rates of the Consumer Price Index and other measures of cost of living growth as well as the past decade's average annual rate of increase in household income in the Companies' service areas. Since 2014, the U.S. Census Bureau has included in its *American Community Survey* (ACS) a comprehensive measure of severe "Housing Cost

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[1] Transcript references are identified by page (Tr.) and line (l.) citations. IR responses are generally identified by exhibit number, IR number and page number of the master information request document, "Various IR Responses for Reference at Evidentiary Hearing." Topics are addressed in the order they appear in the settlement document.
[2] http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={AC60D275-8410-418A-8C9B-7E981C48151B}; http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BE731E60-EF74-4486-9903-D438C5A85655}. AARP also finds it disconcerting that the Companies do not know whether, without prompting, its customer service staff advise customers who contact them about termination letters that they will not be disconnected. Tr. 67, lines 10-25.
[3] See, also, responses to CC- 5-9 and RCI 3 and 4; Exhibits 300-02, Master IR Exhibit Document, pp. 577-80.
[4] Cases 18-M-0084 and 14-M-0094, Comprehensive Energy Efficiency Initiative, Statewide Low- and Moderate-Income Portfolio Implementation Plan (July 24, 2020), p. 2. "Low-income households are defined as those with annual incomes at or below 60% of the State Median Income; 2.3 million households currently meet this criterion. The moderate-income customer market segment, which currently encompasses about roughly 1.2 million households, is comprised of households with an annual income between 60% and 80% of the State Median Income or the Area Median Income, whichever is greater." http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={51100786-2EFC-49AD-8ED3-8D836FC2A8B9}
[5] *Id*.

Burdens" comprised of both owner and renter households that spend at least fifty percent (50%) of their annual incomes on housing costs, including utilities. The percent of low-income households in the NYSEG/RG&E service areas suffering severe Housing Cost Burdens increased between 2014 and 2017. By 2017, severe Housing Cost Burdens were experienced by 39% of households in the NYSEG service area and 42% of low-income households in the RG&E service area. The biggest economic challenge faced by LMI customers has been that household incomes have not kept up with rising housing costs, which include utilities.

One indication of the growing disparity is the large gap between the compound annual growth rates of the customer-weighted median household income and median gross rent in the NYSEG and RG&E service areas since 2010. The shortfall of income growth versus increasing housing costs has been especially acute for low- and moderate-income customers. Much of the JP's costs are founded on the unstated assumption that the economy of the service territories will rebound beyond pre-pandemic levels by May 1, 2021. Approximately 100,000 NYSEG/RG&E customers cannot afford the Electric JP's bill increases. Exhibit 259, Testimony of William Yates, page 24.

DPS Staff and the Companies' oral responses to hearing questions and written responses to information requests also confirm and reinforce the descriptions of the flaws in the Commission's settlement process and review of settlements discussed by AARP in its Statement in Opposition (Exhibit 270). In particular, constant objections made by DPS Staff and NYSEG/RG&E counsel to the form of citizen advocates' cross questions during the hearing stripped away the façade of equal bargaining power, objectivity and fairness. These objections marred the record by elevating form over substance. From AARP's perspective, it is not acceptable that the economic welfare of hundreds of thousands of people depends upon the experience and resources of citizen advocates who must fill the void left by disengaged professionally- paid and-trained state entities.

II. ACTUAL DELIVERY BILL INCREASES WILL BE HIGHER THAN ANNOUNCED DELIVERY BILL INCREASES.

The Electric JP calls for delivery rate increases (without inclusion of energy efficiency program costs previously recovered through a surcharge) for NYSEG of 4.6% on November 1, 2020, 9.1% on May 1, 2021 and another 9.1% on May 1, 2022. For RG&E, the announced increases are 2.4%, 5.2% and 5.2%. Any reasonable understanding of what constitutes the "public interest" is inconsistent with cumulative increases over a 30-month period of 24% for NYSEG's residential customers and more than 13% for RG&E's residential customers.

Yet actual bill impacts will be higher because of the operation of the Revenue Decoupling Mechanism (RDM) and the Rate Adjustment Mechanism (RAM). AARP opposes New York's continued use of such automatic rate increase mechanisms; the pandemic has exposed how harmful to ratepayers they are. For instance, sales forecasts have not been updated from pre-pandemic levels; forecasted uncollectible expense amounts have not been updated from pre-pandemic levels (Tr. 70, lines. 18-25) nor have expected impacts on the RAM of "maintaining an arrears forgiveness program" (Electric JP, page 10) been accounted for; forecasted amounts for late payment charges, reconnect fees, residential customer deposits and same day turn on fees have not been updated from pre-pandemic levels (Tr. 71, lines 2-7). Note also that collections of these charges have been suspended, not waived. Electric JP, page 7. Bill credits (capped at $16.5 million for NYSEG and $13.5 million for RG&E) "will be recovered over five years beginning in July 2021 with carrying charges…through the RAM…" Electric JP, page 8. Additionally, responses to AARP IRs 70, 71 and 72 indicate that earnings through the Earnings Adjustment Mechanisms and other performance metrics would be recovered from customers.[6] AARP urges the ALJs and the Commission to discuss likely projected bill increases resulting from operation of the RDM and the RAM as well as other recovery mechanisms in future documents including public notices and press releases. More importantly, the Commission should use this as an opportunity to revisit their use.

III. THE ELECTRIC JP'S SO-CALLED COVID-19 PANDEMIC CUSTOMER RELIEF PROVISIONS DEMONSTRATE THE SHORTCOMINGS OF DEVELOPING STATEWIDE POLICY IN A TIME-CONSTRAINED RATE CASE.

Initially, the Electric JP's claim (at 7) that "many of these [pandemic relief] provisions would neither be possible nor available outside of the multi-year settlement context" is simply wrong.[7] In its Order Establishing Proceeding in Case 20-M-0266, the PSC explained:

> To date, the Commission has acted to address COVID-19b related impacts to jurisdictional entities or Commission programs as they emerged on a piecemeal, case-by-case basis. As the State's regions gradually re-open, there will likely be a need to continue to respond in a timely manner on case-specific issues that call for such response. At the same time, the Commission intends to address the ramifications from the ongoing pandemic in a more comprehensive manner as it develops policies that will guide the entities subject to Commission oversight and their customers through the current crisis. [Footnote omitted.] Accordingly, the purpose of this proceeding is to consider in both a timely and comprehensive manner the ramifications of the COVID-19 pandemic on the regulated entities, utility ratepayers and Commission- adopted programs. The Commission has determined that the optimum way to consider these critical issues is through a

[6] Exhibit 275, Master IR Exhibit Document, pp. 462-466 ; Exhibit 281, Master IR Exhibit Document, pp. 577-80.

[7] A simple example of an action that the Companies can seek to implement at any time is providing more flexible deferred payment agreements. Pandemic provision 6, JP, p. 10.

> generic proceeding initiated through this Order and followed by the submission of public comments.[8]

DPS Staff and the Companies knew of the likelihood of the start of this proceeding when they added this claim to the Electric JP. See, for example, the reference to the possibility of "a generic proceeding to address COVID-19 Pandemic related matters" on page 13. Developing hurried responses to the statewide economic impacts of the pandemic in a rate case resulted in poorly thought through provisions.

A. Bill Credit

The Electric JP (at 8) admits that its $100 bill credit provision benefits only "some" of NYSEG's and RG&E's "most vulnerable residential and small commercial customers." Lack of a broad benefit is evident from several perspectives. First, data show that the impacts of decreasing economic activity and increasing unemployment rates as the pandemic took hold did not result in significant increases in the number of customers enrolled in the Companies' low-income programs or on payment agreements. Footnote 11 of the document indicates that as of April 2020, 60,717 NYSEG residential customers and 47,041 RG&E residential customers met the bill credit eligibility requirements. The Companies' response to AARP-61 indicates that the respective numbers for May 2020 are 61,368 and 47,353. For June, the respective numbers are 61,457 and 47,454.[9] Second, the shortcoming of tying low-income program eligibility to HEAP is made more apparent because, as PULP reminded the parties in these instant cases, only about one-third of income-eligible customers of RG&E and of NYSEG receive HEAP benefits.[10] This issue was a topic of discussion in Case 14-M-0465, popularly known as the Affordability Proceeding. DPS Staff and the Companies participated in the proceeding.

The Office of Temporary and Disability Assistance (OTDA) does not receive enough federal money to provide HEAP benefits to all income-eligible New Yorkers. Five years ago, the Utility Intervention Unit stated, "According to the state Office of Temporary and Disability Assistance ("OTDA"), due to a lack of HEAP funding, less than 30% of New Yorkers who are income eligible to receive HEAP awards actually receive such awards. OTDA closes the application process before all of the HEAP funding is encumbered."[11] The Commission alluded to the shortfall in HEAP funding, stating: "Due to federal requirements, OTDA has instituted new performance measures that are intended to ensure that HEAP benefits are targeted to those households with the greatest need."[12]

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[8] Case 20-M-0266, Effects of COVID-19 on Utility Service, Order Establishing Proceeding (issued June 11, 2020), p. 5.

[9] Exhibit 275, Master IR Exhibit Document, p. 449; Tr. 93, line 5 to Tr. 96, line 25.

[10] Exhibit 259, pp. 24-28.

[11] Case 14-M-0565, Affordability Proceeding, Utility Intervention Unit Responses to Questions (filed March 4, 2015), p. 5.

[12] Case 14-M-0565, supra, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016); p. 14.

The Commission recognized that HEAP alone was not adequate to ensure that all New Yorkers are within its Six Percent Energy Burden objective: "Reaching all 2.3 million households below 200% of FPL will involve establishing new enrollment mechanisms. Currently, the most significant initiative in this regard is by Con Edison, which identifies and automatically enrolls customers from several different social services programs."[13] Instead of looking to the Commission's deliberations in the Affordability Proceeding for guidance, DPS Staff and the Companies included in the Electric JP a novel eligibility indicator, one that was never mentioned in the Affordability Proceeding deliberations and one that has not been used by OTDA for at least a decade. Pandemic provision 5 would "expand[ ] self-enrollment in the Companies' Low-Income Program to include any customer who is denied a HEAP grant, but who can provide confirmation via a denial letter that he or she is HEAP eligible." Electric JP, page 10.

B. HEAP Denial Letter

Both DPS Staff and NYSEG/RG&E failed to conduct due diligence before inserting this provision in May, subsequently in response to AARP IRs in July or while preparing for the evidentiary hearing in August. Tr. 78, lines 19-20, Tr. 85, line 6 through Tr. 92, line 25. See, also, response to AARP IRs 62 through 64.[14] The Companies noted the existence of a form letter (Tr. 79, lines 15-22) as support for the belief that pandemic provision 5 is rooted in reality. Neither DPS nor NYSEG/RG&E contacted OTDA to ask whether pandemic provision 5 is rooted in fact. Had they done so they would have learned what OTDA told participants in the Affordability Proceeding; OTDA carefully monitors the number of applications for HEAP grants and amounts of committed funding and closes the application process before funding is exhausted. Accordingly, OTDA does not issue the letter described in pandemic provision 5.

Another aspect of this matter is troubling. Allowing low-income program enrollment using a HEAP denial letter would be a departure from the protocols established in the Affordability Proceeding. This would require the filing of an amended implementation plan for Commission approval. AARP-64 asked DPS Staff why the Electric JP did not include the eligibility requirements discussed in the Affordability Proceeding and endorsed by the Commission for future development. Its response, "Staff's position is that the expansion of eligibility to include proof of other government benefits is best addressed within the generic Low Income Proceeding (14-M-0565, Phase 2) currently underway,"[15] makes no sense given its support for the HEAP denial letter. On the one hand, the Companies' response

[13] *Id.,* p. 15.
[14] Exhibit 275, Master IR Exhibit Document, pp. 450-52; Exhibit 280, Master IR Exhibit Document, pp. 569-71.
[15] Exhibit 280, Master IR Exhibit Document, p. 574.

to the same question, “Manually enrolling customers receiving these non-HEAP benefits would place a significant burden on NYSEG and RG&E as it relates to the enrollment process,”[16] if true, is an admission of the Companies’ knowledge of the inadequacy of pandemic relief provision number 5. On the other hand, the accuracy of this statement is suspect given NYSEG/RG&E’s response of “No, we did not” to the question, “Did the Companies examine the cost of using self-reporting income mechanisms for enrollment in the low-income program?” Tr. 62, lines 19-22. This provision is not consistent with state policy nor does it have a rational basis.

C. Expanded Outreach

The Companies’ commitment to perform additional outreach (pandemic provisions 9 and 10; Electric JP, p. 11) is another example of muddled thinking. In its response to AARP-62(e), the Companies stated: “Messaging to customers will begin upon approval of the Joint Proposal and issuance of the related order by the PSC. The Companies recognize that timing will be critical to ensure that as many customers as possible qualify for bill credits between the Order and the end of Phase 3 on November 30, 2020.”[17] Yet, in response to AARP-63, which asked when the Companies would begin accepting HEAP denial letters as evidence of a customer’s eligibility to participate in a low-income program, the Companies stated it would not even file an amended implementation plan for PSC approval until the Commission approved the Joint Proposal.[18]

Expanded outreach “to notify customers of potential assistance available to help with their utility bill” is listed as pandemic provision 9. The Companies stated in the response to AARP-65 that it will begin these communications “upon Commission approval of the Joint Proposal.” This timing also applies to pandemic provision 10, which involves outreach to “new groups of vulnerable populations.” The Companies explained in the response to AARP-66:

> The Companies intent is to communicate with customers, community and social agencies, and municipal partners to make them aware of programs available as part of this Joint Proposal, with a goal of getting eligible customers to apply for HEAP and/or enter into a deferred payment agreement. In doing so, customers will also become eligible for bill credits if these actions are taken by November 30, 2020.
>
> The Companies intend to perform this outreach with their existing staff. Outreach will begin upon approval of the Joint Proposal and issuance of the related Order by the PSC.[19]

The Companies appeared to walk back at the hearing this leisurely approach to notifying customers of programs available to them to mitigate the impacts of the crisis. It appears the Companies are already

[16] Exhibit 275, Master IR Exhibit Document, p. 454.
[17] *Id.*, p. 451.
[18] *Id.*, p. 452.
[19] *Id.*, p. 456.

notifying customers of programs such as HEAP and DPAs. Tr. 97-101. In any event, expanded outreach could occur at any time and should occur as a responsible response to a crisis. It is not something that requires approval of a multi-year settlement that balances competing interests of normally adverse parties and is the result of the give and take of complex negotiations.

IV. THE ELECTRIC JP IS FLAWED AS REGARDS OTHER CUSTOMER PROVISIONS.

A. Return On Equity

The Staff Finance Panel stated on pages 139-40 of its Direct Testimony (Exhibit 175):

> Utilizing the Companies' response to DPS-010, contained in Exhibit___(SFP-1), and excluding costs that are not collected through base rates, approximately 79 percent of the Companies revenues are subject to either deferrals or true-ups including Revenue Decoupling Mechanisms (RDMs), pension and other post-employment benefits environmental remediation, vegetation management, and variable rate debt. With only 21 percent of the Companies' revenues subject to uncertainty for the Rate Year ending March 31, 2021, there is a **significant reduction in the risk to either a one-year or a multi-year rate plan**. This reduction in risk should be reflected in the Companies' authorized ROE.[20]

The PSC's Generic Finance Methodology, the "Commission's time-tested formulaic approach to the cost of common equity" (Exhibit 175, p. 138), which DPS Staff used in preparing its direct testimony filed in September 2019, yielded a ROE of 8.2%. (See, for instance, page 45 of Exhibit 175.) Yet, the ROE in the JP is 8.8%, fully 60 basis points higher. No JP approved by the Commission includes a risk premium greater than 60 basis points; many are lesser even though DPS Staff did not describe a reduction in risk as in the case here.

AARP-31(d) asked DPS Staff to "reconcile the Staff Finance Panel assertion, that the **significant** reduction in risk **should** be reflected in the authorized ROE for a multiyear rate plan, with the JP's 60-basis-point risk premium. As part of the discussion, identify all specific factors Staff considered in these proceedings in its determination of an appropriate risk premium."[21] DPS Staff failed to answer the question, instead stating the obvious, "The ROE agreed to in the Joint Proposal was the result of a negotiation process, where there were concessions made by several parties."[22] DPS Staff repeated an argument in its Statement In Reply To Opposition (Exhibit 212, p. 11) that utilities frequently use in their rate filings but which DPS Staff always rejects, pointing out the lack of risk of revenue recovery compared to other jurisdictions because of the expansive use of deferrals and true-ups in New York.

[20] Emphasis added.
[21] Exhibit 277, Master IR Exhibit Document, pp. 532-33.
[22] *Id*.

"AARP's argument of a generous ROE is also contradicted by the fact that an 8.8% ROE is significantly below the average ROE of approximately 9.6% authorized for a regulated electric and gas utility in the United States during the past twelve months [footnote omitted.]" Indeed, DPS Staff's Finance Panel rebuts the very claim DPS Staff later relies on. See pages 129-41 of Exhibit 175. DPS Staff has not overcome its original position that a significant absence of risk compared to other utilities must be taken into account in the development of a risk premium in these cases.

B. Reliability (Capital Projects and Vegetation Management)

ALJ-2 asked the Companies to compare the amount of dollars for capital projects proposed by NYSEG/RG&E in the original filing to the JP's amounts. The response indicates that the Electric JP allocates $572 million less for NYSEG's electric reliability-related projects and $131 million less for RG&E's electric reliability-related projects than originally proposed in testimony.[23] This information is interesting but understanding the impacts on reliability of less spending is more important. Also relevant is DPS Staff's testimony that it "does not believe that the relevant Company decisionmakers have the appropriate view of the investments they are approving."[24]

AARP agrees with the PSC's observation in the REV proceeding that the New York regulatory regime encourages utilities to propose projects on which a return is earned. Nevertheless, AARP believes it is not prudent to subject issues directly affecting reliability to the give-and-take of the negotiation process that invariably requires compromises on funding to achieve a deal. Short-term outcomes and the drive to make a deal are prioritized over long-term planning and preparation.

The majority of NYSEG's outages are caused by trees touching the power lines. The Commission and DPS Staff has known for more than 15 years about NYSEG's tree trimming deficiencies. Currently, 44% of NYSEG's right-of-way miles have not been trimmed in at least five years. Tr. 212, line 22 to Tr. 213, line 3. In management audits[25] and utility filings[26] the fact of NYSEG's unique position as the one New York utility not on a five-year trim cycle is noted with concern. Yet, DPS Staff appears to have ignored the historical context and years of avoidable outages that impaired the lives of thousands of people. "We started with where the vegetation management program was in the last rate case." Tr. 155, lines 20-22.

In this case, as in previous rate cases, NYSEG asked for sufficient funds to eliminate that distinction.[27] Once again, the parties decided to compromise. According to the Companies, by the end

[23] Exhibit 331.
[24] Exhibit 197, SEIOP Testimony, p. 22.
[25] See Cases 10-M-0551 and 12-M-0066, <u>Management Audit</u>, for example.
[26] See Case 13-E-0117, <u>Petition for Authorization to Implement Full-Cycle Distribution Vegetation Management</u>.
[27] Response to FFT-230, Exhibit 296, Master IR Exhibit Document, p. 603.

of the JP's rate plan on April 31, 2023, 26% of NYSEG's right-of-way miles will not have been trimmed in at least five years.[28] In response to FFT-234, the Companies state, "The filed Joint Proposal in these proceedings provides vegetation management funding but the agreed-upon funding level is not sufficient for NYSEG to support 5 year full cycle trim at the end of the term of the proposed Joint Proposal. Over the course of the next 3 rate years, the Companies will focus on reclaiming circuits prioritized based on the overall estimated impact on system reliability."[29] With the electric JP's AMI proposal as well as its various deferrals and lengthened amortization periods, the large amounts of revenue required for recovery in the subsequent rate plan would make funding a five-year cycle virtually impossible. This is a mistake. DPS Staff expressed surprise about the level of damage inflicted by the recent storm. Tr. 145, lines 4-6. As the climate continues to warm, more frequent and more severe storms are expected. Trees will grow faster as well.

The Electric JP does not provide enough funding to upgrade even half of the Company's "worst performing resiliency circuits." The Companies' response to ALJ-8 states, "There are a total of 139 of these circuits at NYSEG, and 138 at RG&E, and over the term of the rate plan it is expected that the resiliency upgrades will be completed on approximately 45% of the NYSEG and 41% of the RG&E circuits."[30] NYSEG operates "approximately 432 substations." Tr. 142, lines 12-13. The amount of funding for NYSEG's substation modernization program in the Electric JP would allow NYSEG to address "somewhere between five and ten substations [ ] in whole or at least have a start made on the upgrade during the term of the rate plan." Tr. 142, lines 17-20. DPS Staff indicated that the level of funding is not expected to result in degradation of reliability during the rate plan (Tr. 144-45), but the concern remains about building a firm foundation for the future.

C. Senior Customer Study for Customer Service

The Senior Customer Study is an example of a provision without a rational basis that is included in a settlement document as a result of negotiations. According to DPS Staff the study is necessary "because seniors are a large group of customers with particular identifying needs. Many of them are on fixed income. They are also a group that is increasing demographically as part of the entire customer base." Tr. 102, line 22 to Tr. 103, line 2. Neither DPS nor the Companies have any idea why such a study is necessary for the NYSEG and RG&E service territories but not for the rest of the state. Asked to identify what is unique about these service territories, DPS Staff responded, "I cannot speak to other proceedings and other rate cases." Tr. 103, lines 8-9. DPS Staff indicated it did not have a concern

[28] Response to FFT-227, Exhibit 296, Master IR Exhibit Document, p. 600.
[29] Exhibit 296, Master IR Exhibit Document, p. 610.
[30] Exhibit 331.

about the participation rates of seniors in the Companies' energy efficiency programs. Tr. 103, lines 14-15. The Companies do not know what percent of their customers are seniors (Tr. 104, lines 15-19), what percent of participants in the Companies' energy efficiency programs are seniors (Tr. 105, lines 11-14), or even how "senior" is defined in the settlement document (Tr. 104, lines 21-24). Despite the importance of the study claimed by DPS Staff, the Companies refused to commit to implementing the results of the study during the rate plan. Tr. 109, lines 15-19. This lack of due diligence undermines confidence in other provisions of the Electric JP. AARP opposes this provision.

D. AMI

While AARP continues to oppose the proposed AMI project for a number of reasons described in other filings, we the BCA for AMI is only positive if 198 meter reader and related positions are eliminated. See JP, Appendix O, Table 2-11. It is perverse to advocate for fewer jobs during a period of high unemployment.

Moreover, this half-billion-dollar project is a luxury RG&E and NYSEG residential customers are not able to afford. As the Companies' response to AARP-8 displays, the "benefits" of reducing the Companies' labor force by 198 accrue over a 20-year period while the Companies would seek to recover the "costs" in this and the next rate case.[31] MI and Nucor's support for AMI is understandable given the *de minimus* revenue requirement responsibility assigned to NYSEG's electric SC 7 and gas SC 1T and RG&E's electric SC8 and gas SC3.[32]

DPS Staff understands that smart meters are not intrinsic to the provision of safe and reliable service. "UIU also states that although AMI's benefits are desirable, it is not otherwise necessary for the delivery of safe and reliable service. While this may be true, AMI will improve service for customers. It will also allow customers to reap the benefits of participation in future innovative rate design."[33] From what we believe is a more grounded perspective, AARP members keenly desire reliable service and affordable rates.

E. Customer Charge

Another example of the failure of the Electric JP to satisfy the public interest is its treatment of residential customer charges. Although RG&E's electric customer charge is among the highest in the state (41% higher than NYSEG's), both DPS Staff and NYSEG/RG&E proposed in testimony to increase the charges. However, DPS Staff explained in its response to AARP-74(c):

> Appendices BB and DD do not propose to increase the residential customer charges in RY 1 despite the testimonial positions of the Companies and Staff that increases are

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[31] Exhibit 272, Master IR Exhibit Document. pp. 496-97.
[32] Companies' responses to AARP-7 and AARP-9, Exhibit 272, Master IR Exhibit Document. pp. 493-495, 498-500.
[33] Exhibit 212, DPS Staff Reply Statement, p. 8.

> warranted and appropriate because of COVID-19, the parties negotiated to keep the residential customer charges at their current levels for RY 1 and then to apply the agreed upon residential customer charges percentage increases in RY 2 and RY 3.[34]

Since holding the customer charge as per the status quo is not listed in the Electric JP as a pandemic provision, AARP followed up on this response at the hearing. DPS Staff confirmed that not increasing the customer charge benefits customers, stating that the parties decided not to increase the charge in RY 1 to "mitigate the deal impact." Tr. 135, lines 9-16. Since the economy will not rebound by May 1, 2021, the day on which the Electric JP proposes to increase the customer charge, this provision is not in the public interest.

Moreover, DPS Staff agreed in its response to 74(d) that the lower the fixed charge and the higher the volumetric charge, the greater is the price incentive for ratepayers to conserve energy.[35] Combating climate change and energy affordability are two of the New York and the PSC's primary policies. The customer charge provision in the Electric JP is inconsistent with those policies. AARP notes New York has among the highest customer charges in the country and urges the Commission to roll them back.

V. CONCLUSION

The Evidentiary Hearing validated the criticisms of the Electric JP discussed in the submissions of AARP, PULP, Indicated Environmental Parties and UIU. Despite the enormity of the electric delivery rate increases, the Electric JP fails to overcome the legacy shaped by years of deferred maintenance (*e.g*., vegetation management, substations, breakers) and long-standing management deficiencies identified by the Commission and DPS Staff in management audits and in testimony in these proceedings. The Electric JP does not respond appropriately to the impacts of the pandemic on the economies of the NYSEG/RG&E service territories, continuing to foist upon ratepayers, for example, an expensive "market animation," "innovate rate design" technology that would result in a loss of jobs in the service territories suffering high unemployment. Narrowly focused with blinders as to the wider environment, the fails the PSC's "public interest" test. We therefore continue to oppose it for these reasons.

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[34] Exhibit 281, Master IR Exhibit Document, pp. 583-84.
[35] *Id.* p. 584.