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.

CASE 20-M-0266 – Proceeding on Motion of the Commission Regarding the Effects of COVID-19 on Utility Service.

ORDER ADOPTING ENERGY AFFORDABILITY POLICY MODIFICATIONS AND DIRECTING UTILITY FILINGS

(Issued and Effective August 12, 2021)

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At a session of the Public Service Commission held in the City of Albany on August 12, 2021

COMMISSIONERS PRESENT:

John B. Howard, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
David J. Valesky
John B. Maggiore
Rory M. Christian

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BY THE COMMISSION:

INTRODUCTION

On May 20, 2016, the New York State Public Service Commission (Commission) issued an order adopting an Energy Affordability Policy (EAP) that set a target energy burden at or below six percent of household income for all low-income households in New York State.[1] To advance this goal, new low-income bill discount programs were established for each of the investor-owned electric and gas distribution utilities. Key

[1] Case 14-M-0565, Order Adopting Low Income Program Modifications and Directing Utility Filings, p. 3 (issued May 20, 2016) (May 2016 Order).

directives set out by the EAP include the standardization of utility energy affordability programs statewide to reflect best practices where appropriate, streamlining of rate cases, and greater consistency between the programs and the Commission’s statutory and policy objectives. The Commission also acknowledged that, in order to reach the target six percent energy burden for low-income New Yorkers, it would be necessary to coordinate and leverage all available resources at the State’s disposal, including multiple sources of financial assistance to lower customers’ bills, energy efficiency measures to reduce usage, and access to clean energy sources in order to lower the cost of the energy itself.

At the January 2020 Commission session, Department of Public Service Staff (Staff) was asked by then-Chair John B. Rhodes of the Commission to revisit the EAP to determine if there were opportunities to make improvements. Staff was to consider potential modifications and improvements based on the operation of the programs and experience of various stakeholders.

Beginning in March 2020, the COVID-19 pandemic significantly affected the public health and subsequently caused significant economic turmoil for many New Yorkers. Accordingly, Governor Andrew M. Cuomo declared a Disaster Emergency and directed State and local agencies to undertake measures to protect the public health and welfare of New York State residents.[2]

On February 4, 2021, Staff issued a report on the status of the EAP (Whitepaper), and based on a review, analysis of the EAP and associated procedures, and consideration of the comments received from various stakeholders, Staff recommended

[2] Executive Order Number 202 – Declaring a Disaster Emergency in the State of New York, issued March 7, 2020.

that the Commission modify the utilities' low-income assistance programs, while acknowledging that the Commission has a parallel and concurrent ongoing case to address the impacts of the COVID-19 pandemic.[3] Staff provided a total of 24 recommendations, for Commission consideration, to modify the EAP and provide specific COVID-19 relief. Staff recommended a series of concrete adjustments to the methodologies for calculating benefit levels to better align the effect of these methodologies with the intended purposes of achieving the six percent energy burden goal. Staff also recommended continued work to better realize statewide standardization of these utility programs to the maximum extent feasible. Interested entities and the public were invited to a virtual technical conference held on March 5, 2021, and all were provided an opportunity to comment on the Whitepaper.

In this Order, the Commission addresses Whitepaper recommendations 1-17, and 22-24. Staff recommendations 18-21, which focused on COVID-19 relief, will be addressed in a future Commission order. The Commission, in this Order, directs Staff, utilities, and other stakeholders to continue to address: the standardization of certain aspects of the utility programs; the identification of low-income customers through data sharing and file matching between utilities and the New York State Office of Temporary and Disability Assistance (OTDA) and a customer self-certification mechanism; the stratification of low-income customers into additional tiers or usage groups to enhance bill discount targets; and, the identification of highest usage low-income customers for participation in energy efficiency programs. The Commission also adopts modifications to the bill

[3] Cases 14-M-0565 and 20-M-0266, Staff Report on New York State's Energy Affordability Proceeding (filed February 4, 2021).

discount calculation methodology to move further toward achieving the Commission’s six percent energy burden goal.

Tables 2 and 3 in the Staff Whitepaper provide the impacts of these recommendations based on 2019-2020 Home Energy Assistance Program (HEAP) season income criteria and HEAP benefit amounts which resulted in aggregated electric and gas program budgets of approximately $195 million and $118 million, respectively. Similar tables are provided in Appendix B that describe the impacts of the three input changes above using updated HEAP criteria from the 2020-2021 HEAP season, as well as the calculation adjustments previously noted. The revised aggregated electric and gas program budgets are approximately $233 million and $133 million, respectively, resulting in a statewide EAP program budget increase of approximately $129 million. Of note, due to updated data, such as the HEAP income criteria, if the bill discount recalculation under the adopted methodology results in a decrease to bill discount amounts from the amounts customers currently receive and given the current financial environment as a result of the COVID-19 pandemic, current bill discounts shall remain in effect as a short term COVID-19 benefit, unless the revised methodology adopted herein results in a higher discount amount. Appendix C shows the estimated residential bill impacts to residential customers as a result of the adopted modifications and the adjusted EAP budgets.

BACKGROUND

On January 8, 2015, the Commission established a proceeding examining energy affordability for low-income customers.[4] The Commission’s May 2016 Order established a policy

[4] Case 14-M-0565, Order Instituting Proceeding (issued January 9, 2015) (Instituting Order).

goal that low-income utility customers have an energy burden at or below six percent of household income. The Commission directed initial bill discount implementation plans to be filed by the Joint Utilities (JU),[5] and subsequently adopted two orders on February 17, 2017, regarding the implementation of utility low-income energy affordability programs.[6]

On January 31, 2020, the City of New York (the City) filed a Petition, in part, to address concerns that had been noted since the EAP program’s implementation (City Petition).[7] On May 14, 2020, the Public Utility Law Project of New York, Inc. (PULP) filed a petition to seek relief for low-income households impacted by the COVID-19 pandemic.[8] On June 11, 2020, the Commission commenced a proceeding to identify and address the economic impacts of the COVID-19 pandemic on the State’s

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[5] The JU are Central Hudson Gas and Electric Corporation (Central Hudson); Consolidated Edison Company of New York, Inc. (Con Edison); National Fuel Gas Corporation (NFG); The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), KeySpan Gas East Corporation d/b/a National Grid (KEDLI) and Niagara Power Corporation d/b/a National Grid (NMPC) (collectively, Niagara Mohawk, KEDNY and KEDLI are referred to as National Grid); New York State Electric and Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) (together, NYSEG/RG&E); and, Orange & Rockland Utilities, Inc. (O&R).

[6] Case 14-M-0565, Order Approving Implementation Plans with Modifications (issued February 17, 2017) (February 2017 Implementation Order); Order Granting in Part and Denying in Part Requests for Reconsideration and Petitions for Rehearing (issued February 17, 2017) (February 2017 Rehearing Order) (together with the May 2016 Order, the Low-Income Orders).

[7] Case 14-M-0565, Petition of the City of New York to Re-examine Statewide Utility Low Income Program (filed January 31, 2020).

[8] Case 14-M-0565, Petition of the Public Utility Law Project of New York, Inc. for Expedited Relief for Low Income Households in Response to the COVID-19 Economic and Public Health Crisis (filed May 14, 2020).

utilities, other entities over which the Commission has oversight, and utility ratepayers.[9]

On March 5, 2021, Staff sponsored a stakeholder meeting to solicit input from relevant parties regarding the reexamination of aspects of the statewide EAP, including modifications to the utility low-income energy affordability programs.[10] Stakeholders were invited to submit informal comments and proposed recommendations regarding the potential changes to the current statewide EAP and its affiliated programs, including identification of those issues for consideration in Phase Two of this proceeding, as well as longer-term recommendations to be addressed at a future time.

In its EAP re-examination, Staff reviewed and evaluated: the existing low-income bill discount methodology, including the City's petition regarding data used in the calculations; the automatic file match system employed by OTDA; the low-income energy affordability program budget cap; identification and enrollment expansion of low-income customers, including self-certification; the treatment of income levels and HEAP benefits; modifications to utility reporting requirements; the levelized budget billing program; the application of deferred payment agreements and late payment fees; the establishment of arrears management and arrears forgiveness programs; and, improved coordination with energy efficiency and clean energy programs for low-income customers.

In the above-mentioned February 4, 2021 Staff Whitepaper, Staff proposed 24 recommendations for improvement to

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[9] Case 20-M-0266, COVID-19 Proceeding, Order Commencing Proceeding (issued June 11, 2020).

[10] Case 14-M-0565, Notice of Stakeholder Meeting (issued January 22, 2020).

the Commission's EAP and specific COVID-19 relief stemming from comments received in the COVID-19 Proceeding in Case 20-M-0266. Staff estimated that implementation of its recommendations pertaining to the bill discount calculations would result in an increase of $75,220,961 in the statewide EAP program budget, from $237,677,105 to $312,898,066. Staff also acknowledged that OTDA updated the HEAP program regarding the income and benefit levels, effective November 3, 2020, and proposed to update the analysis for the OTDA changes as well as any other appropriate updates when the Commission considered its recommendations to the EAP. The following is a summary of Staff recommendations included in the Whitepaper:

<u>Identifying Low-Income Customers</u>

1. Staff recommends the inclusion of all utility account numbers on all OTDA public assistance program applications as a standard variable to match as a means to identify income-eligible customers.
2. Staff recommends working directly with OTDA to effectuate more frequent file matches to capture changes in participants. The utilities should report annually on how many of the participants in the file were not able to be matched, as well as the estimated number of total HEAP recipients served by OTDA in their respective service territories.
3. Staff recommends that all future requests for submetering that include affordable housing components should require the building owner to file an application to OTDA for coordinated benefits to low-income customers.
4. Staff recommends the utilities that receive the OTDA file match develop a uniform statewide approach for customer self-identification. The utilities and Staff should collectively work with OTDA to develop a verification process in their

next file match to ensure the self-identified customer was indeed program eligible by OTDA.

Improving the Discount Calculation Methodology

5. Initially, in the absence of more granular income data sharing from OTDA, Staff recommends utilizing the midpoint of each income tier to set income assumptions (which represents the least administratively burdensome modification to actual income data provided from OTDA).
6. Staff recommends the Commission use the regular HEAP renter benefit to develop the low-income energy affordability program discounts for Tier 1 electric and gas non-heat customers. Staff recommends the major utilities conduct an analysis to determine if a more refined calculation has a significant impact to the Tier 1 discount using the actual renter benefits.
7. Staff recommends the major utilities conduct an analysis to determine if developing distinct tiers for the vulnerable person HEAP add-ons would provide more targeted assistance for their respective low-income customers.
8. Staff recommends the utilities use a simple three-year average when calculating the average usage for each low-income customer group (electric heat, electric non-heat, gas heat and gas non-heat). Staff recommends continuing the current practice of adjusting the calculated average bill by utility upward by 10 percent to recognize that some low-income customers' usage is above the average, as the Commission originally reasoned in the May 2016 Order.
9. Staff recommends that the utilities analyze the potential for stratifying low-income customers into usage groups to determine average bills for those respective groups determine if further refinements to the discount levels are feasible.

10. Staff recommends that if the Commission adopts its EAP recommendations, low-income discounts should not be decreased for the next two years (2021-2022 and 2022-2023 program years).
11. Staff recommends the grandfathering clauses be phased out.
12. Staff recommends that the Commission reiterate that further adjustments will not be considered in individual rate cases, but on a generic basis in this proceeding going forward.
13. Staff recommends that each utility's two percent total revenue program budget caps be adjusted to factor in scheduled delivery rate increases.

Standardizing Practices and Administration Across Utilities

14. Staff recommends that October 1st be the uniform annual filing date established for all utilities and that the updated discounts become effective November 1st to coincide with the beginning of the heating season.
15. Staff recommends the low-income discounts be moved to tariff statements, which may facilitate faster and more streamlined implementation after the utilities submit their annual EAP filing.
16. Staff recommends that each utility's energy affordability discounts also be updated for the recommendations herein at the same time as the utility's tariff compliance filing for its new rate plan.

Further Recommendations

17. Staff recommends continuation of automatic enrollment of low-income energy affordability participants in utility levelized budget billing programs.
18. Staff recommends commercial customers be able to self-certify a change in financial circumstance due to the COVID-19 pandemic. Impacted commercial customers should be allowed to enter into deferred payment agreements (DPAs) with no down

payments, have existing DPAs renegotiated due to changes in the commercial customers' financial circumstances, and late payment charges be waived.

19. Staff recommends residential and commercial late payment fees should continue to be waived for the two-year time period starting on the expiration of the moratorium.
20. Staff recommends that deferred payment arrangements should not accrue interest on customer residential and commercial arrearages for the two-year time period after the conclusion of the moratorium.
21. Based on a review and analysis of the arrears due to the COVID-19 impacts to date, Staff recommends the Commission adopt an arrears management plan at each major utility.
22. Longer-term, Staff recommends that if there is room within a utility's low-income energy affordability program budget, the utility should explore developing a cost-effective arrears forgiveness program.
23. Staff recommends the utilities leverage their customer data to identify the highest usage low-income customers and target delivery of services to these customers through New York State Energy Research and Development Authority (NYSERDA) and utility-administered energy efficiency (EE) programs to not only achieve the State's goals, but to provide meaningful and lasting energy relief to low-income customers.
24. Staff recommends not allowing the use of low-income energy affordability program discounts for energy efficiency purposes, but rather to be reserved for direct utility bill discounts.

Moreover, Staff recommended that the following longer term issues be addressed during a subsequent phase of this proceeding: the expansion of low-income energy affordability programs to enroll eligible low-income customers who participate in other public assistance programs; further improvements and modifications to the data sharing processes between utilities and OTDA; and establishment of a standardized statewide file matching system that can capture critical information for purposes of not only matching electric and gas low-income customers, but also other low-income utility customers so that the Commission can consider future program enhancements. Further, it should be noted that because neither Staff nor the utilities have access to program participant specific, individual or even anonymized, income levels, the Commission is unable to directly measure progress toward meeting the six percent energy burden goal.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on February 17, 2021 [SAPA No. 14-M-0565SP15]. The time for submission of comments pursuant to the Notice expired on April 19, 2021. Moreover, a Notice of Technical Conference and Soliciting Comments was issued by the Secretary to the Commission on February 17, 2021, directing that initial comments be filed by April 19, 2021, and reply comments be filed by May 3, 2021. Additionally, a virtual technical conference open to parties and the public was held by Staff on March 9, 2021.

By letters dated April 12 and April 15, 2021, the JU and PSEG Long Island, LLC (PSEG-LI), respectively, requested a thirty-day extension to respond to Whitepaper recommendations 18, 19, 20, and 21, stating that additional time was needed to review final COVID-19 related legislation that had been passed by the New York State Legislature, but not yet enacted into law. In a Notice Clarifying Extension of Comment Period, issued

April 16, 2021, the deadline to provide comments on the Whitepaper recommendations 18, 19, 20 and 21 was extended to May 19, 2021, for initial comments and June 2, 2021, for reply comments.

Comments were submitted by the Advanced Energy Companies (AEC),[11] American Association of Retired Persons (AARP), Citizens for Local Power (CLP), the City, Energy Efficiency for All New York (EEFA NY),[12] the JU, New York Energy Democracy Alliance (NY EDA), PULP, PSEG Long Island LLC (PSEG-LI), SUEZ Water New York Inc. (SUEZ), and Utility Intervention Unit of the New York State Department Division of Consumer Protection (UIU).

Most comments received were supportive of Staff's recommendations. Some comments urged the Commission to provide expedited relief for low-income customers, especially because of the economic conditions induced by the COVID-19 pandemic. Others stressed that near-term modifications to the calculations for the bill discounts should be done with consideration to administrative ease, simplicity, and transparency, and other modifications that require further study and analysis be rejected or deferred. A summary of the written comments is included as Appendix A of this Order. Specific issues of the commentors are addressed in the discussion that follows.

[11] Advanced Energy Companies is comprised of the Advanced Energy Economy Institute, Advanced Energy Economy, and Alliance for Clean Energy New York.

[12] EEFA NY includes the following organizations: Association for Energy Affordability; Community Preservation Corporation; Enterprise Community Partners; Green & Healthy Homes Initiative; National Resources Defense Council; Pace Energy and Climate Center; and, WEACT for Environmental Justice.

DISCUSSION

Improvements to the EAP

Staff's Whitepaper was organized by sections and this Order generally follows the same presentation. In the sections that follow, the Staff Whitepaper recommendations are provided followed by a summary of comments on the issues, discussion of the issues, and Commission decision. In this Order, the Commission addresses Staff Whitepaper recommendations 1-17, and 22-24 as discussed below. Changes to the EAP we adopt herein will provide immediate relief to low-income customers by, among other things, increasing the number of customers enrolled in the utility low-income assistance programs and increasing bill discount levels for program participants. While this Order represents an important and impactful step, more work will be required to effectuate further improvements to the EAP, as well as provide targeted relief to those customers financially impacted by the COVID-19 pandemic.

Identification of Low-Income Customers

A. Staff Recommendation

Staff made four recommendations to improve identification of low-income customers (Whitepaper Recommendation Nos. 1-4): the inclusion of all utility account numbers on all OTDA public assistance program applications; effectuate more frequent file matches, and annual reporting by the utilities on how many of the participants in the OTDA file were not able to be matched; coordinated benefits to submetered low-income customers; and, the development of a uniform statewide approach for customer self-identification in eligible programs.

Staff recommends the inclusion of all utility account numbers on all OTDA public assistance program applications as a standard practice to identify income eligible customers for enrollment in utility energy affordability programs. The addition of utility account numbers would provide a more efficient and accurate customer file match between OTDA and the utilities without adding administrative costs and burden to the utilities. However, this change may result in an initial administrative burden and require system changes for OTDA.

Staff further recommends OTDA continue to effectuate more frequent file matches to capture the churn of program participants. Participants in OTDA programs may enroll in or leave the programs at any point during the year, and more frequent file matching is necessary for more effective enrollment of eligible customers in utility affordability programs. File matching should take place at least biannually, in May and November, and may provide for additional matches if more data becomes available with the inclusion of utility account numbers on OTDA applications.

Additionally, in order to track the success of more frequent matches in enrolling more eligible customers, Staff proposes that the utilities should report annually on how many of the participants in the OTDA file were not able to be matched in the utility system, as well as the estimated number of total HEAP recipients served by OTDA in their respective service territories. Staff also recommends that all future requests for submetering that include affordable housing component should require the building owner to file an application to OTDA for coordinated benefits to low-income customers. Finally, Staff recommends the utilities that receive the OTDA file match develop a uniform statewide approach for customer self-identification.

B. Comments

In general, comments were supportive of expanding identification of eligible low-income customers to increase enrollment in utility assistance programs. Comments were supportive of including all utility account numbers on applications, except for AARP. AARP claims the recommendation would not result in a robust data set because OTDA cuts off applications for HEAP before funding is exhausted. Comments were generally supportive of more frequent file matches, with the addition of AARP advocating for more enhanced reporting, CLP encouraging the inclusion of Lifeline recipients in the file-match, and PULP and UIU recommending expanding eligibility to include the Lifeline program to expand identification to more income eligible customers. The JU conceptually agree that a process supporting more frequent file matching may be useful but are concerned with the quality of data provided by OTDA, as well as the time-intensive manual work required by utilities to perform the current OTDA file match process. The JU state that OTDA implementation of a more comprehensive file matching system that affirmatively identifies eligible customer accounts, using a broader list of programs, would increase standardization, and could significantly improve enrollment across upstate utilities, in keeping with the more comprehensive and effective file matching conducted by other agencies for downstate utilities.

Regarding submetering, EEFA NY proposes the Commission explore a partnership with the New York State Homes and Community Renewal (HCR) and OTDA to create a rental registry that tracks and manages information on rental properties statewide. AARP and CLP support this Staff recommendation.

Staff's recommendation that the utilities develop a uniform statewide approach for customer self-identification is generally supported by most parties, although the City notes some areas of concern for data availability and administrative burden, and PULP recommends changes in the reenrollment process and the immediate enrollment of low-income customers that were not identified in 2020.

Staff also recommends post-enrollment verification processes be put into place for participants who self-identified. The JU state that it is unaware of systemic issues of fraud that would require a verification process, offering that it could support a more uniform process of verification as long as the process is simple, easy to manage, and cost-effective, but does not find it likely that Staff's recommendation would meet those criteria. The JU recommends the Commission continue to allow self-identification without the development of structured after-the-fact verification processes, but that further collaboration between agencies, OTDA, Staff, and the JU continue to identify if further improvements to matching processes can reasonably be made to improve the EAP. SUEZ does not support this recommendation.

In reply comments, the JU notes that while it could support exploring a statewide file match, it is not possible to overhaul the current system in the short-term. PULP shares the JU's concerns that the Staff suggestion of creating an approach to verification of customers that self-identify for eligibility in the EAP bill discount programs and finds the verifier database and process as unnecessary in its reply comments.

C. Discussion

To facilitate the utilities' low-income bill discount programs, most utilities rely on OTDA for customer file matching based on receipt of HEAP benefits in order to enroll customers in their respective energy affordability programs. For Con Edison, KEDNY, and parts of KEDLI, the City of New York's Human Resources Administration (HRA) provides a coded "yes" or "no" residential customer list to each utility for enrollment of participants into their respective energy affordability programs. The HRA customer file-matching process enables other income-based public assistance benefit programs to count toward automatic enrollment in Con Edison, KEDNY, and the NYC portion of KEDLI's respective low-income programs, whereas the other utilities are limited to only including HEAP recipients in their low-income energy affordability programs. That said, if a customer provides information confirming participation in other public assistance benefit programs, the utilities will generally enroll the customer in their low-income program. However, the programs and processes vary from utility to utility.

Identification of low-income customers is critical to providing needed assistance for low-income customers. At this time, OTDA holds the most useful and valuable data to efficiently identify eligible customers, but both the Whitepaper and commentors have identified shortcomings in the current process that need to be improved upon in order to expand assistance for low-income customers. Staff, OTDA, the JU, NYSERDA, and interested parties must work collaboratively in order to identify and effectuate improvements to the data and file sharing processes. In the May 2016 Order, the Commission directed Staff to work with sister agencies to establish an "inter-agency task force" in order to achieve better program coordination, streamline processes and facilitate improvements. The Low-Income Energy Task Force was limited to representatives from the Staff, OTDA, NYSERDA, and HCR and, as AARP points out, did not file any public documentation of its activities or recommendations. The Commission agrees there is a lack of transparency to those activities. Also, we believe that better policies and program improvements can be achieved with increased involvement from interested parties. It is time to broaden stakeholder participation to include creative recommendations from all interested stakeholders and report on EAP priorities and improvement progress. The Commission therefore directs Staff to establish a stakeholder "EAP Working Group" within 60 days of the effective date of this Order. The EAP Working Group will expand on the task force in that all interested stakeholders can participate collectively in the advisement of improving the EAP. The EAP Working Group shall develop a list of priorities and objectives and file status reports and recommendations to for Commission consideration to the Secretary to the Commission twice per year, on June 30 and December 31.

One of the first goals of the EAP Working Group shall be to collaborate on the concrete steps to develop an automated file match process that provides for the inclusion of other public assistance programs, including an implementation time frame and associated costs. This working group shall also address the inclusion of utility account numbers on OTDA assistance program applications.

Additionally, in order to track the effectiveness of the OTDA file match process, the Commission adopts the Staff recommendation and directs the Joint Utilities to report on how many of the participants in the OTDA file were not able to be matched in the utility system and how many customers self-identified. This information shall be filed in the utility EAP annual reports and shall also include the estimated number of total HEAP recipients served by OTDA in their respective service territories. To ensure a standardized reporting timeline moving forward, all annual EAP reports shall be filed 60 days after the end of the EAP program year.[13] Moreover, the EAP Working Group should develop a standard annual EAP report template so that stakeholders can monitor the EAP bill discount programs and

[13] As described further below, the program year is set from December 1st through November 30th. Annual reports will commence with the program year ending November 30, 2022.

compare the EAP programs among the utilities. The EAP Working Group should discuss if the current quarterly EAP reports need to be revised to align with the EAP program year and if the aggregated quarterly EAP data should be revised to report monthly EAP data on a quarterly basis.

Regarding submetering electricity in residential multi-family buildings, the Commission's regulations found in the New York Codes, Rules and Regulation (NYCRR), 16 NYCRR Part 96 established a "Rate Cap" that building owners as submeterers are allowed to charge residents for submetered service. The Rate Cap is defined as:

> The maximum rate, calculated in each billing period, that may be used to compute the charges for electric service to a submetered resident. Unless a different rate cap is set pursuant to 96.2(a) and 96.8(b) and (c) of this Part, the rate cap shall be the rates and charges of the distribution utility for delivery and commodity in that billing period to similarly situated, direct metered residential customers. Where residents are billed for time-of-use, the maximum rate for purposes of calculating the rate cap shall be the average annual residential rate.[14]

As discussed above, utilities have a self-identification process to enroll customers in the utility's energy affordability program upon review and verification. In a similar process, submetered residents may self-identify as eligible for the incumbent utility's energy affordability discounts, with appropriate documentation. Therefore, for submetered residents to be "similarly situated" to utility direct meter customers, the relevant submetered Rate Cap shall

[14] 16 NYCRR §96.1(i).

be inclusive of the incumbent utility's energy affordability discounts.[15]

While the efforts to achieve more frequent matches continue, there are inconsistences with the programs and methods the utilities use to allow low-income customer self-identification and enrollment in utility low-income programs. Within 90 days of the effective date of this Order, the Joint Utilities shall establish a uniform, statewide customer self-certification process to facilitate participation in utility affordability programs. As an interim measure, utilities shall enroll utility customers who can provide documentation of proof of their enrollment in public assistance programs associated with the federal Lifeline program, such as a letter confirming participation in a specific program or a recent benefit statement, as PULP and UIU proposed. Including public assistance programs associated with the federal Lifeline program is reasonable because the income eligibility criteria is lower than HEAP. Low-income utility customers enrolled through this self-identification process shall be enrolled for at least a one-year period and be required to provide updated documentation to confirm their continuing eligibility status in the public assistance program on the next OTDA/HRA file match cycle to ease the burden on the utility of tracking these self-identified participants.

Utilities will provide a reminder notice to self-enrolled low-income customers regarding the update process on an annual basis. For the utilities that rely on the OTDA file match, reminders will be sent on one of the two current cycles that coincide with the timing of the file match, approximately

[15] Case 20-E-0190, Notice of Intent of QPP LLC to Submeter Electricity at 29-59 Northern Boulevard, Queens, New York 11101, Order Authorizing Submetering (issued March 24, 2021).

two months prior to when the utilities typically receive the file. For the utilities that rely on the HRA file match, if the self-identified low-income customer is not captured in the HRA file match, reminders will be sent in either the spring or fall, approximately two months prior to when the utilities typically receive the HRA file. Staff and the Joint Utilities shall develop a uniform statewide template, available online and through direct mail, for customers to submit a self-certification application with the appropriate documentation and file such template to the Secretary to the Commission within 90 days of the effective date of this Order.[16] The Joint Utilities shall also incorporate targeted outreach in their respective outreach and education plans to inform customers of the availability of self-certification.

The Commission concurs with the JU that a more comprehensive automated file-matching system that affirmatively identifies eligible low-income customers, using a broader list of programs, would increase efficiency, standardization and verify utility bill discount program eligibility. This should be the goal and, at this time, the EAP Working Group should focus efforts on this task prior to devoting time to develop a self-identification verification process. If, however, progress is not made toward a more comprehensive automated file matching system the Joint Utilities may be required to conduct a future benefit/cost analysis on the feasibility to establish and support a self-identification verification process.

[16] We encourage the JU to share the self-identification template with interest parties for feedback prior to filing it with the Secretary to the Commission.

Income Level

A. Staff Recommendation

The Commission adopted an EAP approach to establish fixed low-income discounts structured around the HEAP program administered by OTDA. The Commission uses the HEAP program upper limit of income to establish discounts for a particular tier group. The Staff Whitepaper acknowledged a weakness of the methodology that low-income customers earning below that upper limit of income would have an energy burden above the six percent goal. To refine the income inputs, the Staff Whitepaper recommends using a simple midpoint calculation among the tier levels to establish the bill discounts (Whitepaper Recommendation No. 5).

B. Comments

In general, AARP, CLP, EEFA NY, JU, City, and UIU support the recommendation to adjust the income level to the midpoint of each tier. EEFA NY stated that the income level adjustment will result in the need for additional funds beyond the established two percent cap and cited the adjusted burden levels for KENDY and NFG. The JU indicate that although it was generally in favor of Staff's recommendations regarding changes to the bill discount calculation, it did not favor modifications to the current structure because significant time and money has been invested on implementing the current tier framework. The City requests that the Commission expeditiously move forward with this recommendation in order to provide much needed relief to customers. UIU states that the midpoint assumption is an interim solution while more efficient data-sharing methods are explored, and privacy concerns are addressed in the long-term.

PULP acknowledges this recommendation is a step in the right direction, however, it states that the analysis it completed indicates that the use of the midpoint does not accurately represent the income level in the tier groups. Alternatively, PULP notes that its analysis indicates that the income level assumptions should represent the median income level derived from American Community Survey (ACS) data for households that are eligible for each respective tier.[17] PULP states that its proposal would result in an energy affordability budget 39 percent higher than the budget recommended in the Staff Whitepaper. The City acknowledges the administrative hurdle to implement or coordinate use of the ACS data and states that it may not be feasible at this time. However, it supports the increased data sharing between OTDA and the utilities or the use of ACS data in the future. The City encourages the Commission and utilities to explore further data sharing as it provides more accurate discount calculations to achieve the six percent net energy burden.

In reply comments, the JU reiterate that process changes should not result in additional administrative burdens or result in program costs that exceed EAP program budgets. The JU state that if the U.S. Census data analysis to develop income level assumptions was adopted, Staff, in concert with OTDA, should conduct the analysis and provide the income levels to the utilities. Additionally, the JU state that based on census data for New York, the average household size is 2.59 persons. According to the JU, PULP’s proposal to use the median income is an additional extrapolation that further obfuscates actual household income. Alternatively, the JU propose that OTDA publish the median income level for households eligible for Tier 1, 3, and 4 in August each year using current actual data. This will allow utilities sufficient amount of time to incorporate

[17] The ACS is an annual ongoing survey conducted by the U.S. Census Bureau.

into their program and use actual statewide data without the need for reprogramming systems.

In reply comments, PULP disagrees with the JU position that using household data from the U.S. Census is contrary to the objective to streamline EAP's and could cause delays in implementing discounts due to disagreements to the conducted analysis. PULP states that U.S. Census data is nationally accepted data that is objective and key to achieving the six percent energy burden. PULP suggests conducting a technical conference to alleviate any concerns surrounding use of the data and its application. PULP agrees with the JU that Staff should be the lead in conducting the analysis with OTDA in a transparent manner.

C. Discussion

The Commission adopts the Staff recommendation to adjust the income level assumptions to the midpoint as described in the Whitepaper. The Joint Utilities are directed to calculate bill discounts using the midpoint income calculation for each tier as described in the Staff Whitepaper.

Certainly, one of the more heavily discussed issues in this proceeding concerning the discount calculation is the tier income level assumptions used to calculate the bill discount levels in each tier. The actual anonymized participant income data is currently unavailable to use in the bill discount calculation, but it should be the goal to acquire the data to create a more direct link to the very customers the EAP is assisting.

The analysis and use of ACS data proposed by the City and PULP would add complexity and delay the determination of income levels, which the City acknowledges. At this time, due to the immediate need to provide relief to low-income customers, the least administratively burdensome and efficient way to align income level assumptions more closely with the assumed actual average income level of participants is to use a midpoint calculation as recommended in the Staff Whitepaper. Because the timeline of having actual anonymized participant income data is unclear, use of ACS data shall be further explored in the EAP Working Group.

HEAP Benefits

A. Staff Recommendation

Staff recommends the Commission use the regular HEAP renter benefit to develop the low-income energy affordability program discounts for Tier 1 electric and gas non-heat customers. Staff further recommends that the utilities conduct an analysis to determine if a more refined calculation has a significant impact to the Tier 1 discount using actual renter benefits (Whitepaper Recommendation No. 6).

The Staff Whitepaper acknowledged the City's position that the majority of the Con Edison EAP participants do not receive the regular HEAP benefit of $350 that is provided to households that directly pay the utility for electric or natural gas heat. Instead, most of these participants receive a significantly reduced benefit amount, or renter HEAP benefit, because they pay for heat through their respective rental agreements. The current bill discount calculation methodology uses the $350 regular HEAP benefit to calculate the Net Energy Burden target amount for all Tier 1 customers and does not account for Tier 1 participants who receive the renter HEAP benefit. For the 2019-2020 heating season, the renter HEAP benefit ranged from $30 to $35. OTDA updated the renter HEAP benefit amounts, which now range from $40 to $45. This recommendation applies to Tier 1 non-heating participants, as the May 2016 Order directed that only electric and gas heating customers were eligible for bill discounts in Tiers 2 through 4.

B. Comments

The JU and the City opine that not all HEAP recipients receive the full regular HEAP benefit, and the calculation should reflect benefits that more closely align with customers who receive the renter HEAP benefit. The City and PULP support the use of the Staff recommended $35 renter HEAP benefit in the calculation.

The JU does not oppose the recommendation to conduct an analysis to determine if a more refined calculation using actual renter HEAP benefits would have a significant impact on the discount level. Both the JU and PSEG-LI request flexibility for the utilities if customized inputs are used, rather than a proxy, as a customized change may be more workable for some utilities but not for others. PSEG-LI states that its Tier 1 non-heating electric customers heat their homes from another energy source, such as natural gas or home heating oil, and the Commission should continue to include the $350 regular HEAP benefit in the calculation.

In reply comments, PSEG-LI states that specific program participant consumption and billing data should be allowed to be developed to enable utilities to improve the calculation for utility affordability program participants and non-participants. Additionally, PSEG-LI comments that in some instances, the monthly discount can completely offset the bill and suggests the Commission consider establishing a minimum payment amount. PSEG-LI opines that the Commission has implemented similar treatment in other Commission proceedings such as Value of Distributed Energy Resources for net metered customers.

C. Discussion

The recommendation to account for the renter HEAP benefit in the calculation for Tier 1 non-heat electric and gas participants is adopted. The current $45 renter HEAP benefit input adjustment to the calculation will more accurately reflect the actual HEAP benefit amount those participants are receiving which better aligns the Net Energy Burden target levels. This change results in approximately a $25 difference to the Net Energy Burden target levels between Tier 1 heating and non-heating customers. The Joint Utilities are directed to use renter HEAP benefit in the bill discount calculation for Tier 1 non-heat electric and gas participants.

This area should be further developed. The Joint Utilities are directed to conduct an analysis to determine if there are ways to better use actual regular and renter HEAP benefits provided to low-income customers in the current tier structure that would result in more targeted discounts. Moreover, the Joint Utilities shall consider how emergency HEAP benefits impact the six percent energy burden goal at the conclusion of the EAP program year. A report on the conclusions of this analysis shall be filed to the Secretary to the Commission within 180 days of the effective date of this Order. The results of the analysis shall be discussed in the EAP Working Group to explore if further refinements to the EAP are warranted, and we encourage PSEG-LI to participate.

Stratifying Tier Levels

A. Staff Recommendation

Staff recommends the Joint Utilities conduct an analysis to determine if developing distinct tiers for the HEAP add-ons would provide more targeted assistance for low-income customers (Whitepaper Recommendation No. 7). The May 2016 Order contemplated that further refinements to the tiered discounts could be achieved if the HEAP income-based add-on and the vulnerable person add-on amounts were distinct amounts. At that time, the utilities only received the benefit dollar amount from OTDA for each customer account and could not determine the type of add-on the customer received. Since the May 2016 Order, OTDA has updated the two add-on amounts by creating unique dollar amounts for each add-on. Currently, the vulnerable person add-on is set at $35 and the income-based add-on is set at $31. Utilities now have the data to determine which add-on the customer receives which could provide more tailored discount by further stratifying the EAP tiers.

B. Comments

AARP and PULP agree with this recommendation. AARP states that the recommendation would result in more targeted discounts. The JU state that that the recommendation would create a new tier level and propose that implementation be allowed, but not required. The JU reason that the new construct will lead to significant IT investments for all utilities except NFG who has already created distinct tiers.

PSEG-LI conducted an analysis which indicates that creating a new tier for the vulnerable person add-on would result in a $4 annual difference in the bill discount. According to PSEG-LI, this minimal increase would not outweigh the cost to implement such a change.

C. Discussion

The Commission acknowledges the JU's concern that the work to implement a tiered structure low-income discount program was costly and took much effort from an IT perspective. We also acknowledge that perhaps an opportunity was lost by not incorporating the distinct add-on levels in Phase 1 as NFG was able to accomplish. The Commission would however be remiss not to revisit this topic and explore the feasibility of further stratifying the tiers for the remaining utilities. We understand that further stratification will take additional time to analyze and likely need further IT investments to implement. At this time, we direct the Joint Utilities to conduct a benefit/cost analysis of further stratifying the tiers as the Whitepaper recommended and submit their results to the Secretary to the Commission within 180 days from the effective date of this Order. The results of the analysis shall be discussed in the EAP Working Group.

Average Bill

A. Staff Recommendation

Staff recommends the Joint Utilities use a simple three-year average when calculating the average usage for each low-income customer group (electric heat, electric non-heat, gas heat, and gas non-heat). Staff further recommended continuing the current practice of adjusting the calculated average bill by utility upward by 10 percent to recognize that some low-income customers' usage is above the average, as the Commission originally reasoned in the May 2016 Order (Whitepaper Recommendation No. 8). Staff reasons that the suggested three-year average in the May 2016 Order was to "normalize" the average bill, however, actual practice of using a historical average bill suppresses scheduled delivery charges and is not reflective of the delivery bill that will occur in the program year. To reflect program year delivery charges more accurately, Staff recommends developing a hybrid average low-income bill by combining a historical three-year weighted monthly average commodity bill with a forecast program year delivery bill.

B. Comments

AARP states that using a hybrid low-income average bill will allow for easy calculation of an expected typical bill at the time new rates are approved. CLP supports this recommendation. The JU supports this recommendation as long as the average bill could be incorporated into the workbook discount calculation, and states that the hybrid bill will benefit participants by adjusting the discount to account for rate increases. The City also supports this recommendation, as it would result in a more accurate low-income discount. Additionally, the City proposes that a more thorough analysis be conducted into estimating the electric usage to calculate the electric heat discount. The City states that discounts skew heavily towards gas which could disincentivize electrification.

PSEG-LI does not object to using three-year average to calculate usage for each low-income group, however, opposes using the average residential usage plus ten percent to calculate low-income discounts. PSEG-LI states that its low-income customers, on average, use less than the average residential customer and that increasing discounts for participants who do not use above the average is an ineffective way to use scarce ratepayer dollars. PSEG-LI proposes that assistance in reducing energy consumption would better address the immediate affordability concern.

C. Discussion

There is wide support from the commentors for using hybrid average bill approach as it will better reflect the bill amount for low-income customers during the program year and therefore, the Commission adopts the hybrid bill approach when calculating each low-income customer group’s (electric heat, electric non-heat, gas heat, gas non-heat) average bill. Regarding the proposal by the City that utilities conduct a more thorough analysis surrounding an electric heat average bill, the Commission sees value in such a bill analysis, which shall be developed by the members of the JU and discussed in the EAP Working Group.

In addition to the City's concern, in some instances the calculated bill discount is larger than the actual monthly participant's bill. As discussed in the Staff Whitepaper, the final step to set discount levels occurs with a comparison between the calculated Net Energy Burden level with the average bill for each respective customer group. The difference results in the monthly discount amount for all participants in each respective tier group. For participants with an annual total bill that is less than the annual total discount amount, the EAP discount is not intended to completely offset the cost to receive service. Of note, PSEG-LI indicated in its comments that the Whitepaper recommended adjustments to the bill discount calculation would result in discount amounts that would completely offset a considerable number of participants monthly bills. This outcome is another weakness of the average fixed discount methodology and poses a general concern that some low usage participants may indeed not contribute to the cost of service. Although, a solution is not provided at this time, we suggest PSEG-LI continue to be involved in this proceeding and participate in the EAP Working Group where this issue can be addressed by exploring options like verifying that average low-income customers' bills are truly representative of low-income usage and not skewed by billing adjustments or miss-classification of customers, further stratifying customers into usage groups, or developing a percentage of bill discount. This is an area that shall be considered in the EAP Working Group.

Moreover, PSEG-LI's opposition is misplaced as the discount calculation is designed to use low-income customers' average bills, not the average bill of all residential customers.

Stratifying Low-Income Customers into Usage Groups

A. Staff Recommendation

Staff recommends that the utilities analyze the potential for stratifying low-income customers into usage groups to calculate average bills for those respective groups and determine if further refinements to the discount levels is feasible (Whitepaper Recommendation No. 9). Staff argues that the current methodology does not account for energy usage reductions from customers implementing or receiving energy efficiency measures. As energy-efficiency programs continue to be deployed, these program participant bills should be lower than the average and therefore achieving a Net Energy Burden lower than six percent. If further stratification into usage tiers could be achieved, program budgets could be used in a more efficient manner where more tailored discounts could go to those customers in greater need.

B. Comments

The JU agrees that further stratification in usage groups would allow for more tailored discounts, particularly for high-usage customers, but expressed concern with the complexity and cost to achieve this recommendation. The JU states that if each group was divided into high- and low-usage groups, it would double the number of discrete discounts provided. For example, a dual-service utility would increase the number of discrete discounts from the current 16 to 32. Alternatively, the JU states that providing energy efficiency is essential to maintaining affordability in the long term and recommends leveraging energy efficiency savings as opposed to further stratification of customers into usage groups.

PSEG-LI does not support creating additional tier groups because it does not have customer income data and it would be counterintuitive to have tiered discount amounts only move with usage when income level is a major input in the calculation. PSEG-LI asserts that using the average income and average bill put the two major assumptions in alignment, however, if adjustments change the usage and not the income, it will misalign those two major assumptions since both are highly correlated. According to PSEG-LI, customers with above average usage are likely to have larger homes and more expenses, including rent, and therefore it would be reasonable to assume that these customers would have higher incomes. PSEG-LI states that without actual income data, the best available data for discounts is average income and average bills.

PULP and UIU agree with this recommendation. UIU argues that because the current method does not account for usage reductions due to energy efficiency, this should be explored in future phases in addition to the identification of customers eligible for energy efficiency. PULP states that it analyzed 144,000 low-income households with energy costs of more than $5,000 in 2019 which resulted in, among other statistics, an average energy burden of 25 percent.

C. Discussion

The Commission adopts this recommendation to explore and analyze usage data for possibly developing more tailored discounts that account for energy efficiency. NYSERDA has been the primary administrator of low- and moderate-income (LMI) energy efficiency programs since 2003, serving over 383,000 households through programs targeting small homes, affordable multifamily buildings, and the new construction of high-performance affordable housing. The experience and data associated with these initiatives should be utilized in any analysis to consider more tailored discounts that account for energy efficiency. The Commission also acknowledges the JU and PSEG-LI's concerns above, and we take this opportunity to broaden the analysis. We direct NYSERDA, as part of the EAP Working Group, to develop a comprehensive low-income average bill and usage analysis. The EAP Working Group shall develop the scope and objectives of the analysis to be completed, and NYSERDA shall file to the Secretary to the Commission, within 180 days of the effective date of this Order, the proposed scope and objectives of a comprehensive low-income average bill and usage analysis. The analysis shall consider impacts of energy efficiency, as well as consideration of low-usage participants and if a minimum bill amount should be established as part of the discount calculation methodology.

Impact of Staff Recommendations to Modify Discount Methodology

A. Staff Recommendation

Staff recommends that if the Commission adopts its EAP recommendations, low-income program bill discounts should not be decreased for the next two years (2021-2022 and 2022-2023 program years) (Whitepaper Recommendation No. 10). Staff argues that the annual recalculation of EAP discounts under the Commission's methodology may result in a decrease to the discount in some instances. Due to the economic conditions and uncertainty of the overall impact of the COVID-19 pandemic, the recommendation would set the current level of discounts as the floor for the two-year period as an added short-term COVID-19 relief measure.

B. Comments

AARP objects to any decrease in discounts until poverty is alleviated. EEFA NY argues that this is a short-term solution and does not address long-term affordability. The JU support this recommendation due to the financial hardships experienced from the pandemic. PULP proposes to set the EAP budgets at a minimum of two percent of revenues for the years 2021–2026 and exceed the cap where necessary to achieve the six percent energy burden.

C. Discussion

A short-term COVID-19 relief measure of holding discounts to no less than the current amounts through November 30, 2022, is warranted in this unique circumstance, if it is also balanced with the impact to all customers. Herein, the Commission makes modifications to the EAP that will likely increase participation and EAP program budgets, which translates to increased low-income program deferrals and may place an unfair future burden on all customers if bill discounts were frozen through November 30, 2023. The Commission therefore clarifies that current bill discounts will not decrease through November 30, 2022, or approximately one and a half years after the expiration of the COVID-19 state of emergency, which became effective on June 25, 2021.[18]

The Commission recalculated the utilities' bill discounts, inclusive of the above modifications to the methodology adopted herein, while further adjusting discount levels to remain under the two percent budget cap. The recalculated bill discounts were then compared to the corresponding current bill discount amounts. If a bill discount was reduced from the current amount, it was replaced with the current bill discount amount as a short-term COVID-19 relief measure. Of note, Central Hudson Gas, NYSEG Gas, and NFG's EAP program budgets exceeded their respective two percent budget caps when bill discounts that should be reduced to remain under

[18] Executive Order 210: Expiration of Executive Orders 202 and 205, issued June 24, 2021.

the two percent budget cap are held at current bill discount levels. As a one-time COVID-19 benefit for low-income customers, we accept that the EAP budgets for these three gas companies are above the total revenue cap. When bill discounts are recalculated, the "glide rule" shall be followed, if necessary. The Commission recently established the "glide rule," which provides that discounts cannot be reduced by more than 20 percent when conducting an annual recalculation in order to mitigate the impacts from otherwise larger discount reductions.[19]

Based on the modifications adopted to the bill discount methodology the aggregated electric and gas EAP program budgets are approximately \$233 million and \$133 million, respectively. We note that participation has increased since the issuance of the Whitepaper, likely due to the COVID-19 pandemic.

Regarding AARP's request for information regarding the need for this recommendation, the Commission notes that this recommendation was developed due to the current financial conditions because of the COVID-19 pandemic. We reiterate that the Commission's goal is to set discounts to achieve a six percent energy burden for low-income customers balanced with a two percent total revenue budget cap. Discounts can therefore fluctuate up and down based on the level of need as an outcome of the formulaic approach.

[19] Case 19-M-0350, Petition of National Grid for Authorization to Adjust the Annual Calculation of Discount Amounts, Order Approving Petition (issued October 18, 2019).

Grandfathering Clauses

A. Staff Recommendation

Staff recommends that grandfathered discounts be phased out (Whitepaper Recommendation No. 11). The May 2016 Order established that the previously existing discounts for Con Edison and KEDNY would continue as long as the Commission's methodology did not result in higher discounts and stated that the Commission may consider when grandfathered discounts may be phased out.

B. Comments

AARP opposes the recommendation, stating that this issue is moot if the recommended adjustments result in higher discounts. Additionally, AARP states that discounts should not be reduced given the current economic conditions. The JU supports discontinuing the "grandfather-in" clause for Con Edison and KEDNY because the then-effective discounts are no longer applicable under the EAP framework. Both PULP and UIU support the recommendation.

C. Discussion

The May 2016 Order grandfathered in existing discounts for Con Edison and KEDNY. The Commission reasoned that the New York City metropolitan service area presented unique challenges for identifying and estimating the level of need. Therefore, existing discount levels were grandfathered in, unless the Commission's adopted methodology yielded a higher discount. Because there is general support for this recommendation and as the JU state, the "grandfathered in" discounts are no longer effective, the Commission does not see a need to continue this clause. Therefore, the grandfathered discounts for Con Edison and KEDNY are discontinued. Notwithstanding the directive above that discount levels not be decreased through November 30, 2022, if discontinuance of these grandfathered discounts beyond

December 1, 2022, results in a decrease in discount levels for any particular customer segment, Con Edison and KEDNY shall nevertheless discontinue the grandfathered discounts and establish discount levels consistent with the bill discount methodology as modified in this Order.

Generic Proceeding

A. Staff Recommendation

Staff recommends that the Commission reiterate that further adjustments will not be considered in individual rate cases, but on a generic basis in this proceeding (Whitepaper Recommendation No. 12). Staff argued that the Commission made that clear by instituting this generic proceeding to establish a statewide program rather than considering low-income programs in individual rate proceedings. The Commission’s underlying goals included standardization of utility low-income programs and streamlining the regulatory processes that would conserve administrative and stakeholder resources.

B. Comments

AARP comments that it has advocated for uniformity in all aspects of EAP, but due to the uncertainty of certain aspects like improvements to the file match process that would need to be addressed in future phases, it would be an error not to allow consideration in individual rate cases. CLP states that economic conditions necessitate the need to address bill discount adjustments in individual rate cases rather than in the generic proceeding.

The JU and UIU support the consideration of further adjustments to the EAP in the context of this generic proceeding. The JU states that improvements should be made generically and should set cadence for the JU, Staff, and stakeholders to periodically review proposed changes generically. UIU states that considering changes in individual rate cases can lead to inequalities among similarly situated customers throughout the State.

PULP rejects this recommendation, arguing a lack of action to occur on the City and PULP's petitions that were filed on January 31, 2020, and May 14, 2020, respectively. Further, PULP asserts that delays to needed relief in the generic proceeding is contrary to the public interest.

In reply comments, the JU oppose PULP's position that individual adjustments be allowed to occur in individual rate cases, as this could lead to disparate treatment of low-income customers among the various utility service territories. PULP, in reply comments, disagrees with the JU and Staff that further adjustments only be considered in this proceeding, reiterating the hardships that low-income customers are facing and PULP's dissatisfaction with the pace at which Phase 2 of this proceeding is progressing.

C. Discussion

The Commission adopts this recommendation. The May 2016 Order included three primary purposes for instituting a generic low-income proceeding which includes standardization of low-income programs, streamlining the regulatory process, and consistency with the Commission's statutory and policy objectives. Program adjustments made in individual rate cases move away from the above objectives, not toward them. Therefore, the Commission will only consider and address further adjustments to the EAP in this generic proceeding to, as UIU points out, to avoid inequalities among similarly situated customers throughout the State. We encourage all interested parties to collaborate in the EAP Working Group and develop improvements to the EAP for Commission consideration.

EAP Budget Cap

A. Staff Recommendation

Staff recommends that each utility's two percent total revenue budget caps be adjusted to factor in scheduled delivery rate increases (Whitepaper Recommendation No. 13). In the May 2016 Order, the Commission balanced EAP program goals with minimizing impacts to non-participants. It therefore established that bill discount program budgets could not exceed two percent of total revenues, inclusive of commodity and delivery. However, it did not prescribe a specific method in determining calculation of revenues. In the Staff Whitepaper and in a similar fashion to the average bill recommendation, Staff recommended it would be appropriate to consider known delivery rate increases during the applicable program year and therefore, utilities should account for those delivery rate increases when comparing the bill discount program budgets to the prescribed two percent budget cap.

B. Comments

AARP and CLP support the recommendation. The City agrees that the budget cap calculation should account for forecasted delivery rate increases, noting that the current procedures allow for energy burdens to rise to ten percent before reexamination of program parameters is triggered. The City proposes to initiate a reexamination of program parameters when energy burdens rise to eight percent as opposed to the current ten percent level. However, the City acknowledges that a forecast total revenue calculation would alleviate some of that concern.

The JU opposes the recommendation to calculate the two percent budget cap using forecast delivery revenues. It commented the calculation could be complex and complicate the discount calculation and review process. However, if the

Commission does adopt this recommendation, the JU proposes that only the utilities that are exceeding the budget cap be required to conduct a forecast total revenue calculation.

C. Discussion

The Commission agrees that known delivery rate increases should be factored into the two percent total revenue budget cap. The Commission acknowledges that this change may result in additional administrative burden on the utilities, and thus adopts the JU's proposal that recalculation of the total revenues to account for such delivery rate increases only need to occur when a utility's affordability program budget exceeds its unadjusted two percent total revenue cap.[20] Of note, to develop the adopted discount levels herein, the associated program budgets were compared to two percent of utility revenues from 2019. We believe that due the impacts of the COVID-19 pandemic, utilities generally experienced lower revenues in 2020, which would translate to lower EAP program budget caps. Therefore, we find it reasonable, in this unique circumstance, to use 2019 total revenues which reflects utility total revenues under normal operating conditions.

Standardized Tariff Filings

A. Staff Recommendations

Staff recommends that a uniform annual tariff filing date of October 1st be established for the annual utility affordability programs. Staff further recommends that the updated discounts provide in these filings become effective

[20] The unadjusted total revenues shall equal the most recent 18a assessment, which are inclusive of an estimate of Energy Service Company commodity revenue. The EAP Working Group should consider how warmer or colder than normal weather impacts total revenues and the resulting EAP total revenue budget cap.

November 1st to coincide with the beginning of the heating season. Additionally, Staff recommends that the low-income program bill discounts rates be moved to tariff statements, which may facilitate faster and more streamlined implementation after the utilities submit their tariff filing. Finally, Staff recommends that the utility's energy affordability discounts also be updated for the recommendations herein at the same time as the utility's tariff compliance filing for its new rate plan. (Whitepaper Recommendation Nos. 14, 15 and 16)

B. Comments

AARP supports these recommendations. PSEG-LI agrees with the recommendation to shift low-income discount information into annual tariff statements. PULP supports Staff's proposals for a uniform annual filing date and argues that the annual filing date should be no later than November 1st. UIU proposes to include budget billing information and definitions for terms on the tariff statements as well. The City agrees with Staff's recommendations to standardize filing practices and suggests that information related to energy burdens be tracked and included in annual reports, and further proposes that energy cost burdens associated with the varying EAP discount levels be included in such reports.

The JU supports uniform annual filings but argues that the filing date should be November 1st, because the utilities need time to adjust their EAP budgets once they receive HEAP information from OTDA. The JU also agrees that utilities should file modifications to their EAP bill discounts on a uniform date instead of during a rate case filing.

C. Discussion

The Commission agrees with the recommendation to standardize tariff filings to coincide with the winter season. Standardizing the filing date for all utilities and making them available at the same time will allow all interested parties to have access to current information and allow for easy comparisons across utilities. The Commission agrees with the JU that the filing date shall be November 1st, in light of timing considerations with respect to the receipt of HEAP budget information from OTDA, for revised discounts to become effective on December 1st. A thirty-day review period should provide all interested stakeholders ample time to review any proposed modifications. In addition, moving the updates related to low-income energy affordability to tariff statements as opposed to tariff leaves will streamline implementation by allowing more rapid changes in tariffed discount amounts, and is therefore adopted.

The City suggests that the November 1st filing include a section that shows the energy burden cost associated with each of the varying discount levels. The Commission agrees with the City that proposed tariff statements shall be accompanied by workpapers and believes that this will allow for greater transparency and easier tracking of changes in energy burden year after year and adopts this proposal.

Due to the need to provide relief to low-income customers, the Joint Utilities are directed to file on not less than one days' notice to become effective on a temporary basis September 1, 2021, the bill discounts contained in Appendix D.[21] As previously discussed, bill discounts will not be reduced through November 30, 2022. The Joint Utilities are therefore directed to begin the annual cycle of filing EAP tariff

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[21] KEDNY/KEDLI and Central Hudson indicated that they may have challenges updating their bill discount rates by September 1, 2021, because of the potential rate case compliance filings due for KEDNY/KEDLI and the implementation of a new customer information system planned to go live for Central Hudson.

statement modifications and associated workpapers on November 1, 2022, to become effective December 1, 2022.

The Commission also will adopt the recommendation that the utility's energy affordability bill discounts be updated whenever the utility files tariff compliance for a new rate plan. The bill discount calculation update will protect low-income customers from any lag in EAP program updates between when new rates become effective and the annual EAP update cycle.

Budget Billing

A. Staff Recommendation

Staff recommends continuation of the automatic enrollment of low-income energy affordability program participants in utility levelized budget billing programs (Whitepaper Recommendation No. 17).

B. Comments

CLP, PSEG-LI, SUEZ, and UIU support the policy to continue automatically enrolling utility assistance program participants in levelized budget billing.

AARP does not support the continuation of automatic enrollment of program participants, stating that levelized budget billing masks costs and mitigates energy conservation and applies to a disproportionate number of persons of color. PSEG-LI states that its customer opt-out rate is very low and that AARP's suggestion to eliminate the program should be denied.

CLP recommends that customers be provided clear information regarding the capability to opt-out, and be allowed to re-enroll in arrears forgiveness programs without penalty if a payment is missed, at a minimum of once annually, within a specified timeframe. PSEG-LI notes that it currently rolls over end-of-the year balances to customer accounts as part of its levelized budget billing program as recommended by UIU as an additional benefit which supports the opt-out option at a customer's discretion.

PULP contends that participation in a utility levelized budget billing program should be an option discussed by a utility assistance program participant with an OTDA case worker and not through automated enrollment. PULP suggests that the option to be enrolled in levelized budget billing be included with the OTDA notice or in the utility correspondence regarding enrollment in the affordability program.

UIU proposes that the levelized budget billing reconciliation process be examined to adopt a mechanism to enable the charges to be paid off over a 12-month period. UIU also recommends additional information on budget billing programs be included in annual EAP reports to enable stakeholders to evaluate customer reconciliation charges.

C. Discussion

The automatic enrollment of utility affordability program participants in levelized budget billing programs shall be continued as a benefit for low-income customers to help plan for and manage their utility bills. PULP's proposal that customers be provided levelized budget billing information through an OTDA representative or the inclusion of a customer opt-in option in the utility-related correspondence would result in additional administrative burdens and costs to OTDA and the utilities. The current practice provides a streamlined efficient measure to auto enroll low-income customers into utility levelized budget billing programs, with the option to opt out. The intent of automatic enrollment is to provide a financial benefit to low-income program participants in the form of increased budgeting ability and the avoidance of significant swings in bill amounts in certain months.

Niagara Mohawk, KEDNY, and KEDLI allow for the enrollment of EAP customers into their levelized billing program provided that the customers have no arrears. Customers who accrue arrears after two monthly payments are past due and are removed from the levelized billing program. Other utilities do not remove low-income customers from the levelized budget billing programs if they are in arrears. The treatment of participation in utility levelized budget billing programs for low-income customers that are in arrears shall be addressed by the EAP Working Group with the goal of a statewide standardized process.

Utility levelized budget billing programs should be monitored to understand the impact on customers' monthly bills and to track the level of reconciliation charges. By doing so, Staff, utilities, and other stakeholders can better assess the financial impacts to customers and propose potential modifications to enhance the program. Data on the levelized budget billing programs shall include the number of participants, the range of billing charges, and reconciliation charges in terms of absolute dollars and percentages. The Joint Utilities are directed to include this information in the annual EAP reports.

Energy Efficiency/Clean Energy

A. Staff Recommendation

Staff recommends that utilities leverage their customer data to identify the highest usage low-income customers and target delivery of service to these customers through NYSERDA and utility-administered energy efficiency programs (Whitepaper recommendation 23). Staff offers that doing so would not only advance the State's clean energy goals, but would also provide meaningful and lasting energy relief to low-income customers.

B. Comments

AARP, CLP, EEFA NY, JU, PULP, and UIU concur with Staff's recommendation that utilities identify highest-use, low-income customers for targeted energy efficiency programs, using funding available through NYSERDA and utility programs. PULP proposes that State agencies undertake measures to increase investment in new energy efficiency construction in multi-family housing and retrofitting one to four family housing and multi-family housing. PULP further notes that another application for the use of such customer data would be clarification of the homogeneity of residential rate classes to identify high usage, low-income customers in rate design, such as the removal of farms and other large multi-dwelling facilities, to more closely align with the low-income customer segment.

C. Discussion

In the 2020 NENY Order, the Commission recognized the need to further scale energy efficiency services to the LMI sector by allocating specific budgets for utility energy efficiency programs, totaling over $289 million through 2025, to further enhance the LMI activities administered by NYSERDA.[22] The Commission required the utilities to work with NYSERDA to deploy a comprehensive statewide LMI portfolio envisioned to take advantage of each Program Administrators' relative strengths, including NYSERDA's leadership and experience in this sector, existing program infrastructure, and ability to partner with other state agencies alongside the utilities direct access

[22] NYSERDA's investments in LMI programs through its Market Development Program for the period 2020 – 2025 are projected to total over $540 million (Case 14-M-0094, Clean Energy Fund).

to customers and ability to best target services to those high-use customers, to further support the Commission's affordability goals.

Development and implementation of these enhanced offerings are outside the purview of this Order, but as noted by parties, the Commission views coupling bill discounts with permanent usage reductions via energy efficiency as the best approach to furthering longer-term energy affordability for low-income households. As such, the Commission notes NYSERDA's EmPower program was designed around utilities referring their low-income customers to NYSERDA for services utilizing available utility records to facilitate targeting of customers for beneficial energy efficiency services. While this has been, and continues to be, a critical component of the EmPower program design, the efficacy of the referral process has varied over the years and among utility companies. The Commission views an efficient referral process that emphasizes quality referrals, including the identification of high-use customers, as a priority and notes that improvements it seeks in data-sharing or file-matching processes between the utilities and OTDA as discussed herein, will, once implemented, have a beneficial ripple effect of delivering further energy efficiency services to low-income New Yorkers. In the annual EAP reports, the Joint Utilities shall report on the quantity and efficacy of their referrals, this shall include but not be limited to, the total number of referrals as well as the number of high-usage low-income customers that were referred to NYSERDA for energy efficiency services and the number of customers provided energy efficiency services directly by the utility. In the EAP Working Group, Staff, the Joint Utilities and NYSERDA shall work together to identify the format and contents of the referral reporting, including the definition of high-use customers.

EAP Discounts for Energy Efficiency

A. Staff Recommendation

Staff recommends not allowing the use of low-income energy affordability program discount funding for energy efficiency purposes, but rather to be reserved for direct utility bill discounts (Whitepaper Recommendation No. 24).

B. Comments

AARP, CLP, EEFA NY, and UIU support the continuation of bill discounts applied directly to customer bills. According to PSEG-LI, its budget and rates are based on the accepted public power model rather the rate model used for investor-owned utilities regulated by the Commission, and the treatment of dollars and associated recovery is different. PSEG-LI supports additional support for higher usage low-income customers, but notes its unique regulatory circumstances should make it exempt from any further actions. PULP states that energy efficiency programs should not be funded through EAP budgets except for its proposal to substitute the two percent cap with a fixed energy assistance budget established at two percent of utility revenues.

C. Discussion

As noted in the Staff Whitepaper, the intent of the EAP was to provide additional assistance to alleviate energy burdens for low-income customers in coordination with other public and energy assistance programs. PULP’s proposed treatment of the two percent cap and PSEG-LI’s position regarding cost recovery have been addressed in this Order. No other models regarding the use of the bill discounts for energy efficiency programs were provided and, therefore, the application of EAP budgets will continue to be directly applied to customer bills through discounts.

CONCLUSION

The success of the Commission's Energy Affordability Policy depends on cooperation and coordination among the utilities, OTDA, Staff, and other stakeholders. Better policies and program improvements can be achieved with increased involvement from interested entities. The Commission herein establishes an EAP Working Group for all interested stakeholders to participate collectively in the advisement of improving the EAP.

The Commission adopts modifications to the bill discount calculation methodology to move further toward achieving the Commission's six percent energy burden goal. In summary, the Commission modifies the income level, Tier 1 non-heating renter HEAP benefit amount, and development of the average low-income bill, and decides as a short-term COVID-19 relief provision not to decrease bill discounts levels resulting from the modifications. The resulting bill discounts are shown in Appendix D. The Commission directs the Joint Utilities to update their respective EAP bill discounts and file other appropriate tariff modifications to become effective on a temporary basis, on September 1, 2021, to provide low-income customer relief as swiftly as possible.

The recommendations adopted in this Order will provide for greater uniformity of the utility energy affordability programs statewide through standardized practices and facilitate the ease of enrollment and customer participation. Changes to the EAP we adopt herein will provide immediate relief to low-income customers by, among other things, increasing the number of customers enrolled in the utility low-income assistance programs and increasing bill discount levels for program participants. While this Order represents an important and impactful step, more work will be required to effectuate further improvements to the EAP, as well as to provide targeted relief to those customers financially impacted by the COVID-19 pandemic.

The Commission orders:

1. Recommendations 1-17, and 22-24 of the February 4, 2021 Staff Report on New York State's Energy Affordability Proceeding are adopted, as modified, consistent with the discussion in the body of this Order.

2. Department of Public Service Staff is directed to convene a stakeholder Energy Affordability Policy Working Group within 60 days of the effective date of this Order.

3. The Joint Utilities (herein, Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Orange & Rockland Utilities, Inc., National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a National Grid New York, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric and Gas Corporation, and Rochester Gas and Electric Corporation) are directed to report in their respective annual Energy Affordability Policy reports, filed within 60 days after the end of each program year ending on November 30, on how many of the affordability program participants in the New York State Office of Temporary and Disability Assistance (OTDA) file match were not able to be identified in the utility system, and the estimated number of total Home Energy Assistance Program recipients served by OTDA in their respective service territories.

4. The Joint Utilities listed in Ordering Clause No. 3 above are directed to file their respective

annual Energy Affordability Policy reports to the Secretary to the Commission within 60 days after the end of each Energy Affordability Policy program year ending on November 30, beginning after the conclusion of the 2021-2022 Energy Affordability Policy program year.

5. The Joint Utilities listed in Ordering Clause No. 3 above shall develop and file, within 90 days of the effective date of this Order, a uniform statewide customer self-certification process.

6. The Joint Utilities listed in Ordering Clause No. 3 above, in consultation with Department of Public Service Staff, shall develop a uniform statewide template, that shall be available online and through direct mail, for customers to submit a self-certification application with the appropriate documentation, and file such template with the Secretary to the Commission within 90 days of the effective date of this Order.

7. The Joint Utilities listed in Ordering Clause No. 3 above shall incorporate targeted outreach to inform customers on the availability of the self-certification process as part of their annual Outreach and Education plans, which shall be filed by December 1, 2021.

8. The Joint Utilities listed in Ordering Clause No. 3 above shall enroll their respective low-income affordability customers who can provide documentation of proof of their enrollment in public assistance programs associated with the federal Lifeline program, consistent with the discussion in the body of this Order.

9. The Joint Utilities listed in Ordering Clause No. 3 above shall provide a reminder notice to self-enrolled customers regarding the update process on an annual basis, consistent with the discussion in the body of

this Order.

10. The Joint Utilities listed in Ordering Clause No. 3 above are directed to conduct an analysis to determine if there are ways to better use actual regular and renter Home Energy Assistance Program benefits provided to low-income customers in the current tier structure that would result in more targeted discounts. A report on the conclusions of this analysis shall be filed with the Secretary to the Commission within 180 days of the effective date of this Order.

11. The Joint Utilities listed in Ordering Clause No. 3 above shall each conduct a benefit/cost analysis to explore the feasibility of further stratifying the bill discount tiers and submit their report to the Secretary to the Commission within 180 days from the effective date of this Order.

12. The Joint Utilities listed in Ordering Clause No. 3 above shall conduct an electric heat average usage and average bill analysis to determine if further refinements could be made to the electric heat discount and submit their report within 180 days from the effective date of this Order.

13. The New York State Energy Research and Development Authority shall file with the Secretary to the Commission, within 180 days of the effective date of this Order, the proposed scope and objectives of a comprehensive low-income average bill and usage analysis consistent with the discussion in the body of this Order.

14. The Energy Affordability Policy bill discounts provided by the Joint Utilities listed in Ordering Clause No. 3 above shall not decrease through November 30, 2022, consistent with the discussion in the

body of this Order.

15. Grandfathered discounts for Consolidated Edison Company of New York, Inc. and Brooklyn Union Gas Company d/b/a National Grid NY are discontinued, consistent with the discussion in the body of this Order.

16. The Joint Utilities listed in Ordering Clause No. 3 above are directed to file revised Energy Affordability Policy bill discounts whenever the utility files tariff compliance for a new rate plan.

17. The Joint Utilities listed in Ordering Clause No. 3 above are directed to file, in their respective annual Energy Affordability Policy reports, the total number of low-income energy efficiency referrals, as well as the number of high-usage low-income customers that were referred to the New York State Energy Research and Development Authority for energy efficiency services or were provided energy efficiency services directly by the utility.

18. The Joint Utilities listed in Ordering Clause No. 3 above are directed to file, on not less than one days' notice, to become effective on a temporary basis on September 1, 2021, the bill discounts contained in Appendix D and Energy Affordability Policy tariff modifications consistent with the discussion in the body of this Order.

19. The requirements of Public Service Law Section 66(12)(b) as to newspaper publication of the tariff revisions filed in accordance with Ordering Clause No. 18 are waived because the public process in this proceeding and this Order give adequate notice of the changes.

20. The Joint Utilities listed in Ordering Clause No. 3 above are directed to begin the annual cycle

of filing Energy Affordability Policy tariff statement modifications and associated workpapers on November 1, 2022, to become effective December 1, 2022.

21. The Joint Utilities listed in Ordering Clause No. 3 above are directed to calculate their bill discounts that reflect: (1) the midpoint income calculation for each tier; (2) the renter Home Energy Assistance Program benefit in the bill discount calculation for Tier 1 non-heat electric and gas participants; and (3) the hybrid bill approach when calculating each low-income customer group’s (electric heat, electric non-heat, gas heat, gas non-heat) average bill, consistent with the discussion in the body of this Order.

22. In the Secretary’s sole discretion, the deadlines set forth in this Order, inclusive of the tariff filing directed in Ordering Clause No. 18 above, may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

23. These proceedings are continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

New York State’s Energy Affordability Policy

APPENDICES

Dated: August 12, 2021
State of New York
Department of Public
Service Three Empire State
Plaza Albany, New York

List of Appendices

New York State’s Energy Affordability Policy

SUMMARY OF PARTY COMMENTS

Appendix A

Low Income Energy Affordability Policy and COVID-19 Relief
Summary of Comments

On February 4, 2021, Staff of the New York State Department of Public Service (Staff) filed a whitepaper proposing 24 recommendations on potential modifications and improvements to energy affordability programs for low-income customers and COVID-19 relief (Whitepaper). On February 17, 2021, the Secretary to the Commission issued a Notice of Technical Conference and Soliciting Comments and invited interested entities to submit initial comments on the Whitepaper by April 19, 2021, with reply comments requested by May 3, 2021. By letters dated April 12 and April 15, 2021, the Joint Utilities (JU),[1] and PSEG LI Long Island LLC (PSEG LI) requested a thirty-day extension to respond to recommendations 18, 19, 20, and 21 to provide for additional time to review final, COVID-19 related legislation that had been passed by the New York State Legislature, but not yet enacted into law. On April 16, 2021, the Secretary to the Commission issued a Notice Extending Comment Period extending both the initial and reply comments for all of the Whitepaper recommendations by 30 days. On April 16, 2021, the Public Utility Law Project of New York, Inc. (PULP) requested either withdrawal or clarification of the April 16, 2021 Notice Extending Comments. In a Notice Clarifying Extension of Comment Period, issued April 16, 2021, the Notice Extending Comments was clarified to allow only a 30-day extension for initial and reply comments for recommendations 18, 19, 20 and 21 (May 19, 2021 and June 2, 2021, respectively).

Initial comments were submitted by the American Association of Retired Persons (AARP), Advanced Energy Companies (AEC),[2] Citizens for Local Power (CLP), City of New

[1] JU comprises of the following utility companies: Central Hudson Gas and Electric Corporation (Central Hudson); Consolidated Edison Company of New York, Inc. (Con Edison); National Fuel Gas Distribution Corporation (National Fuel); New York State Electric and Gas Corporation (NYSEG); Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk), The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), and KeySpan Gas East Corporation d/b/a National Grid (KEDLI) (collectively, Niagara Mohawk, KEDNY and KEDLI are referred to as National Grid); Orange & Rockland Utilities, Inc. (O&R); and, Rochester Gas and Electric Corporation (RG&E).

[2] Advanced Energy Companies comprises of the Advanced Energy Economy Institute, Advanced Energy Economy and the Alliance for Clean Energy New York.

York (CNY), Energy Efficiency for All New York (EEFA NY),[3] the JU, New York Energy Democracy Alliance (NY EDA), PULP, PSEG LI, SUEZ Water New York Inc. (SUEZ) and Utility Intervention Unit of the New York State Department Division of Consumer Protection (UIU).

A summary of the comments received by these interested entities has been organized into the following categories by Whitepaper recommendations: (1) general comments; (2) identifying low income customers; (3) improving the discount calculation methodology; (4) standardizing practices and administration across utilities; and, (5) further recommendations, including those related the COVID-19 pandemic, levelized budget billing, utility energy management plans and energy affordability programs, and low- income energy efficiency programs.

General Comments

According to AARP, the Commission's May 2016 Order did not adopt statewide customer enrollment measures to achieve the 6 percent energy goal and, while the Order directed the establishment of a Low Income Energy Task Force, AARP is not aware of public documentation of its activities or recommendations in the past five years.

CLP highlights two points regarding the benefits of the State's energy efficiency goals and meeting the 6 percent energy burden objective for low income customers. First, CLP notes that utilities are responsible for attending to the basic needs of the communities they serve in an equitable and nondiscriminatory manner. Second, CLP states that society's response to the climate emergency will be effective if it is inclusive of all sectors of population and economy.

While the CNY is generally supportive of the Staff's Whitepaper recommendations, it emphasizes that the Commission should expedite the adoption of the new discounts to provide increased relief to low income customers.

EEFA NY recommends that the Commission consider a full ecosystem of programs, in addition to its Energy Affordability Policy, to provide a more comprehensive

[3] EEFA NY includes the following organizations: Association for Energy Affordability; Community Preservation Corporation; Enterprise Community Partners; Green & Health Homes Initiative; National Resources Defense Council; Pace Energy and Climate Center; and, WEACT for Environmental Justice.

approach to maximize energy bill assistance benefits and improve accessible energy efficiency for low income households. According to EEFA NY, modifications to the low-income Energy Affordability Policy (EAP) should complement the goals of the Climate Leadership and Community Protection Act (CLCPA).

The JU endorses an expedited Commission adoption of the Whitepaper recommendations that could be implemented in the near-term to modify the calculations for the bill discounts with administrative ease, simplicity, and transparency. The JU notes that other Whitepaper recommendations regarding the existing multi-tier structure of the EAP or proposals that require further study and analysis be rejected or deferred.

NY EDA expressed concern with the status of the pandemic and resulting additional economic burdens to low income households. NY EDA notes that utility shareholders have incurred increased high returns on equity and utilities have continued to pursue rate increases which are resulting in significant hardships to customers. NY EDA supports Commission action to require utilities to cancel customer arrearages with shareholders absorbing 100 percent of customer debt.

PSEG LI advises that, as a not for profit public power utility, it has no shareholders and that the benefits associated with public power are provided to its low-income customers. Accordingly, PSEG LI notes that modifications to the low-income program that add costs would need to be recovered in delivery rates based on the budget year they would be incurred. These increased program costs would negate PSEG LI efforts to maintain flat or near flat delivery rates.

PULP contends that the current pandemic induced economic recession and resulting energy affordability crisis should be addressed by the Commission expeditiously.

In its comments, UIU supports modifications to the EAP which result in additional benefits to low-income customers without increasing administrative costs.

Identifying Low Income Customers

1. Staff recommends the inclusion of all utility account numbers on all Office of Temporary and Disability Assistance (OTDA) public assistance program applications as a standard variable to match as a means to identify income eligible customers.

AARP does not believe this recommendation would result in a robust data set, as OTDA cuts off applications for Home Energy Assistance Program (HEAP) before funding is exhausted.

CLP supports Staff's recommendation that OTDA require households to provide their utility account-holder name and account number as part of the process of enrolling them in its programs, and that OTDA share this data at least biannually with utilities as an initial means of increasing the accuracy and comprehensiveness of utility customers' participation in the HEAP program. For this to be effective, CLP suggests that information on non-utility sources of fuel for heating must be included in the information collected by OTDA. At the same time, newly eligible customers and others should be able to start receiving their utility discounts without delay through self-identification to the utility and the provision of evidence of their HEAP acceptance.

CNY supports the Staff recommendation that OTDA include all utility account numbers on its applications for public assistance. CNY states that this will help identify income eligible customers who otherwise not identified through HEAP.

EEFA NY supports this recommendation and notes that verification of the applicant's utility account number prior to approval of HEAP benefits with the necessary modifications would enable the OTDA file match to include receipt of other income-eligible benefits.

The JU strongly recommends collaboration with OTDA to improve and automate the matching process so that any transferred information contains data that is more readily matched (e.g., utility account number). The JU supports adoption of a statewide criteria of all programs that would allow for identification but notes that expansion may need a separate timeline.

PSEG LI supports this recommendation, noting that an approximate 98 percent match would be achievable with customer accounts, and encourages Staff to consider expanding efforts to include utility account numbers on other types of applications for public assistance. It notes that participation should be expanded through measures that simplify and automate the enrollment of eligible customers.

PULP recommends that each utility to use the State's telephone Lifeline program eligibility criteria to categorically enroll applicants in the utilities' low-income energy affordability programs.

SUEZ agrees with this recommendation and once it begins receiving low-income data from OTDA it will be in a position to develop a low-income program.

UIU supports this recommendation, and notes stakeholders and the Task Force can work through any potential privacy concerns. UIU recommends that utilities immediately begin to expand the self-enrollment process to enroll Lifeline eligible customers in utility discount programs. While UIU supports Staff's recommendation regarding establishing a statewide file match that captures a variety of financial assistance programs, it recommends that while work is done to establish this file match, a self-enrollment process can help customers begin to access these important benefits. UIU proposes that the file match occur in May and November with customer notification of any changes to occur no later than 90 days.

2. Staff recommends working directly with OTDA to effectuate more frequent file matches to capture changes in participants. The utilities should report annually on how many of the participants in the file were not able to be matched, as well as the estimate number of total HEAP recipients served by the OTDA in their respective service territories.

AARP supports more frequent file matches because people move in and out of the income eligibility thresholds for benefit programs. AARP also supports enhanced reporting to inform policy.

CLP supports Staff's recommendations requiring utilities to work more closely with OTDA to increase the frequency of file-matching and improve reporting and proposes that Lifeline recipients should be included in file-matching.

EEFA NY supports initiating the file match more frequently to capture changes in household eligibility.

The JU conceptually agrees that a process supporting more frequent file matching may be useful but is concerned with the quality of data provided by OTDA, as well as the time-intensive manual work required by utilities to perform the OTDA file match process. Increasing the frequency of the transfer of incomplete or difficult to analyze information will not improve processes to support to qualified customers, modifying the frequency of file exchanges before first addressing the quality of the information to be exchanged is premature. The JU re-affirms its position that OTDA implementation of a more comprehensive file matching system that affirmatively identifies eligible customer accounts, using a broader list of programs, would increase standardization. Improved OTDA file matching could significantly improve enrollment across upstate utilities, in keeping with the more comprehensive and effective file matching conducted by other agencies for downstate utilities.

PSEG LI supports this recommendation.

SUEZ agrees with this recommendation once it begins receiving low income data from OTDA.

UIU strongly supports annual reporting which would enable stakeholders to evaluate the effectiveness of the file matching process.

In its reply comments, PSEG LI reiterates its recommendation to expand participation through measures that simplify and automate the enrollment of eligible customers and supports the self-identification process. PSEG LI notes AARP incorrectly states "Long Island customers" must be eligible for HEAP - under LIPA's Tariff for Electric Service, however, eligibility for the Low Income Program Discount includes customers who provide documentation of current enrollment in at least one of the following programs: HEAP; Medicaid; Supplemental Nutrition Assistance Program (SNAP); Supplemental Security Income (SSI); Temporary Assistance – Family Assistance (FA); Temporary Assistance-Safety Net Assistance (SNA); United States Veterans Administration – Veteran's Pension or Veteran's Surviving Spouse Pension.

In reply comments, PULP agrees with the JU that the quality of OTDA data needs to be improved but recommends eligibility criteria such as including income-qualified consumers for Lifeline Telephone discounts should be implemented without delay.

3. Staff recommends that all future requests for submetering that include affordable housing component should require the building owner to file an application to OTDA for coordinated benefits to low-income customers.

AARP and CLP support this recommendation.

Regarding submetering, EEFA NY proposes the Commission explore a partnership with the New York State Homes and Community Renewal (HCR) and OTDA to create a rental registry that tracks and manages information on rental properties statewide. The registry would include location, owner and manager, number of units (regulated and unregulated), meter type, fuel source and monthly energy usage. EEFA NY suggests tenant income be included in the registry to assess the energy burden and determine eligibility through more granular calculations. However, EEFA NY acknowledges the challenges to develop the registry, which may require legislative measures. EEFA NY notes that Maryland has developed a rental registry through legislation, which is managed through the Department of Environment. The registry focuses on certifying a property does not have hazardous lead poisoning and require tenant or utility information, but EEFA NY believes exploring these aspects could be helpful in New York State.

4. Staff recommends the utilities that receive the OTDA file match develop a uniform statewide approach for customer self-identification. The utilities and Staff should collectively work with OTDA to develop a verification process in their next file match to ensure the self-identified customer was indeed program eligible by OTDA.

AARP agrees that there should be uniform statewide protocols for customer self-identification and urges Staff to examine the different approaches currently in use to propose a best practices approach for consideration.

CNY supports exploring how OTDA data can help identify HEAP tiers for customers who receive their HEAP payments directly, rather than through the utility. Similarly, this measure would provide identification for customers whose HEAP payment goes to one utility but, receives gas or electric service from another utility.

CLP supports this recommendation and suggests additional specifications that any statewide approach to customer self-identification must be clear, nonbureaucratic, and easy for customers to navigate. CLP further suggests that the Commission establish clear and binding requirements and guidelines for utilities to publicize the availability of self-identification, including the dollar amounts that are available, the impact of enrollment on arrears and fees, and the fact that self-identifying customers will be automatically enrolled in a utility's EAP and that they may opt out at any point.

The CNY notes potential issues with expanding criteria to more programs, as well as the administrative burden and lower rates of enrollment self-certification may cause. The New York State Department of Health (NYSDOH) informed CNY that Medicaid data could no longer be used for the opt-out match process that HRA currently engages in for purposes of the LI EAP bill discount program in 2020. An opt-in letter would have to be used to contact eligible customers, who would have to then self-certify. CNY supports the continued efforts for data sharing amongst state agencies and encourages Staff to continue engaging other agencies to facilitate this sharing mechanism.

EEFA NY supports this recommendation.

The JU is unaware of any systemic issues of fraud that would require a statewide customer self-identification verification process to correct, noting that the existing utility de-enrollment processes where discounts stop automatically after a fixed number of months demonstrates that this approach has worked well. De-enrolling customers based on OTDA lists would complicate the process and increase the likelihood of errors and incur additional costs. The JU notes it could support a more uniform verification process if it were simple, easy to manage, and cost-effective, but Staff's recommendation would likely result in additional administrative work and an increase in costs and customer confusion. According to the JU, Staff has not demonstrated benefits that would be achieved with a more structured verification process. The JU recommends the Commission continue to allow self-identification without the development of structured after-the-fact verification processes, but that further collaboration between agencies, OTDA, Staff and the JU continue to identify if further improvements to matching processes can reasonably be made to improve the EAP.

PULP recommends utilities re-enroll customers into their monthly low-income discount plans when a customer has received HEAP that heating season, or has self-enrolled during the same heating season, but has moved or needed to close the existing account and open a new account in the same utility service territory. In addition, PULP suggests that the Commission order the enrollment of the estimated 800,000 income-eligible households that were not admitted to the affordability program in 2020, and create a method to temporarily enroll the 170,000 newly low-income households created by COVID-19.

PSEG LI supports this recommendation. The process for self-enrollment is currently a manual process for PSEG LI, and the addition of this data would allow for enrollment without the customer needing to intervene.

SUEZ does not agree that customers should be allowed to self-enroll as it does not have the Staff to manage that administrative burden of ensure any fraudulent claims could be stopped before negatively impacting the programs and all rate payers.

UIU recommends a two-phased approach for enrolling all eligible customers. The first phase would be the process for verifying EAP eligibility, which should be expanded to allow for self-identification of customers who meet the Lifeline eligibility criteria. The second phase would require the development of a more sophisticated approach to serve all eligible customers including a statewide file match between the utilities and OTDA of all the Lifeline eligible programs. To achieve a statewide file match, barriers should be identified. The file match process used by NYC HRA and the Westchester DSS could be a useful starting point to help identify the needs for the file match. Also, a technical conference that includes utility information technology experts should be conducted to explain the current state of utility systems and address additional IT needs (costs and data privacy concerns) for implementation of a statewide file match. A cost-effective solution could be worked on by parties once barriers have been identified.

In its reply comments, the JU notes that while it could support exploring a statewide file match, PULP's recommendation to overhaul the current system is not possible in the short-term and does not consider the years of upgrades and improvements that have already been invested, nor has PULP provided a cost benefit analysis as a basis for its implementation. It also notes that UIU's proposal to have a file match in May and November with customer notification of any changes to occur no later than 90 days is inconsistent with current practices and cannot easily be implemented. The JU does not find this recommendation to be practical or in the customers' interest. The JU also seeks to clarify that the matching processes are not the only manner utilities enroll customers in EAP or move customers between bill discount tiers. The file match is not currently used to move customers into Tiers 2, 3, or 4. The JU states UIU's proposal would create an increase in administrative burden on utilities and potentially create a rush of customer inquiries and document submissions, in addition to requiring increased levels of coordination between the JU, Staff, and OTDA. The JU supports CNY's recommendation that Staff discuss with the NYSDOH potential solutions for the Medicaid data changes. It notes it does not oppose the creation of a statewide set of qualifying programs and corresponding matching process, but the timeline would likely extend through 2022.

PSEG LI reply comments support documentable forms of expanded participation, including self-identification with verification, and notes its low-income customer outreach measures.

In its reply comments, PULP shares the JU's concerns that the Staff suggestion of creating an approach to verification of customers that self-identify for eligibility in the EAP bill discount programs and finds the verifier database and process as unnecessary.

Improving the Discount Calculation Methodology

5. Initially, in the absence of more granular income data sharing from OTDA, Staff recommends utilizing the midpoint of each income tier to set income assumptions (which represents the lest administratively burdensome modification to actual income provided from OTDA).

AARP supports this recommendation stating that CNY and PULP both provided persuasive data demonstrating the current structure often does not achieve the six percent burden level. CLP and EEFA NY also support this recommendation.

The JU states that considerable time and resources have been used to implement the Commission's EAP bill discount methodology and, as previously indicated, it would support various changes to the inputs to the formulaic approach and as long as the changes did not result a significant departure from the current methodology and are clear and transparent. Therefore, the JU supports many of the input changes to the formula recommended by Staff.

The JU supports the recommendation as it is the most transparent way to address the variability to a household's income level and is administratively less burdensome to more complexed proposed methods, such as CNY's proposal using census data. The JU states that more complex approaches like CNY's proposal is counter to the goal to streamline the process and can lead to delays in setting new discounts annually if there are disagreements with how the utility performs the analysis along with the assumptions used. If such an analysis is adopted by the Commission in determining income levels, the JU proposes that either Staff or OTDA perform the income analysis to be used by utilities in setting discounts.

CNY supports the modifications to the EAP rate discount methodology and resulting discounts for low income customers which would make considerable progress towards achieving the six percent energy burden goal. The CNY requests the Commission adopt the discounts expeditiously to provide rate relief envisioned in the May 2016 Low Income Order. According to CNY, implementation of more meaningful discounts may assist in addressing the growing arrears in the state. CNY states that where certain modifications may take longer for the utilities to implement, others that can be implemented immediately should move forward as soon as practicable.

CNY states that the using the midpoint income level for the tier groups rather than the maximum income level more accurately aligns the discount rate more with actual income levels. In its analysis based on 2018 census data, CNY notes that the median income level Tier 1 and Tier 3 customers was $28,062 and $11,144, respectively. In comparison, Con Edison's inputted income levels for the same customer groups was at $37,524 and $21,398, respectively. CNY states that the difference in income level assumptions results in a considerable difference in calculating the six percent energy burden. CNY acknowledges the administrative hurdle to implement or coordinate use of the American Community Survey (ACS) data and states that it may not be feasible at this time. However, it supports the increased data sharing between OTDA and the utilities or the use of ACS data in the future. CNY encourages the Commission and utilities to explore further data sharing as it provides more accurate discount calculations to achieve the six percent burden.

PULP does not agree with the recommendation stating that while it may be a step in the right direction, the analysis it completed indicates that the midpoint assumption does not accurately represent incomes in the respective tier groups. To support its claim, PULP provided the below table created from its 2019 census data analysis it completed that show income levels, energy costs and energy burdens.

Table 1: Low Income Energy Burdens in New York State - 2019

Area	Households	Average			Median		
		Energy Costs*	Income	Energy Burden	Energy Costs	Income	Energy Burden**
All Households (Heaters & Non-Heaters**)							
Statewide	1,827,224	$2,284	$22,163	10%	$1,877	21935.8	9%
New York City	834,819	$2,042	$21,880	9%	$1,560	$21,469	8%
Rest of State	992,405	$2,489	$22,402	11%	$2,128	$22,279	10%
Heaters Only							
Statewide	1,208,621	$2,624	$22,556	12%	$2,199	$22,542	11%
New York City	638,732	$2,433	$22,532	11%	$1,918	$22,582	10%
Rest of State	569,889	$2,839	$22,582	13%	$2,400	$22,526	11%

* Energy Costs exclude imputation of indirect heating costs paid through rent.
** Median energy burden does not consider 108,283 households with $0 income.

Source: U.S. Census Bureau, American Community Survey (2019 - 5yr)

Based on its analysis, PULP proposes that the income level assumptions should use the median household income (MHIs) for each tier level. Specifically, Tiers 1, 3, and 4 should be set at the median income for a household that is eligible for each respective tier and Tier 2 should be set at the average of Tiers 1 and 3. PULP states that this approach would set discounts to achieve the six percent energy burden for the MHI of each tier or half of the participants. The below table describes PULP's proposed income levels in comparison to Staff's recommendation.

Table 2: Statewide Median Household Income (2019) - Households Eligible for Tiers 1, 3 and 4 (PULP and Staff Proposals Compared)

Tier	Recommendation		Difference		% of Households @ or Below Tier Income	
	PULP	Staff	Amount	Percent	PULP	Staff
1	$2,391	$2,905	$514	21%	50%	34%
2	$1,970	$2,190	$220	11%	N/A	N/A
3	$1,549	$1,621	$72	5%	50%	48%
4	$894	$1,052	$158	18%	50%	28%

PULP states that its analysis indicates that the variability of median income levels within tier levels does not present a material change across utility service areas and, therefore, utilities would not need to perform this analysis specific to their respective service territories allowing the proposed Tier 1, 3 and 4 median income levels to serve as inputs in the bill discount budget workbook. PULP states that the cost of its proposal above would result in a statewide budget of approximately $436.3 million which would be 39 percent higher than Staff's recommended budget. PULP further states that under this proposal only Con Edison electric and KEDNY budgets would exceed the two percent budget cap at 2.09 percent and 2.57 percent, respectively. According to PULP, its proposal would result in a statewide 1.6 percent of revenues for electric and 1.6 percent for gas.

UIU supports using the midpoint income level in the interim as OTDA and utilities develop better data sharing methods to improve and create more accurate calculations. Although UIU appreciates the proposed method by CNY that utilizes census data, it shares the concern raised Whitepaper that conducting such an analysis would be administratively burdensome. UIU supports improved data sharing methods that could provide more sophisticated income method and discount calculator in the future. In the meantime, UIU notes that stakeholders should consider minimizing operational costs and administrative burden to maximize the bill credits available to ratepayers and address privacy concerns in the long term.

In reply comments, the JU stated that PULP's recommendation to use the statewide median incomes for customers eligible for Tiers 1, 3 and 4 and the average of Tiers 1 and 3 set the income level assumption for Tier 2. PULP notes the statewide median income across all territories is less variable than service area specific median household incomes, which would eliminate the need for each utility to conduct its own analysis for their respective service areas. The JU stated that if such a recommendation is adopted, that Staff and/or OTDA conduct the analysis to establish income level assumptions for all the utilities. Also, the JU states that any other process derived from PULP's proposals should not be adopted if administratively burdensome or result in program costs that exceed the two percent budget cap. Further, the JU replied that PULP's proposal of using the median income as opposed to the midpoint should be rejected because the current methodology and the midpoint recommendation are based on a two-person household. Based on census data for New York, the average household size is 2.59 persons. PULP's proposal to use the median income is an additional extrapolation and further misleads actual household income. Alternatively, the JU proposes that OTDA publish the median income level for households eligible for Tier 1, 3 and 4 in August each year using current actual data. This will allow utilities sufficient amount of time to incorporate into their program and use actual statewide data without the need for reprogramming systems.

In reply comments, PULP disagrees with the JU position that using household data from the U.S. Census is contrary to the objective to streamline EAP's and could cause delays in implementing discounts due to disagreements to the conducted analysis. PULP states that Census data is nationally accept data set that is objective and key to achieving the six percent energy burden. PULP suggests conducting a technical conference to alleviate any concerns surrounding use of the data and application. PULP agrees with the JU that Staff should be the lead in conducting the analysis with OTDA in a transparent manner.

6. Staff recommends the Commission use the regular HEAP renter benefit to develop the low-income energy affordability program discounts for Tier 1 electric and gas non-heat customers. Staff recommends the major utilities conduct an analysis to determine if a more refined calculation has a significant impact to the Tier 1 discount using the actual renter benefits.

In its initial comments, AARP defers its position pending review of comment of other parties.

The JU agrees that not all HEAP recipients receive the $350 HEAP benefit, particularly for non-heat customers. The JU agrees that for non-heat electric and gas customers, the HEAP amount input should reflect more closely what those customers receive for the Renter Benefit under the HEAP program, which is outlined in the Staff workbook at $35 for the 2019-2020 HEAP season. The JU concurs to perform the analysis to determine whether or using actual received Renter Benefit amount, which ranged from $30-$35, would produce a significant impact on the Tier 1 discount as opposed to a proxy. However, the JU urges that utilities be provided flexibility regarding modifications to inputs in the discount calculation that are more customized rather than using a proxy. The JU states that some changes may be more workable for some utilities and not for others.

CNY states that lowering the HEAP amount is appropriate because not all eligible customers receive the full $350 Regular HEAP benefit, which is currently assumed in the bill discount calculation. CNY notes that according to OTDA, the average non-emergency HEAP benefit received by low income families in New York City was $42.02 in 2017. CNY supports the use of Staff's recommend $35 HEAP benefit amount for Tier 1 electric and gas non-heat customers as it more closely aligns with HEAP benefits received by EAP customers, resulting in a more accurate energy burden calculation.

PSEG LI states that it receives a list of eligible customers from OTDA that are being served by KEDLI or receive direct payments for oil heat (approximately 10,000 customers). Therefore, PSEG LI notes its Tier 1 non-heating customers should continue to get the full $350 HEAP benefit in the calculation as heating customer of KEDLI or as an oil heat customer. The Staff Whitepaper requested utilities to conduct an analysis that would address if a more refined calculation that uses actual renter benefits would have a significant impact. PSEG LI proposes a more refined calculation that uses actual renter benefits which significantly impacts the discount level for Tier 1 customers. PSEG LI notes the Tier 1 discount is higher for a non-electric heat customer who either is KEDLI heat customer or a KEDLI non-heat customer. PSEG LI provides the following example net energy burden calculation comparison.

		DPS Calculation	PSEG Long Island Calculation
1	Annual Income	34,850	34,850
2	Target Energy Burden	6%	6%
3	Annual Energy Burden	2,091	2,091
4	HEAP Benefit	35	35
5	Annual Available Resources	2,126	2,126
6	Monthly Available Resources	177.19	177.19
7	Share to Natural Gas Bill	88.59	43.65
8	Share to Electric Bill	88.59	133.53

The above scenario assumes the customer is a non-heat electric customer and non-heat gas customer and therefore, receives the $35 Renter Benefit. Through row 6, the calculation is identical, however, row 7, PSEG LI states that the DPS calculation assumes 50 percent of the available benefit should go to the natural gas bill, which seems unreasonable. PSEG LI states that Staff workpapers indicate that KEDLI's target bill for a non-heat customer is $43.65 and that its approach would allocate $89 per month to pay a $44 bill, which is inappropriate. PSEG LI's calculation subtracts the National Grid utility bill from the total target energy burden, which results in the higher $133 available to pay for electricity. PSEG LI states that this is prudent since it is an electric only company and any unused energy burden assigned to natural gas customers would remain unutilized. Using the above as the target net energy burden, according to PSEG LI, would result in a discount set at $8.64. PSEG LI's modified proposal results in an electric discount of $37.46 as opposed to Staff's calculated $78.25.

PULP supports the recommendation.

In reply comments, PSEG LI stated that the discount calculation methodology should make allowances to use consumption and billing information specific to low income participants. PSEG LI states that using actual data rather than proxy improves the calculation for both EAP participants and non-participating customers who also fund the program. Also, there should be consideration to the establishment of some minimum amount that low income customers are required to pay, similar to other Commission proceedings such as the VDER proceeding for net metered customers. Regarding the recommendation to use $35 Renter benefit in the calculation for Tier 1 non- heating participants and to conduct an analysis to determine if a more refine calculation using actual renter benefits would have a significant impact on the discount levels, PSEG LI agrees with the JU's initial comment that proposes the Commission allow flexibility in implementing modifications rather than using a proxy. PSEG LI states that discounts should be derived from the best and most accurate information, which in PSEG's case, the calculation should recognize what non-heat gas customer would actually pay for service, and identify that customer's electric energy burden as the remainder of the six percent energy burden goal.

7. Staff recommends the major utilities conduct an analysis to determine if developing distinct tiers for the HEAP add-ons would provide more targeted assistance for their respective low-income customers.

ARRP agrees with the recommendation as it would achieve more targeted discounts.

The JU proposes the similar flexibility it proposed in Recommendation Six regarding distinct tiers for customers who receive the vulnerable person HEAP add-on and the income-based HEAP add-on. The JU states that the recommendation creates a new tier level which will lead to significant IT work for all utilities except for NFG which has distinct tier levels. Therefore, the JU suggests that the Commission allow for, but not require, more distinct tier levels. In the event a utility can accommodate additional tiers in its current or future IT system and it can demonstrate an additional tier would be meaningful, the Commission should allow the utility to pursue the approach and include the work in its annual filing.

PSEG LI states that its analysis to determine the impact on creating a separate tier for the vulnerable person HEAP add-on would result in approximately $4 annual difference. PSEG LI notes that the associated IT costs, administrative burden and customer confusion may not outweigh the $0.33 monthly benefit.

PULP concurs with this recommendation.

8. Staff recommends the utilities use a simple three-year average when calculating the average usage for each low-income customer groups (electric heat, electric non-heat, gas heat and gas non-heat). Staff recommends continuing the current practice of adjusting the calculated average bill by utility upward by 10 percent to recognize that some low-income customers' usage is above the average, as the Commission originally reasoned in the May 2016 Order.

Using a hybrid low income average bill, according to AARP, will allow for the easy calculation of an expected typical bill at the time new rates are approved.

CLP supports the recommendation.

The JU supports the hybrid recommendation if it can be incorporated in the workbook to calculate the discount. The JU states that the hybrid approach, which uses a historic three-year usage and calculates a historic commodity portion and a future distribution portion, better reflects what those customers will be paying in the program year as it considers rate changes.

CNY supports recommendation stating that the use of a forecast delivery considers rate increases for the upcoming program year and allows for a more accurate discount calculation. CNY notes that if historic bills were higher than current bills due to extreme weather or unique circumstances, customers may experience a steep decline in discount level when recalculating. In addition to the modifying the bill calculation methodology, CNY proposes that a more thorough analysis be completed into estimating the electric usage used to calculate the electric heat discount. CNY states that the current discounts skew heavily towards gas, which may disincentivize electrification. CNY provides context from the Staff Whitepaper with a Con Edison Tier 1 electric heat discount of $22.51 and a gas heat discount of $77.58. This difference may act as disincentive, CNY remarks, when both the State and City are trying to promote electrification to achieve climate goals; and, ensuring fair and equitable utility bills for customers who electrify will be integral in a more appropriate electric heat discount.

PSEG LI advises that it does not object to the use of a three-year average to calculate usage for each low-income group but does object to using the average residential bill plus 10 percent upward bill adjustment to set discounts. PSEG LI notes that less than 25 percent of its low-income customers pay bills greater than the average customer plus the 10 percent upward adjustment. According to PSEG LI, increased discounts for customers who do not use above the average is an ineffective way to use scarce ratepayer dollars and recommends that assistance in reducing energy consumption would better address the immediate affordability concern. The current LIPA Tier 1 discount is set at $27 and the corresponding discount in the Whitepaper sets a $73 discount. PSEG LI determined that 5 percent of low-income customers' bills would be covered at the current discount and this while it would increase to 25 percent under the proposed Whitepaper discount level. PSEG LI suggests a modification to the average bill calculation that uses a three-year average low income bill (October – September) for residential electric heating and residential general services classes which would result in discount levels that would cover electric costs for 7 percent of its low income customers. The calculation would be processed annually, PSEG LI advises, for approval by the LIPA Board in its yearly budget review cycle.

PULP concurs with this Staff recommendation.

UIU supports the continued use of adjusting average bills upward by 10 percent, however, it believes utilities should have the flexibility in calculating an average bill in circumstances that warrant it, such as the situation presented by NiMo that resulted in the glide path rule which establish a maximum threshold of 20 percent that a discount amount could be decreased by if the annual recalculation under the Commission's adopted methodology resulted in reducing the discount amount greater than 20 percent. UIU suggests that under circumstances which may lead to insufficient or inequitable calculation of discounts, there should be flexibility to address the issue through public notice. UIU states that utilities should be proactive in identifying anomalies in usage levels or commodity costs that may be due to extreme weather events since utility bill discounts should be tailored to the utility bills consumers are paying. UIU proposes that where such anomalies have an impact, utilities should petition to modify the discount calculation methodology and hold a technical conference to walk through the proposal at least 30 days prior to the comment due date.

In reply comments, PULP agrees with the recommendation to use a hybrid average bill, however, notes that utilities should use other rate drivers that are generally not considered part of a delivery rate increase, such as Earning Adjustment Mechanisms, trackers and/or separate fees, Revenue Decoupling Mechanisms (RDMs) or Revenue Adjustment Mechanisms (RAMs).

9. Staff recommends that the utilities analyze the potential for stratifying low-income customers into usage groups to determine average bills for those respective groups to determine if further refinements to the discount levels are feasible.

AARP defers comment pending review of other parties' initial comments.

The JU states that the further stratification of low-income customers in usage groups in calculating average bills would produce more tailored discounts toward achieving the six percent energy burden goal, particularly for high usage customers. However, the JU notes that it would be a complex and costly undertaking from an administrative and billing perspective. For example, under the four-tier structure, splitting each tier into a high and low usage group, would double the number of discrete discounts from 16 to 32. The JU states that new functionality to their respective billing systems to perform the analysis would be needed with the implementation of new logic to assign the appropriate discount. The functionality would need to include a new set of rules covering what to do for adjusted bills and additional IT resources, capital funding, and customer education regarding the new paradigm. According to the JU, it would also likely lead to customer confusion, depending on how often a customer's status may change as a high or low user; and, how many extreme weather periods are used over the analysis period.

The JU agrees with the concept that low-income customers are on spectrum across multiple variables (income levels, usage and average bills) that fluctuate and that energy efficiency is an essential piece to maintaining energy affordability in the long-term. The JU notes there are other available tools for the utilities to leverage to provide the long-lasting support better than an evaluation of energy usage, such as CDG subscription or another energy efficiency measure that would benefit a customer for ten or more years. The JU looks for forward to further discussion in this area, however, it does not support a recommendation that complicates the EAP framework without a demonstration of customer benefits.

PSEG LI is not in support of creating additional tier groups. PSEG LI states that it does not have customers' income data and it would be counterintuitive to have tiered discount amount only move with usage when income level is a major input in the calculation. Using the average income and average bill, puts the two major assumptions in alignment. If, however, adjustments change the usage and not the income, it would misalign those two major assumptions because both are highly correlated. Customers with higher than average usage are likely to have larger homes and more expenses, including rent and therefore it would be reasonable to assume that these customers would have higher incomes. PSEG LI stated that without actual income data, the best available data to set discounts on are average income and average bills.

PULP concurs with the recommendation. PULP states that it analyzed household characteristics of approximately 144,000 low-income households with $5,000 or more in energy costs in 2019. The analysis found the following:

- 54% heated with natural gas, 27% heated with fuel oil, and 19% heated with alternative fuels including electricity;
- 36% resided in New York City, 19% on Long Island, 15% in lower Hudson Valley, and 30% in the rest of State;
- The average energy burden was 25%;
- The median household income was $25,460;
- The average number of persons per household was 3; and,
- 25% reported receiving SNAP within last 12 months.

UIU supports the recommendation because the current method does not consider usage reductions from customer using energy efficiency services. Although this would add to the complexity of calculating average bills, UIU endorses the exploration of the feasibility for future phases, including the identification of customers for targeted energy efficiency.

10. Staff recommends that if the Commission adopts its EAP recommends, low-income discounts should not be decreased for the next two years (2021-2022 and 2022-2023 program years).

AARP states that it requires additional information to understand why using the methodology proposed by CNY and PULP would decrease discounts. AARP objects to any decreases until poverty is alleviated.

EEFA NY states that the recommendation that discounts should not be reduced for a two-year period after the pandemic is a short-term solution and does not address the long-term energy affordability. EEFA NY finds that adjusting net energy burdens on piecemeal basis is contrary to the Commission directive in instituting the affordability proceeding, which was to create a uniformity, streamline processes and create consistency. Given the above concerns, EEFA NY proposes that cap be removed to achieve the six percent burden for all participants.

The JU supports not to reduce bill discounts for a two-year period after the pandemic ends. The JU acknowledges that the pandemic has caused financial hardship for many and support is necessary for bill relief. The JU concludes that in the event after the two-year period ends, if reduced discounts are applicable and if the reduction is greater than 20 percent, it should follow the Glide Path Rule.

PULP proposes to set the ratepayer share of EAP benefits at a minimum of 2 percent for years 2021 through 2026 and exceed the cap where necessary.

The JU replied to PULP's proposal to set EAP budget at a minimum of two percent of revenues for the years 2021 – 2026 and increase the cap if needed to achieve the six percent energy burden goal. The JU stated that in initial phase of the proceeding, the Commission carefully considered the impact on non-participants when it established the budget cap at two percent of revenues and the six percent energy goal. In the May 2016 Order, Commission determined that if higher than expected participation resulted in exceeding the cap, benefit levels would remain the same for that year and there would not be a cap on participation levels. The utility would be allowed full cost recovery and the energy burden levels would be adjust accordingly in order to produce program budgets within the two percent cap. The Commission also established that if energy burdens reach 10 percent, the Commission would reexamine program parameters. The JU stated that PULP's proposals should be rejected since PULP has not demonstrated that energy burdens have exceeded the ten percent threshold, nor provided a reasonable explanation to increase the budget cap. The JU acknowledges that in general, utilities have been able stay within their respective budgets caps while meeting the six percent energy goal for a proxy low income customer in each territory, using the Commission's adopted assumptions and methodology. If participation rates increase due to the pandemic or modifications adopted in Phase 2 of this proceeding, the Commission can adjust the budget cap as it sees fit, however, the JU believes an annual review and evaluation of discounts continue and that discounts are not decreased until after the 2022-2023 program year.

In reply comments, PULP includes that the JU concurs with the Staff recommendation that discount should not decrease until end of 2022-2023 program year. PULP reiterated its position from its initial comments that the program budgets should be set at a minimum of two percent of revenues until end of COVID impacts or full resolution COVID-19 arrears, whichever comes first.

11. Staff recommends the grandfathering clauses be phased out.

AARP objects to the phase out of the grandfathering clause noting that the Whitepaper recommendation yields the same or higher bill discounts, the issue is moot. If not, AARP advises, now is not the time to reduce discounts under the current economic conditions.

The JU supports the phase out of grandfathering clauses discounts for Con Edison and KEDNY. The JU states that the clause was put into effect so that utilities' then current discounts were higher than the result of the new calculation methodology and they have used the discounts established in the EAP framework and are no longer necessary.

PULP concurs with this recommendation.

UIU supports the recommendation.

12. Staff recommends that the Commission reiterate that further adjustments will not be considered in individual rate cases, but on a generic basis in this proceeding going forward.

AARP states that it has advocated for statewide uniformity in all aspects of the EAP and notes that the Whitepaper indicates that goal has not been achieved. AARP states that Staff's recommendations including deferral of unknown future improvements to the file match process and allowing EAP element to vary among utilities, it would be an error not to include consideration in individual rate cases.

The JU supports further changes to the EAP be considered in the context of the generic proceeding and not in individual rate cases. The JU states the improvements should be made generically and there should be a set cadence in which the JU, Staff and stakeholders to review of proposed changes generically.

UIU opposes changes to the EAP in individual rate cases as it may lead to inequalities for similar situated customers throughout the state.

PULP rejected the Staff recommendation stating that CNY and PULP petitions for EAP reforms were filed on January 31, 2020 and May 14, 2020, respectively, and no action was taken on either until February 4, 2021. PULP further states that during this time, New York experience the greatest economic downturn since the Great Depression and further delay to COVID-19 relief is contrary to the public interest.

The JU replied to PULP's opposition that further changes to the EAP be only be considered in the generic proceeding. The JU stated that it opposed PULP's position and reiterated support for the Staff recommendation in the Whitepaper. The JU argued that PULP's position could lead to disparate treatment of low income customers among various rate cases. Considerations made in the generic proceeding promotes statewide uniformity and consistency.

In reply comments, PULP disagrees with the JU and Staff that further adjustments to EAPs should only be made in this generic proceeding. PULP acknowledged that it and other consumer advocates argued for uniform statewide eligibility and discount programs, the desire to provide actual consumer assistance through only the generic proceeding, ignores real hardships customers face such as the experienced hardships due the pandemic. PULP states that much of the arrears over 2020 due to COVID could have been avoided if the EAP Phase II had moved along at a swifter pace, noting that it took 13 months to begin a SAPA comment process. Lastly, PULP reiterated from its initial comments that if EAP programs had been fully funded and expended prudently, much of EAP participant arrears from 2017 – 2019 could have been eliminated.

13. Staff recommends that each utility's two percent total revenue program budget caps be adjusted to factor in scheduled delivery rate increases.

AARP and CLP agree with the recommendation.

The JU opposes the methodology to calculate the two percent of total revenue cap using a forecast delivery rates. The JU expresses concern that the implementation of the recommendation needs transparency and may be complex and complicate the annual discount calculation and review. In the event the Commission adopts this recommendation, the JU proposes that it only apply to utilities that have exceeded it budget cap as it would be unnecessary for other utilities to perform this calculation that have not exceeded their respective caps.

CNY supports that the established two percent of total revenue budget cap be adjusted to account for forecast delivery revenues. Under the Commission's current procedure, CNY notes, energy burdens may increase up to 10 percent prior to a reexamination of program parameters to determine if adjustments are warranted. CNY continues to support proposals in its petition to modify program parameters as the energy burden begins to exceed the six percent threshold and not wait till it reaches 10 percent, however, acknowledges that the some of the concerns are mitigated if the two percent budget cap accounts for future rate increases. CNY states that although the cap adjustment helps with keeping discounts closer to the six percent energy burden, there are some utilities that are at the cap; and, therefore, energy burdens are adjusted upwards accordingly. CNY proposes a reexamination occur at eight percent as it would provide an expeditious consumer protection safeguard to continue to afford basic needs. In addition, CNY advises, other programs, such as reconnection fee waiver or arrears forgiveness programs, should not be cut when mitigating the impact of exceeding the budget cap. These are vital assistance programs to the most vulnerable customers, particularly in the recovery of the COVID-19 impacts.

However, EEFA NY notes the increased benefits from Staff's recommendations and the current economic crisis will likely result in the need for additional investments beyond the two percent cap. EEFA NY proposes to waive the cap rather than increase the energy burden level. According to EEFA NY, the established cap was designed to balance achieving the policy goals with costs. Under the current conditions, it now acts as a barrier to the affordability policy, citing KEDNY and NFG adjusted energy burdens to remain within the cap. Additionally, EEFA NY expects the need for more EAP funds due to anticipated increase to HEAP recipients. EEFA NY cites that the state's unemployment rate increased from 8.8 to 8.9 percent from January to February 2021. EEFA NY also notes while unemployment rates have decreased from January 2020 to February 2021 by 10.9 percent, low wage workers (earning less than $27,000 annually) employment rates decreased by 33 percent when compared to rates in January 2020, indicating a disproportionate impact to low-to moderate income households who already have higher energy burdens.

PSEG LI supports and proposes to set the discount each year as part of the annual budget process, which identifies delivery rates for the upcoming year to make prudent decisions in future EAP budgets.

UIU supports the recommendation to factor in rate increases to the budget cap. UIU states the Commission set a budget cap to balance needs of low-income customers while considering impacts to all ratepayers. UIU supports the recommendation as it allow EAP budgets to adjust accordingly to schedule delivery rate increases. UIU proposes that utilities provide workpapers detailing the budget cap calculation annually to identify a potential issues and address. UIU notes PULP's request to waive the two percent budget cap during COVID. Although, UIU advocates for increases to low income budgets and support to customers during challenging times, considering the impacts to other ratepayers, specifically residential and small commercial, it does not support the two percent waiver request.

The JU replied to PULP's support for the Staff Whitepaper recommendation that the two percent budget cap account for known delivery rate increases during the program year. PULP proposes that reflecting increases above the two percent cap are needed to offset implementations associated to REV and CLCPA and expenditures to transmission lines that are included in base rates. The JU argues that PULP has failed to demonstrate that increased revenue from the above implementations do not eventually get reflected in revenue from sales to end-use customers and why these particular items warrant adjusting the budget cap adjustments. The JU reiterated its proposal that only utilities that exceed the budget cap using historic only revenues be required to implement recommendation 13.

In reply comments, PULP agrees with Staff that delivery rate increase should be accounted for when calculating the two percent budget cap, however, should also include additive revenues similar to those discussed above in recommendation eight.

Standardizing Practices and Administration Across Utilities

14. Staff recommends that October 1st be the uniform annual filing date established for all utilities and that the updated discounts become effective November 1st to coincide with the beginning of the heating season.

AARP agrees with the recommendation.

The JU supports establishing a uniform annual filing date but states that October 1 would be too early due to the OTDA HEAP process. According to the JU, OTDA submits its initial HEAP draft plan to the U.S. Department of Health and Human Services (HHS) in late August with income eligibility criteria details and modifications to energy benefit amounts. HHS generally approves the HEAP draft plan in September. After the HHS approval, JU notes that utilities require a period of time to adjust the EAP budgets which may result in constraints in meeting the October 1 filing date. JU suggests that the annual filing date be set at November 1.

CNY supports to standardize reporting practices for EAP, as it will provide ratepayers with more streamlined access to EAP information and it aligns with the winter heating season where there is the highest need for bill assistance.

PULP concurs with the Staff reporting recommendations and states that the annually filing should be no later than November 1.

15. Staff recommends the low-income discounts be moved to tariff statements, which may facilitate faster and more streamlined implementation after the utilities submit their annual EAP filing.

AARP, JU and PSEG LI agree with the staff recommendation.

CNY suggests that to increase transparency of the EAP program and allow for tracking of energy cost burden year after year, a section of the report should discuss the energy cost burdens associated with the varying EAP discount levels annually.

16. Staff recommends that the utility's energy affordability discounts also be updated for the recommendations herein at the same time as the utility's tariff compliance filing for its new rate plan.

AARP agrees with the staff recommendation.

The JU proposes that a utility should file modifications to its EAP bill discounts on a uniform date as per Recommendation 14 instead of when the utility makes its tariff compliance filing related for its new rate plan. The JU also notes some utilities may have pending rates in cases and may require additional time to implement changes which would necessitate a modified filing date.

Further Recommendations

17. Staff recommends continuation of automatic enrollment of low-income energy affordability participants in utility levelized budget billing programs.

AARP does not support the continuation of automatic enrollment of for LI EAP participants stating levelized budget billing masks costs and mitigates energy conservation and applies to a disproportionate number of persons of color. According to AARP, the elimination of this requirement would result reduced resources associated with levelized budget billing for both customers and utilities.

CLP supports the continuation of automatic customer enrollment in utility levelized budget billing programs with the inclusion of clearly stated information to customers regarding the capability to opt-out. According to CLP, customers should also be allowed to reenroll in arrears forgiveness programs without penalty if a payment is missed, at a minimum of once annually, and; within a specified timeframe.

PSEG LI supports the recommendation and notes that it has experienced a very low opt-out rate in its levelized budget billing program and, in its reply comments, states that AARP's suggestion to eliminate the program should be denied. In its reply comments, PSEG LI states levelized budget billing programs provide several benefits to participants, such as serving as a bill management tool. In addition, PSEG LI notes that it currently rolls over end-of-the year balances to customer accounts as part of its levelized budget billing program as recommended by UIU as an additional benefit which supports the opt-out option at a customer's discretion.

PULP contends that participation in a utility levelized budget billing program should be an option discussed by an LI EAP participant with an OTDA case worker and not through automated enrollment. According to PULP, the participant's option would be included with the OTDA notice of utility-related correspondence.

SUEZ endorses the inclusion of eligible low-income customers into levelized budget billing after they have been identified and targeted outreach to explain the program and mitigate customer confusion.

UIU supports the continuation of automatic enrollment of LI EAP customers into utility levelized budget billing to mitigate billing fluctuations and provide billing stability. UIU suggests that the levelized budget billing reconciliation process be examined to adopt a mechanism to enable the charges to be paid off over a 12-month period. UIU proposes that data on budget billing be included in quarter and annual EAP reports for stakeholders to evaluate customer reconciliation charges; and, a definition for each of the terms used in these reports should be included to provide context to the information

18. Staff recommends commercial customers be able to self-certify a change in financial circumstance due to the COVID-19 pandemic. Impacted commercial customers should be allowed to enter into DPAs with no down payments, have existing DPAs renegotiated due to changes in the commercial customers' financial circumstances, and late payment charges be waived.

AARP and PULP support the recommendation. In addition, PULP proposes that self-certifications should be portable should customers relocate to new addresses, including instances where housing and commercial space instability issues associated with COVID-19.

CNY supports the recommendation to assist businesses impacted by COVID-19.

According to the JU, the goal of this recommendation has been met through the State's Parker Richardson Act (Act) signed into law in May 2021 which mitigates the need for residential customers to self-certify due to the termination moratorium due to the COVID-19 State of Emergency which remains in effect for 180 days or until December 31, 2021 should it be lifted or expired. The JU proposes that small business customers self-certify to document that they meet the Act's definition for qualified businesses. The Act describes a qualified small customer as an entity with twenty-five or fewer employees which is not a: publicly held company, or a subsidiary thereof; seasonal, short-term, or temporary customer; high energy customer as defined by the Commission; or, customer that the utility can demonstrate has the resources to pay the bill. The JU states it does not collect such information from commercial customers regarding status as a publicly held company or subsidiary thereof; number of persons employed; or, status of financial resources. It also expresses privacy concerns in the collection of or the verification of such information. The JU notes that the Act takes into consideration utility of recovery of lost or deferred will occur after the COVID-19 State of Emergency is lifted or expired or by the December 31, 2021 moratorium deadline.

SUEZ does not endorse commercial customer self-certification in change of financial circumstances due to COVID-19 due to potential fraudulent claims and related costs passed on to other customers; and, administrative burdens. If the Commission does adopt the recommendation, incremental costs and other lost revenues should be deferred into its next rate case.

UIU supports the Staff recommendation but opposes utility requests for a blanket deferral mechanism to recover the costs. UIU advises that a Commission order which directs the waiver of late payment fees state that it does not provide for utility deferrals of the costs not be collected later from ratepayers. AARP concurs with UIU.

19. Staff recommends residential and commercial late payment fees should continue to be waived for the two-year time period starting on the expiration of the moratorium.

AARP and CNY support the recommendation.

The JU states that the goal of this recommendation has been met through the State's Parker Richardson Act (Act) signed into law in May 2021 which mitigates the need for the waiver of late payment fees related to the termination moratorium due to the COVID-19 State of Emergency which remains in effect for 180 days or until December 31, 2021 should it be lifted or expired.

PULP supports the recommendation and that it be applied to all residential customers. With respect to commercial customers, PULP is uncertain that late payment fee waivers should be maintained for the two-year period but acknowledges there are arguments in support for distressed census areas and industries harmed by the pandemic.

SUEZ does not support the waiver of commercial late payment fees but proposes such a waiver be applied for residential customer accounts through the end of 2021. If the Commission does adopt the recommendation, incremental costs and other lost revenues should be deferred into its next rate case.

In its comments, while UIU supports the waiver of late payment fees for customers due to the economic impacts of COVID-19, it opposes utility requests for a blanket deferral to recover costs from ratepayers. UIU defers to the Commission on the period of time for the waiver.

In its reply comments, CNY notes JU's opposition to the extension of the waiver of late payment fees for the two-year period. CNY disagrees with the JU, supporting the Staff recommendation for a gradual phase-out at the conclusion of the moratorium. The gradual phase-out, according to CNY, will provide customers with the opportunity to achieve financial stability for household expenses over time.

20. Staff recommends that deferred payment arrangements should not accrue interest on the customer residential and commercial arrearages for the two-year time period after the conclusion of the moratorium.

AEC expresses concern regarding Staff recommendation for utility shareholders to absorb a portion of the costs associated with customer arrearages due to the protections provided through revenue decoupling mechanisms (RDMs). According to AEC, RDMs serve as significant elements for New York's clean energy policy and should not be put at risk for other uses. RDMs are designed to be revenue neutral in the long term to provide stability during economic uncertainty, AEC contends, and the Staff recommendation would disturb the symmetry.

AARP, CNY and PULP support the recommendation.

The JU states that the goal of this recommendation has been met through the State's Parker Richardson Act (Act) signed into law in May 2021 which mitigates the need for the waiver of interest charges on arrearages related to the termination moratorium due to the COVID-19 State of Emergency which remains in effect for 180 days or until December 31, 2021 should it be lifted or expired.

PULP proposes that Staff should undertake an analysis of large commercial customers who received federal stimulus funding and whether those funds were factored in certifications of financial harm associated with COVID-19. AARP concurs with this proposal. PULP also recommends that Staff and the Commission conduct an analysis to determine the amount of interest utilities accumulated on residential and commercial arrears in 2020; and, if the utilities raised rates or pursued collection activities which may have resulted in additional bill or fee impacts to ratepayers.

SUEZ does not support the waiver of interest on deferred payment arrangements for commercial accounts but proposes such a waiver be applied for residential customer accounts through the end of 2021. If the Commission does adopt the recommendation, incremental costs and other lost revenues should be deferred into its next rate case.

In its reply comments, CNY reiterates its opposition to the JU position and endorses the Whitepaper recommendation as discussed in Staff Recommendation 19.

21. Based on a review and analysis of the arrears due to the COVID-19 impacts to date, Staff recommends the Commission adopt an arrears management plan at each major utility.

AEC restates its position provided in its comments for Staff Recommendation 20. AARP finds AEC position irrelevant as it provides no merits. According to AARP, the major utilities should each sponsor an AMP which would be established with consistency for customers statewide. ARRP endorses UIU and PULP positions for the collection of additional granular data in the design of the AMP structure and associated bill credits.

CLP endorses the Staff proposal for the Commission to adopt an arrears management program for each major utility.

CNY concurs with the development of utility AMPs with 50/50 shareholder and consumer financial support as an equitable approach. Further, CNY notes, shareholders have been shielded from the COVID-19 economic crises through existing RDMs; and, it would be inappropriate for ratepayers to bear the burden of related costs while shareholders remain whole. AARP supports this position. According to CNY, AMPs should provide for flexibility regarding customer participation and recommends that a customer should not be eliminated if a monthly payment is missed during the program.

CNY notes the JU opposition to the Whitepaper recommendation to create AMP programs, including shareholder funding. CNY refers to UIU's analysis in its comments that indicate that if customers with arrears over 60 days would be eligible for current AMP funding, they would receive $37.70 annually or $3 per month. CNY acknowledges that additional state and federal financial assistance will assist with reducing customer arrearages, the intended application of the funding is not clear at this time. In addition, CNY states that the NY Assistance Program will be provided to renters. Therefore, CNY recommends that long term statewide AMP be established to address arrearages and provide the same level of assistance for all customers. CNY suggests that if the Commission directs the establishment of a statewide AMP, utilities be provided an adequate amount of time to implement such a program.

EEFA NY supports the establishment of AMPs and deferred payment agreements to assist households in utility arrearages. EEFA NY proposes that AMPs should be funded at over 20 percent of the incremental balances for a two-year period; that the LI EAP budget cap either be eliminated or increased to provide for additional relief and, include EE programs.

JU states that the Staff recommendation for short-term AMPs has been met through the State's Parker Richardson Act signed into law in May 2021 which mitigates the need for the waiver of late payment fees related to the termination moratorium due to the COVID-19 State of Emergency which remains in effect for 180 days or until December 31, 2021 should it be lifted or expired.

According to the JU, the New York State 2021 Budget included funding in the NY Assistance Program which provides relief for qualifying renters for waivers up to 12 months of utility arrearages which were incurred on or after March 13, 2020. The JU notes that the NY Assistance Plan is expected to have significantly larger impact to reducing customer arrearages than the proposed Staff AMP. The JU also states the federal government has created a $10 billion Homeowner Assistance Fund as a component of the American Rescue Plan.

The JU advises that the NY Assistance Plan, administered by OTDA with participation by Staff, will coordinate implementation to treat arrearages, eligibility criteria, waivers and payments to customer accounts. According to the JU, allocation of the federal funding should be incorporated in the NY Assistance Plan could be applied to provide additional residential assistance to customers via OTDA. The JU identified several issues which are currently being addressed and its recommendations.

<u>Determination of the amount of utility arrears waivers</u> – The JU advocates that the determination of arrears amounts be processed through system-to-system data sharing between the utility and OTDA to minimize errors and adjustments and mitigate manual verification of customer accounts.

<u>Notification of arrears waivers for utility customer accounts</u> – The JU recommends that OTDA include utility account number for customer arrears waivers.

<u>Treatment of arrears forgiveness payments</u> – The JU proposes that HEAP payments targeted for arrears forgiveness be isolated from other HEAP payments with a tracking process to monitor such payments.

<u>Verification of arrears waivers</u> – The JU recommends a system-to-system data sharing with OTDA to verify waivers without needing separate utility confirmation.

Commission verification of arrearage waivers – The JU advises that utilities be required to file annual compliance reports to the Commission on the amounts of arrearage waived in the previous calendar on February 1. The JU notes that utilities are eligible to receive a tax credit for the New York State gross receipts tax equal to the amounts of arrears waived (Case 20-M-0251 – Pending Commission Order; Laws of 2021, Chapter 56, Part BB, Subpart B – clarify language). The February 1 filing requirement would provide for a Commission Order to affirm the arrearage amounts prior to the April tax filing.

The JU reports that it is note administratively or financially feasible to implement the requirements of the Parker Richardson Act and the NY Assistance Program with an AMP at the same time noting significant upgrades to existing or transitioning of new customer service systems. Staff's AMP proposal, according to the JU, would require significant system changes and additional administrative resources as well as modifications to ongoing program operations. JU notes potential customer confusion regarding implementation and eligibility as the various programs will potentially overlap and may impact participation levels.

The JU disagrees with Staff's proposal for shareholder funding of AMPs as no basis has been provided. According to the JU, the existing RDMs provide for recovery of costs and returns excess sales to customers and prevent utilities from achieving additional earnings. Requiring shareholder funding of revenue shortfall while allowing the return of revenue overages, the JU contends, would result in an uneven playing field and negatively impact investor confidence in New York's regulatory environment. The JU further notes that the Staff Whitepaper cites other state PUC AMPs which do not employ shareholder support.

In its reply comments, PSEG LI restates that it does not have outside shareholders and that any AMP funding would be incurred by its customers through rate recovery. PSEG LI recommends that AMP funding should be provided through government grants, noting the implementation of OTDA's New York Emergency Rental Assistance Program will alleviate customer arrearages. PSEG LI proposes that an AMP should be limited to low income residential customers. According to PSEG LI, additional arrears forgiveness programs for commercial customers is not necessary as it provide assistance through other existing venues.

PULP concurs with the Staff recommendation and that an industry, statewide model be established. In addition, PULP suggests consideration of percentage of income payment plans as an additional financial tool to assist customers impacted by COVID-19 arrearages. PULP recommends that the Commission direct utilities to report on collections, arrearages, reconnections and service termination data to gather date for guidance in future public policy direction.

UIU supports the concept of AMPs and encourages statewide utility implementation in an expeditious consistent manner, including stakeholder collaboration on related issues. While UIU notes it does not have enough information to establish budgets and goals for the AMPs, it recommends that utilities be required to explain how their programs will mitigate individual customer arrearages in an efficient manner; and, identify the potential rate impact to individual rate classes, using Staff's recommendation of a 50 percent shareholder funding. UIU contends that the JU's position to not provide for shareholder funding is not appropriate. And, UIU further notes that several utilities are eligible to receive positive revenue adjustments (PRAs) for 2020 for meeting customer termination targets. The PRAs reflect the impact of the moratorium which suspended termination of service during the COVID-19 epidemic, according to UIU, and not utility actions.

UIU expresses concern that setting utility budgets of 10 percent of incremental arrears may not be sufficient to incentivize customers to make consistent payment toward arrearages. UIU suggests consideration of an inclining proposal but notes additional specific utility data is required the average amount of customer arrearages and average monthly deferred payment agreements (DPAs) to determine appropriate bill credits and structure. It also advises that an inclining proposal may negatively impact customers with minimum DPAs as it may be more difficult to pay off their arrearages.

UIU states that while the JU finds that additional state and federal funding will become available to alleviate financial impacts on customers, such funding should be considered as an emergency response and the Commission should address arrearages long term via AMPs. UIU recommends that the Commission pursue future planning to address customer arrearages, including an assessment of other available resources to provide relief.

UIU proposes AMP structures for residential and small commercial customers. For residential customers, UIU recommends two potential AMP incentive approaches, a six-month incentive program and a hybrid incentive program, which would not add administrative utility burdens. Under the six-month incentive arrears forgiveness program, the customer would maintain on-time current and DPA payments for six months and would receive a payment at the six-month mark. If the customer payment is late or missed, the customer will be reinstated in the program but the six-month period starts again rather waiting for a four-month stay out period recommended by Staff. Under the hybrid incentive arrears forgiveness program, the customer would maintain on-time current and DPA payments while receiving 50 percent of the six-month incentive spread over the period and the remaining credit at the six-month mark. If the customer payment is not made in a timely manner, the customer must wait two months for reenrollment.

For small commercial customers, UIU recommends that the Commission adopt criteria to uniformly define small commercial customers for eligibility in the AMPs using terminology in Chapter 108 of the Laws of 2020 as a starting point. According to UIU, while it supports Staff's recommendation for small commercial AMPs, it will wait to opine until additional information on budgets and incentive structures is made available.

22. Longer-term, Staff recommends that if there is room within a utility's low-income energy affordability program budget, the utility should explore developing a cost-effective arrears forgiveness program.

AARP contends that arrears forgiveness programs should be addressed outside of LI EAP budgets.

CLP concurs with the Staff recommendation that utilities consider the establishment of an arrears forgiveness program, if funding is available in LI EAP budgets. CLP proposes that after funding is allocated through federal programs and state tax credits and other types of relief, remaining funding for debt forgiveness should be addressed by utility shareholders. Treatment of arrears forgiveness programs is vital to the current economic conditions, according to CLP, which necessitates the need to address in individual rate cases rather than in the generic proceeding.

CNY supports the Staff recommendation in the development of utility arrears forgiveness programs, including long term plans due to the significant economic impact of COVID-19 to hardest hit communities. PULP agrees with CNY.

JU suggests that the Staff recommendation is premature due to the establishment of the NY Assistance Program which does not expire until September 30, 2025. Arrears forgiveness programs require significant resources, customer engagement and monitoring of customer participation, according to the JU, and similar programs have had limited success in the state.

PSEG LI supports the recommendation, noting that its Residential Energy Assistance Program is serving this population, and would not object to increased EE. PSEG LI proposes that any arrears forgiveness program funded by ratepayers should cover 12 months or more rather than 6 months or less based on its analysis of other utility DPA and AMP programs.

PULP recommends that the Commission and utilities pursue AMPs and percentage of income payment plans and other models to enable customers to utilize state and federal funding to reduce arrearages.

UIU supports the concept of providing an arrears forgiveness program in addition to the utilities' LI EAP and reserves the right to propose alternate funding sources and allocations.

23. Staff recommends that utilities the leverage their customer data to identify the highest usage low-income customers and target delivery of service to these customers through NYSERDA and utility-administered EE programs to not only achieve the State's goals, but to provide meaningful and lasting energy relief to low-income customers.

AARP, CLP, EEFA NY, JU, PULP and UIU concur with Staff's recommendation that utilities identify highest-use low-income customers for targeted EE programs, using funding available through NYSERDA and utility programs.

PULP proposes that utilities be directed to target EE programs to this customer segment and the remaining LMI resources be allocated proportionately to low- and moderate-income customers based on the respective populations in their service territories. PULP also recommends that State agencies undertake measures to increase investment in new EE construction in multi-family housing and retrofitting 1 to 4 and multi-family housing. According to PULP, such actions would result in an incremental $1 billion EE savings annually by 2026.

In its reply comments, PULP further notes that another application for the use of customer data would be to clarify the homogeneity of residential rate classes to identify high usage low income customers in rate design. By removing farms, large multi-dwelling unit buildings and other large multi-dwelling unit complexes, which are high energy uses, rate design will be in better alignment with low income residential customers.

24. Staff recommends not allowing the use of low-income energy affordability program discounts for energy efficiency purposes, but rather to be reserved for direct utility bill discounts.

AARP, CLP, EEFA NY, and UIU support the continuation of bill discounts to apply to customer bills.

PSEG LI reserves comments on the recommendation. According to PSEG LI, its budget and rates are based on the DPS-accepted public power model rather the rate model used for investor-owned utilities regulated by the Commission and the treatment of dollars and associated recovery is different. While PSEG LI supports additional support for higher usage low-income customers, it notes that these unique regulatory circumstances should make it exempt from any further actions.

PULP concurs with the recommendation to pursue energy affordability programs but proposes that an evaluation be undertaken to determine viability. In its comments, PULP notes that the programs should not be funded through LI EAP budgets with the exception of its proposal to substitute the 2 percent cap with a fixed energy assistance budget established at 2 percent of utility revenues.

New York State’s Energy Affordability Policy

ENERGY AFFORDABILITY PROGRAM BUDGETS

Appendix B

Energy Affordability Program - Electric
Impacts of Adopted Modifications to the Commission's Current Discount Calculation Methodology

Utility	Budget Cap - 2% of Total Revenues 2019	Current EAP Budget	Current EAP Budget as a % of Total Revenue	# of Low Income Participants	Revised EAP Budget (Income, HEAP and Average Bill Adjustments)	Adjusted EAP Budget as a % of Total Revenues
Central Hudson	$12,405,603	$2,422,158	0.39%	15,305	$9,598,381	1.55%
Con Edison	$186,798,028	$70,162,668	0.75%	440,892	$118,818,606	1.27%
NMPC	$51,899,669	$29,579,981	1.14%	157,338	$28,143,325	1.08%
NYSEG	$29,691,274	$5,830,978	0.39%	65,738	$17,316,504	1.17%
O&R	$11,701,890	$5,290,662	0.90%	12,231	$9,735,852	1.66%
RG&E	$14,641,145	$8,761,943	1.20%	44,543	$14,177,676	1.94%
PSEG	$69,775,850	$9,018,744	0.26%	46,165	$35,651,499	1.02%
Total		**$131,067,134**		**782,212**	**$233,441,843**	

Energy Affordability Program - Gas
Impacts of Adopted Recommended Modifications to the Commission's Current Discount Calculation Methodology

Utility	Budget Cap - 2% of Total Revenues 2019	Current EAP Budget	Current EAP Budget as a % of Total Revenue	# of Low Income Participants	Revised EAP Budget (Income, HEAP and Average Bill Adjustments) *	Adjusted EAP Budget as a % of Total Revenues
Central Hudson	$3,580,844	$1,796,597	1.00%	5,122	$3,613,525	2.02%
Con Edison	$45,102,237	$24,648,554	1.09%	136,719	$35,393,093	1.57%
NMPC	$15,961,837	$8,585,856	1.08%	61,396	$9,479,712	1.19%
NYSEG	$8,379,675	$3,970,703	0.95%	34,659	$8,754,855	2.09%
O&R	$5,358,845	$3,141,972	1.17%	9,450	$4,238,153	1.58%
RG&E	$8,274,675	$4,671,861	1.13%	37,141	$7,118,436	1.72%
KEDLI	$24,490,480	$6,681,211	0.55%	12,814	$8,607,988	0.70%
KEDNY	$39,688,236	$38,387,689	1.93%	151,788	$39,786,704	2.00%
NFG	$13,419,735	$14,725,530	2.19%	70,980	$16,312,692	2.43%
Total		**$106,609,973**		**520,069**	**$133,305,159**	

* Yellow highlighted revised budgets exceed the two percent budget due to the adopted COVID-19 recommendation that discounts would not be decreased for the specified period.

New York State’s Energy Affordability Policy

ESTIMATED BILL IMPACTS

Appendix C

Phase Two Low Income Programs Impact to Residential Customers

Utility	Current EAP Budget	Adopted EAP Budget	Difference	Total Revenues - 2019	Total Delivery Revenue - 2019	Residential Delivery Revenue - 2019	Residential Customers - 2019	Allocation to Residential	Average Monthly Cost Per Customer	Average Residential Monthly Bill	Percent Impact
	A	B	C = B-A	D	E	F	G	H = F/ExC	I = H/G/12	J	K = I/J
Central Hudson - Electric	$ 2,422,158	$ 9,598,381	$ 7,176,223	$ 620,280,125	$ 362,594,727	$ 235,665,136	260,766	$ 4,664,121	$ 1.49	$ 104.05	1.43%
Central Hudson - Gas	$ 1,796,597	$ 3,613,525	$ 1,816,928	$ 179,042,175	$ 102,351,749	$ 69,609,286	71,627	$ 1,235,690	$ 1.44	$ 139.30	1.03%
Con Edison - Electric	$ 70,162,668	$ 118,818,606	$ 48,655,938	$ 9,339,901,414	$ 6,115,723,507	$ 2,406,109,452	2,971,232	$ 19,142,709	$ 0.54	$ 80.39	0.67%
Con Edison - Gas	$ 24,648,554	$ 35,393,093	$ 10,744,539	$ 2,255,111,874	$ 1,312,831,183	$ 767,404,166	311,711	$ 6,280,628	$ 1.68	$ 139.62	1.20%
KeySpan NY - Gas	$ 38,387,689	$ 39,786,704	$ 1,399,015	$ 1,984,411,794	$ 1,198,027,699	$ 625,655,171	623,609	$ 730,618	$ 0.10	$ 127.33	0.08%
KeySpan LI - Gas	$ 6,681,211	$ 8,607,988	$ 1,926,777	$ 1,224,524,017	$ 734,969,146	$ 456,992,465	453,198	$ 1,198,040	$ 0.22	$ 124.08	0.18%
National Fuel Gas	$ 14,725,530	$ 16,312,692	$ 1,587,162	$ 670,986,747	$ 251,745,195	$ 183,560,226	496,343	$ 1,157,281	$ 0.19	$ 72.22	0.27%
National Grid - Electric	$ 29,579,981	$ 28,143,325	$ (1,436,656)	$ 2,594,983,458	$ 1,447,455,154	$ 894,894,628	1,494,138	$ (888,218)	$ (0.05)	$ 77.00	-0.06%
National Grid - Gas	$ 8,585,856	$ 9,479,712	$ 893,856	$ 798,091,827	$ 358,185,317	$ 244,495,714	557,047	$ 610,142	$ 0.09	$ 71.42	0.13%
NYSEG Electric	$ 5,830,978	$ 17,316,504	$ 11,485,526	$ 1,484,563,689	$ 768,684,711	$ 367,069,847	637,880	$ 5,484,681	$ 0.72	$ 73.00	0.98%
NYSEG - Gas	$ 3,970,703	$ 8,754,855	$ 4,784,152	$ 418,983,749	$ 198,323,502	$ 139,380,807	237,925	$ 3,362,279	$ 1.18	$ 83.00	1.42%
O & R - Electric	$ 5,290,662	$ 9,735,852	$ 4,445,190	$ 585,094,488	$ 338,208,300	$ 186,845,308	198,179	$ 2,455,773	$ 1.03	$ 117.62	0.88%
O & R - Gas	$ 3,141,972	$ 4,238,153	$ 1,096,181	$ 267,942,255	$ 162,558,302	$ 115,482,715	112,939	$ 778,736	$ 0.57	$ 117.29	0.49%
RG&E - Electric	$ 8,761,943	$ 14,177,676	$ 5,415,733	$ 732,057,255	$ 468,582,697	$ 228,703,741	337,471	$ 2,643,287	$ 0.65	$ 83.00	0.79%
RG&E - Gas	$ 4,671,861	$ 7,118,436	$ 2,446,575	$ 413,733,765	$ 175,472,990	$ 137,457,952	295,169	$ 1,916,541	$ 0.54	$ 71.00	0.76%
PSEG - Electric	$ 9,018,744	$ 35,651,499	$ 26,632,755	$ 3,488,792,511	$ 1,772,529,682	$ 922,138,688	890,919	$ 13,855,392	$ 1.30	$ 131.91	0.98%
Total	$ 237,677,107	$ 366,747,001	$ 129,069,894	$ 27,058,501,143	$ 15,768,243,862	$ 7,981,465,301	9,950,152				
Electric	$ 131,067,134	$ 233,441,843	$ 102,374,709	$ 18,845,672,940	$ 11,273,778,778	$ 5,241,426,800	6,790,585				
Gas	$ 106,609,973	$ 133,305,159	$ 26,695,186	$ 8,212,828,203	$ 4,494,465,084	$ 2,740,038,502	3,159,567				

New York State’s Energy Affordability Policy

ADJUSTED UTILITY DISCOUNTS

Appendix D

Adopted EAP Phase 2 Discounts

Central Hudson Discounts				
	Electric Heat	**Electric Non-Heat**	**Gas Heat**	**Gas Non-Heat**
Tier 1	$39.46	$39.46	$30.00	$3.00
Tier 2	$48.55	$48.55	$48.00	$3.00
Tier 3	$77.39	$65.23	$67.72	$3.00
Tier 4	$59.50	$56.29	$56.90	$3.00

Con Edison Discounts				
	Electric Heat	**Electric Non-Heat**	**Gas Heat**	**Gas Non-Heat**
Tier 1	$21.73	$21.73	$92.62	$7.00
Tier 2	$30.82	$30.82	$114.42	$7.00
Tier 3	$59.80	$47.50	$131.10	$7.00
Tier 4	$41.91	$38.56	$122.16	$7.00

Niagara Mohawk Discounts				
	Electric Heat	**Electric Non-Heat**	**Gas Heat**	**Gas Non-Heat**
Tier 1	$6.00	$6.00	$3.00	$3.00
Tier 2	$14.00	$14.00	$5.00	$3.00
Tier 3	$28.75	$28.75	$19.39	$3.00
Tier 4	$19.80	$19.80	$10.44	$3.00

NYSEG Discounts				
	Electric Heat	**Electric Non-Heat**	**Gas Heat**	**Gas Non-Heat**
Tier 1	$4.00	$4.00	$3.00	$3.00
Tier 2	$20.00	$20.00	$6.02	$3.00
Tier 3	$36.00	$36.00	$26.00	$3.00
Tier 4	$22.00	$22.00	$13.75	$3.00

O&R Discounts				
	Electric Heat	**Electric Non-Heat**	**Gas Heat**	**Gas Non-Heat**
Tier 1	$48.06	$48.06	$14.84	$3.00
Tier 2	$57.16	$57.16	$36.64	$3.00
Tier 3	$76.00	$76.00	$53.32	$3.00
Tier 4	$64.89	$64.89	$44.38	$3.00

RG&E Discounts				
	Electric Heat	**Electric Non-Heat**	**Gas Heat**	**Gas Non-Heat**
Tier 1	$4.00	$4.00	$3.00	$3.00
Tier 2	$20.00	$20.00	$3.00	$3.00
Tier 3	$35.00	$35.00	$20.00	$3.00
Tier 4	$21.00	$21.00	$3.00	$3.00

KEDLI Discounts				
	Electric Heat	**Electric Non-Heat**	**Gas Heat**	**Gas Non-Heat**
Tier 1			$39.82	$3.00
Tier 2			$61.62	$3.00
Tier 3			$78.30	$3.00
Tier 4			$69.36	$3.00

KEDNY Discounts				
	Electric Heat	Electric Non-Heat	Gas Heat	Gas Non-Heat
Tier 1			$36.10	$3.00
Tier 2			$61.85	$3.00
Tier 3			$81.54	$3.00
Tier 4			$70.98	$3.00

NFG Discounts				
	Electric Heat	Electric Non-Heat	Gas Heat	Gas Non-Heat
Tier 1			$3.00	$3.00
Tier 2.1			$3.00	$3.00
Tier 2.2			$17.00	$3.00
Tier 3			$28.00	$3.00
Tier 4			$13.00	$3.00

PSEG Discounts				
	Electric Heat	Electric Non-Heat	Gas Heat	Gas Non-Heat
Tier 1	$62.82	$62.82		
Tier 2	$71.92	$71.92		
Tier 3	$88.60	$88.60		
Tier 4	$79.65	$79.65		