

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 23-M-0298 - In the Matter of Budget Appropriations to Enhance
Energy Affordability Programs.

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

ORDER AUTHORIZING ENERGY BILL CREDIT

Issued and Effective: February 15, 2024

TABLE OF CONTENTS

INTRODUCTION.....	1
BACKGROUND.....	4
STATE BUDGET APPROPRIATION.....	5
STAFF PROPOSAL.....	7
NOTICE OF PROPOSED RULE MAKING.....	8
PULP PROPOSAL.....	9
NEW YORK STATE ENERGY BILL CREDIT REPORT.....	10
Allocation of the \$200 million Budget Funds.....	11
Allocation of Budget Funds to Customers.....	12
Method and Term to Provide Relief to Customers.....	13
LIPA Proposal.....	13
Other Financial Matters.....	14
O&M Expense.....	14
Uncollectible Expense.....	15
Reconciliations.....	15
LIPA.....	16
Tariffs.....	16
Reporting.....	16
Stakeholder Positions Contained in the Energy Bill Credit Report.....	17
Joint Utilities.....	17
PULP.....	18
New York State Department of State Utility Intervention Unit (UIU).....	18
Long Island Progressive Coalition.....	18
City of New York.....	18
AARP.....	19
Outreach and Education.....	20
NYSEG AND RG&E FILING.....	20
CENTRAL HUDSON FILING.....	23
KEDNY FILING.....	25
LEGAL AUTHORITY.....	26
DISCUSSION.....	27
Allocation of the \$200 Million Budget Appropriation to Utilities.....	29

NYSEG-RG&E Filing.....	29
Additional Staff Analysis to Address Accuracy of 2022 EAP Expenditures.....	31
Central Hudson Filing.....	33
KEDNY Filing.....	35
Future Process Regarding EAP Expenditure Estimates..	35
Allocation of Budget Funds to Customers.....	37
Method and Term to Provide Relief to Customers.....	42
Other Financial Matters.....	42
O&M Expense.....	42
Uncollectible Expense.....	43
Reconciliations.....	43
Accounting Treatment.....	45
Tariffs.....	45
Reporting.....	45
Outreach and Education.....	46
CONCLUSION.....	47
APPENDIX	

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on February 15, 2024

COMMISSIONERS PRESENT:

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

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BY THE COMMISSION:

INTRODUCTION

The 2023-2024 New York State Budget (State Budget) appropriated funds to the Department of Public Service (Department) in the amount of \$200 million for the purpose of providing prompt relief to electric and gas utility customers to partially offset the costs of utility affordability programs in recognition of spikes in recent energy commodity prices and other factors driving increases in utility rates.¹ On August 21, 2023, Department Staff (Staff) filed a proposal in these cases to establish how the Utilities and the Long Island Power

¹ Aid to Localities Appropriation, Chapter 53 of the Laws of 2023 (enacted on June 12, 2023).

Authority (LIPA),² who are responsible for administering the State's energy affordability program (EAP), would use the budget funds to meet the purpose of the appropriation (Staff Proposal).³ The Staff Proposal recommends that each of the Utilities (1) receive an allocation of the budget funds based on its share of statewide calendar year 2022 EAP expenditures authorized by the Public Service Commission (Commission) and administered by the Department, (2) allocate its share of the budget funds to each of the Utility's service classes (including all residential and non-residential accounts) in a manner reasonably calculated to be equitable and to approximate the same method as EAP expenses are recovered from customers, and (3) distribute the bill credits volumetrically (based on usage) to customers over a term of six months beginning December 1, 2023.

Staff consulted with the Energy Affordability Policy Working Group (Working Group) on the design of the bill relief program. The Working Group worked diligently and considered Staff's Proposal and modifications thereto, as well as proposals from other members of the Working Group to provide relief for

² For purposes of this Order, the term "Utilities" refers collectively and the term "Utility" individually to: Central Hudson Gas and Electric Corporation (Central Hudson); Corning Natural Gas Corporation (Corning); Consolidated Edison Company of New York, Inc. (Con Edison); Liberty Utilities (St. Lawrence Gas) Corporation (Liberty Gas); National Fuel Gas Distribution Corporation (NFG); The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY); Keyspan Gas East Corporation d/b/a National Grid (KEDLI); Niagara Mohawk Power Corporation d/b/a National Grid (NMPC) (collectively, NMPC, KEDNY, and KEDLI are referred to as National Grid); New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) (together, NYSEG and RG&E); and, Orange & Rockland Utilities, Inc. (O&R).

³ Case 14-M-0565, et al., Department of Public Service Staff Proposal - Implementation Plan for Financial Assistance to Utility Customers (filed August 21, 2023).

utility customers.⁴ The Working Group's analytical process culminated on November 21, 2023, through the filing of the New York State Energy Bill Credit Report (Bill Credit Report),⁵ which proposed adjustments to Staff's Proposal. The Bill Credit Report presents three recommendations for Commission consideration in this Order:

- (1) Each of the Utilities and LIPA receive an allocation of the \$200 million budget funds based on its share of statewide calendar year 2022 EAP expenditures separately for electric and gas service, as applicable.⁶
- (2) Each of the Utilities would divide its share of the budget funds by the total number of all of its customers in each utility service (electric or gas) to develop a one-time bill credit for electric and gas service, as applicable, that would be applied to the customers' accounts within 45 days of receiving the budget funds.
- (3) Each of the Utilities would each file reports in Case 23-M-0298 within 60 days of applying the final credit to customer accounts.

By this Order, the Commission adopts most of the recommendations in the November 21, 2023 Staff Proposal, with modifications that are recommended in the Bill Credit Report. The Commission estimates that the relief directed under this Order will accrue to the benefit of 8.33 million customers statewide through a one-time bill credit on customers' electric

⁴ Working Group participation has included multiple state agencies, electric and gas utilities, community groups, municipal utilities, municipalities, and not-for-profit stakeholder groups interested in energy affordability.

⁵ Case 23-M-0298, Energy Affordability Policy Working Group New York State Energy Bill Credit Report (filed November 21, 2023).

⁶ Of the total \$200 million budget funds, \$190.3 million will be allocated to the Utilities and \$9.7 million will be allocated to LIPA.

and/or gas utility accounts that are directly billed by the Utilities and LIPA.⁷ The bill credits will be applied to customer accounts automatically and will not require an application.

The Commission also directs NYSEG, RG&E, KEDNY, and Central Hudson to each file a report with the Secretary to the Commission, within 90 days of the effective date of this Order. The purpose of the report is to address updates made subsequent to issuance of the Bill Credit Report by each of these utilities to Utility-specific EAP expenditure amounts and the reports shall explain the actual impact of the identified errors and provide accurate EAP expenditure amounts for calendar year 2022.⁸ To be clear, the report is necessary to correct errors discovered in the 2022 EAP expenditures of NYSEG, RG&E, KEDNY, and Central Hudson.

BACKGROUND

In August 2021, the Commission issued its Energy Affordability Policy Phase 2 Order (Phase 2 Order) adopting certain modifications and improvements to the Energy Affordability Policy framework.⁹ In the Phase 2 Order, the Commission directed Staff to convene a stakeholder Energy Affordability Policy Working Group and encouraged participation

⁷ The estimated total customers assumes that all gas customers also have an electric account.

⁸ NYSEG, RG&E, KEDNY, and Central Hudson contacted Staff late in 2023 or early in 2024 and explained that their calendar year 2022 EAP expenditures as reported on their General Ledgers and contained in the Energy Bill Credit Report, Attachment B, were incorrect.

⁹ Case 14-M-0565, Proceeding on the Motion Regarding Energy Affordability, Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued August 12, 2021).

from all interested stakeholders to work together to consider ways of improving the EAPs. Since the Working Group's creation in the fall of 2021, numerous interested stakeholders have collaborated on numerous issues and ways to improve the Energy Affordability Policy.

On June 5, 2023, the Secretary to the Commission issued a Notice Scheduling EAP Working Group Meetings, explaining that Staff had convened bi-weekly meetings beginning on September 28, 2021, and stating that the Working Group would be turning its focus to addressing the fiscal year 2023-2024 State Budget funds.¹⁰ The Notice encouraged all interested entities to attend and actively participate in the Working Group's upcoming meetings.

STATE BUDGET APPROPRIATION

The State Budget included funding to supplement by \$200 million the benefits of the State's utility energy affordability programs. The specified purpose of the appropriation was to provide prompt assistance to utility customers to partially offset the costs of the utility EAPs, which totaled approximately \$343 million in calendar year 2022, in order to address the financial pressures imposed on all customers in 2022 by significant and unexpected increases in energy commodity prices and other factors, such as extreme weather events and inflation, that contributed to increases in delivery rates.

The State Budget included separate directives regarding three separate programs. First, it required the Department to utilize a \$200 million appropriation for the purpose of providing "prompt assistance to utility customers

¹⁰ Case 14-M-0565, Notice Scheduling EAP Working Group Meetings (issued June 5, 2023).

related to the costs of utility affordability programs authorized by the Public Service Commission and administered by the Department of Public Service, in consultation with the energy affordability policy working group.”¹¹ Second, it directed the Department to also “establish a new, expanded discount program to provide utility bill relief to utility customers, in consultation with the energy affordability policy working group, for residential customers that do not currently qualify for the energy affordability policy program but whose income is below the state median income, provided however that the Public Service Commission shall consider the feasibility of using area median income or other eligibility thresholds in the event the use of state median income prevents reaching all households that have an energy burden greater than six percent” (i.e., energy affordability guarantee).¹² Third, it directed the Department to establish a program “to provide an energy affordability guarantee to participating residential customers in the EmPower Plus Program administered by the New York State Energy Research and Development Authority [NYSERDA] who electrify their homes in accordance with program standards required by the authority,” with conditions regarding caps on a residential customer’s annual total electric usage and an energy affordability guarantee.¹³ The amounts appropriated by the State Budget may be disbursed to the Utilities, including the Long Island Power Authority, on behalf of utility customers as determined by the Department based on their share of energy affordability policy program expenditures during calendar year 2022.

¹¹ Aid to Localities Appropriation, Chapter 53 of the Laws of 2023.

¹² Id.

¹³ Id.

STAFF PROPOSAL

Consistent with the directives in the State Budget, the Staff Proposal (issued on August 21, 2023) envisioned the Department taking three actionable steps to address the duties placed upon it by the State Budget. Under the first step, Staff would identify the specific entities that administer an EAP bill discount program for potential allocation of the budget funds and provide recommendations regarding how the funds should be allocated. Under the second step, Staff would develop recommendations to establish an enhanced EAP bill discount program for residential customers that do not currently qualify for an EAP bill discount program but whose income is below the state median income. Under the third step, Staff would design a proposed affordability guarantee for low-income residential customers that electrify their homes as part of the EmPower Plus Program administered by NYSERDA. The Staff Proposal addresses the first step noted above - providing bill relief to utility customers, specifying that recommendations would be developed in the future to establish the additional two programs required in the State Budget.

To accomplish the first step, the Staff Proposal recommended that the Utilities and LIPA: (1) receive an allocation of the \$200 million appropriation based on each of their share of statewide calendar year 2022 EAP expenditures; (2) allocate each of their share of the budget funds to their customers in a reasonable and equitable manner reasonably reflecting how EAP program expenses are recovered from customers; and (3) distribute bill credits volumetrically to customers over a term of six months beginning December 1, 2023. The Staff Proposal would provide immediate and automatic relief for all residential and non-residential utility customers that pay into the Utilities' and LIPA's EAPs. In order to provide

customers bill relief equitably and expeditiously, and to minimize program resources and administrative costs, the Staff Proposal requested that the Utilities and LIPA identify an existing mechanism based on customer consumption that could be used to apply the proposed sur-credit to customers' bills and avoid or limit additional utility pass-through costs such as billing system programming.¹⁴

The Staff Proposal acknowledged that a sur-credit could impact the Utilities' and LIPA's EAP true-up and revenue decoupling mechanisms (RDMs).¹⁵ Staff, therefore, recommended that the Utilities demonstrate if and how current reconciliations would need to be adjusted to prevent any over- or under-collection related to the prompt bill relief to customers, before the budget funds were applied to customer's accounts through the Utilities' billing systems. The Staff Proposal recommended that the Utilities' tariffs be updated to reflect the approved mechanism(s) the Commission ultimately adopts to sur-credit customers. Additionally, the Staff Proposal recommended a final report on the status of execution of the bill relief to customers to ensure the implementation of the sur-credits is both transparent and adequately documented.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking regarding the

¹⁴ Staff recognized, however, that some Utilities could need to create a new mechanism and/or incur new costs.

¹⁵ An RDM is a ratemaking approach designed to eliminate or substantially reduce the linkage between sales and utility revenues and/or profits. An RDM reconciles utility delivery revenue and is implemented to remove the disincentive for utilities to actively promote energy efficiency programs to meet energy reduction goals.

Staff Proposal was published in the State Register on August 30, 2023 [SAPA No. 23-M-0298SP1]. The time for submission of comments pursuant to the Notice expired on October 30, 2023. The American Association of Retired Persons New York (AARP) filed a comment on September 25, 2023, in Case 14-M-0565, which is discussed below. No other comments on the Staff Proposal were received in response to the SAPA notice.

PULP PROPOSAL

On September 11, 2023, the Public Utility Law Project of New York (PULP) submitted a responsive proposal to the Staff Proposal, recommending dispersal of the budget funds to residential utility customers only. PULP explained its view that the biggest question facing the Working Group is "who" is supposed to receive the \$200 million budget funds. PULP explained that there is no accompanying definition of "utility customers" included in the State Budget language. In PULP's view, the term "utility customers" used in the context of the \$200 million appropriation must be interpreted consistently with the budget language associated with the two other programs referenced in the State Budget, both of which are targeted to "residential customers." PULP therefore asserts that the \$200 million budget funds must similarly be targeted to assist residential utility customers only.

PULP further states that, while using a volumetric sur-credit may arguably be the most expedient way to deliver credits to customers, it is an imperfect methodology because it may benefit customers with greater energy usage over those customers that use energy more efficiently and sparingly. PULP asserts that a non-volumetric based sur-credit would avoid this conundrum by simply providing an equal credit to all eligible

customers.¹⁶ PULP claims that a non-volumetric approach would also meet the mandate for the relief to be provided promptly.

NEW YORK STATE ENERGY BILL CREDIT REPORT

The Working Group filed the Bill Credit Report on November 21, 2023. The Working Group generally agrees with Staff's approach to allocate the \$200 million to the Utilities and LIPA, and also reflects pertinent parts of the PULP's proposal. However, the consensus of the Working Group recommends different timing for application of the credit to be placed on customers' accounts than what Staff proposed. The Bill Credit Report recommends the Commission implement a New York State Energy Bill Credit that includes the following: (1) the Utilities, including LIPA, would receive an allocation of the \$200 million budget funds based on their share of statewide calendar year 2022 EAP expenditures for electric and/or gas service; (2) each of the Utilities would divide the budget funds allocated by the total number of customers in each service (electric or gas) that pay into the EAP to develop a one-time credit that would be applied to customers' accounts within 45 days of receiving the budget funds; and (3) the Utilities would each file reports in Case 23-M-0298 within 60 days of applying the final credit to customer accounts. The consensus of the Working Group was that the one-time bill credit is simple to message and provides meaningful relief to customers, with the greatest benefit to residential customers. The Bill Credit Report recommended a one-time, non-volumetric credit be provided to customers instead of the volumetric sur-credit recommended in the Staff Proposal.

¹⁶ PULP also noted that a six-month or twelve-month distribution period would further disadvantage some customer groups versus others.

Allocation of the \$200 million Budget Funds

The Staff Proposal recommended that the budget funds be allocated to each of the Utilities and LIPA based on its share of the statewide EAP expenditures for calendar year 2022. Staff verified the EAP expenditure amounts provided by each utility to the amounts recorded on their respective general ledgers.¹⁷

LIPA proposed that the Department recognize a difference between its regulatory calendar and the regulatory calendar of the Utilities as it develops the basis for the allocation of the \$200 million among the Utilities and LIPA. Specifically, LIPA explained that it adjusted its low-income discounts on July 1, 2022, midway through the calendar year, whereas the regulated Utilities reflected low-income bill discounts that were implemented on December 1, 2021, and remained unadjusted until December 1, 2022. LIPA thus indicated that using calendar year 2022 as a basis to allocate the budget funds may result in a lower bill credit to LIPA's customers and therefore proposed to develop a revised 2022 EAP expenditure amount by annualizing the low-income discounts that were implemented in July 2022.

As explained in the November 21, 2023, Bill Credit Report, the Working Group debated both the Staff Proposal from August 21, 2023, to allocate the budget funds based on the Utilities' and LIPA's share of statewide calendar year 2022 EAP expenditures and LIPA's proposal to annualize its discounts. The Working Group ultimately supports Staff's approach to allocate the budget funds, and LIPA states in the Bill Credit Report that it accepts the recommended allocation from the

¹⁷ For consistency amongst the Utilities and LIPA, gross receipts tax and sales tax were excluded from the calendar year 2022 EAP expenditures for the purposes allocating the budget funds.

Working Group. Attachment B to the Energy Bill Credit Report summarizes the Working Group's proposed allocation of budget funds to each utility.

Allocation of Budget Funds to Customers

The Bill Credit Report states that the Working Group debated the intent of the appropriation language regarding whether "utility customers" included all service classes (residential and non-residential) or just residential service classes. The Working Group focused its discussions on providing varying options to best assist customers. To that end, the Bill Credit Report explains that the Working Group considered six proposals to allocate the utility budget funds to the Utilities' service classifications. The Bill Credit Report states that the Working Group also considered targeting a portion of the budget funds to small commercial customers using the same eligibility criteria approved in the Phase 2 Utility Assistance Relief Program (UARP).¹⁸

The Bill Credit Report states that the Working Group includes members with varying opinions on eligibility, including some who strongly believe residential customers should be prioritized, others who are concerned specifically with energy affordability for EAP customers, and others who believe small businesses should be included in any proposed relief. The Bill Credit Report explains that the Working Group had two observations after reviewing arrears data: (1) non-EAP residential customers' arrears remain higher than EAP customers' arrears; and (2) non-residential arrears levels also remain high compared to pre-pandemic levels. Based on these specific observations, the Bill Credit Report concluded that non-EAP

¹⁸ Phase 2 Order, pp. 39-40.

residential customers and small commercial customers are most in need of relief.

The Bill Credit Report states that the Working Group considered targeting relief to small commercial customers but explained that there were several risks of attempting to identify specific customers. The Working Group explained that it carefully considered all proposals and recommends the Commission adopt a one-time bill credit to all customers that contribute towards the Utilities' and LIPA's EAPs.

Method and Term to Provide Relief to Customers

The Bill Credit Report explains that the Staff Proposal recommended that the Utilities apply volumetric sur-credits over a period of six months beginning December 1, 2023. PULP recommended using a fixed dollar sur-credit. The Bill Credit Report states that the Working Group heavily debated the method and term of relief and ultimately agreed that a one-time, fixed bill credit to active service accounts was appropriate because it would provide tangible relief to customers and could be easily implemented. The Working Group reports that bill credits should be applied to customers' accounts as quickly as practicable and decided that the one-time bill credit could occur as early as January 2024, but no later than 45 days after receipt of the budget funds, where the bill credit would provide noticeable relief towards winter bills.

LIPA Proposal

The Bill Credit Report included an alternative proposal from LIPA for customers in its service area only under which: (1) the dollars be distributed to all customers; (2) approximately \$0.8 million of the \$9.4 million allocated to LIPA be used to increase the existing low income bill discount by an additional five cents per day (\$18.25 per year) over the course of the calendar year 2024; and (3) the remaining \$8.6 million

allocation be distributed among all customers on an equal per-customer basis through the existing RDM over the course of the calendar year 2024.

LIPA states that its proposal would eliminate its need to spend any money on billing system changes, which is different than the other Utilities. With respect to this issue, LIPA points out that its current business model is a public-private partnership with its service provider: Public Service Electric and Gas - Long Island (PSEG Long Island). PSEG Long Island would incur incremental administrative costs to implement the one-time bill credits proposed by the Working Group, as it did to implement the funds provided pursuant to Phase 1 and Phase 2 of the Utility Arrears Relief Program (UARP), and LIPA is contractually obligated to pay PSEG Long Island for those incremental costs. LIPA claims the costs and the diversion of efforts would directly and negatively impact LIPA customers. LIPA states its proposal would enable it to directly assist low-income customers at zero administrative costs for implementation, so that every dollar received from the appropriation goes directly to customers.

Other Financial Matters

O&M Expense

The Utilities acknowledge in the Bill Credit Report that they may incur incremental administrative costs, mainly related to programming adjustments to their respective billing systems. The Utilities reported that any potential costs would be addressed within their existing operating budgets and existing personnel. Therefore, the Working Group's recommended relief should not result in any incremental administrative expenses to be borne by customers. As mentioned above, LIPA proposes to avoid incurring additional costs and to use the RDM to credit customers.

Uncollectible Expense

The Working Group evaluated whether providing customers with bill credits would have any impact on the Utilities' uncollectible expenses. Specifically, whether providing one-time bill credit relief would reduce future uncollectible expenses to levels that are below the amounts recovered from customers in base delivery rates, resulting in an over-collection from customers for these uncollectible expenses. Although the Utilities indicated that the bill credits could have a small impact on arrears for certain customers, as the credit would be applied to prior balances first, any impact on the Utilities' uncollectible expenses is expected to be de minimis. Further, the Working Group noted that most of the Utilities have a provision within their existing rate plans to address any variation between the uncollectible expense levels provided for in rates and their actual net write-offs.

Reconciliations

Under the Bill Credit Report, each utility would derive a fixed bill credit for each electric and/or gas service based on its number of active customers for that service at a point in time. Because the number of utility customers is not static, there may be a small change between deriving a bill credit and subsequently applying the bill credit to customers. The Utilities will identify, separately for each electric and gas service, any difference between their allocated portion of the \$200 million budget funds and the amount credited to customers. For simplicity, the Bill Credit Report proposes that the Commission direct each utility to defer the difference to its respective EAP regulatory asset/liability account for recovery/pass-back through its existing EAP reconciliation mechanism(s) because the Utilities are authorized to true-up EAP

program costs through various reconciliation mechanisms (e.g., surcharge/sur-credit, RDM, deferral to next rate case).

LIPA

LIPA proposes to pass back its share of the \$200 million budget funds through its low-income discounts and its existing RDM. LIPA and PSEG Long Island provide monthly tracking and accounting reports to the Department and the disbursement of the budget funds could be tracked on a monthly basis to demonstrate that all the dollars due to all customers through the RDM, including the low-income allocation, are being received by LIPA's customers. The Bill Credit Report explains that dollars in the RDM regulatory asset account that are not disbursed within 12 months are carried over to the subsequent year or may be disbursed more quickly subject to true-up (recovery or pass-back) in the following year (2025), depending on whether delivery revenues exceed or fall behind the projected targets for each month of 2024.

Tariffs

The Bill Credit Report explains that PULP's proposed new sur-credit mechanisms would require significant billing system work that could not be implemented in a reasonable time frame. The Bill Credit Report indicates that another option considered by the Working Group was to provide a one-time bill credit to customers. This option requires limited system changes that could be implemented as early as January 2024 for every utility and would not require a tariff change. LIPA's proposal to use the RDM requires no changes to its current Board-approved tariff.

Reporting

The Working Group recommends that the Utilities apply the credits on customer accounts as early as January, to the extent practicable, and no later than 45 days after receiving

the budget funds. After application of all credits, the Utilities would file reports on the total number of customers receiving an Energy Bill Credit, total dollars associated with the program, and identify any residual amounts that are deferred to EAP regulatory asset/liability accounts. The report shall be filed with the Secretary to the Commission within 60 days of applying the last credit to customer accounts and filed in Case 23-M-0298.

The Bill Credit Report states that LIPA's reporting process would be different from the Utilities to match its alternative approach. LIPA's revenues are reported in detail and subject to review by the Department in conformance with the LIPA Reform Act and the status of the disposition of the Low-Income Discounts and the RDM can be reviewed monthly by the Department in discussion with LIPA and PSEG Long Island. Year-end RDM balances can be calculated and reconciled to the amount awarded and provided to the Department at their request.

Stakeholder Positions Contained in the Energy Bill Credit Report

Individual stakeholders in the Working Group held various positions on the recommendations to implement to State Budget language. The Bill Credit Report includes those positions, which are summarized below.

Joint Utilities¹⁹

The Bill Credit Report states that the Joint Utilities support the one-time, fixed bill credits to customers as the most efficient, simple and timely method of disbursing the \$200 million budget funds. The Joint Utilities also believe the Bill Credit Report seems to be consistent with the legislative direction to provide relief to "utility customers." The Joint Utilities state that they strongly support the one-time bill

¹⁹ The Joint Utilities are Central Hudson, Con Edison, NFG, National Grid, NYSEG and RG&E, and O&R.

credit and urge the Commission adopt the recommendations in the Bill Credit Report.

PULP

PULP supports the one-time, fixed bill credits to customers, rather than bill credits based upon volumetric usage. PULP states that residential customers would receive a relatively similar benefit under the Working Group proposal to what they would have received under its proposal.

New York State Department of State Utility Intervention Unit (UIU)

UIU supports a one-time fixed bill credit that is the same for all customers that contribute to the cost of their utility's EAP. UIU concludes that the proposal reasonably balances relief to residential and non-residential customers, can be implemented quickly, and does not increase administrative costs to disburse the credits.

Long Island Progressive Coalition

The Long Island Progressive Coalition supports LIPA's proposal to allocate funds for customers over a 12-month period via the RDM. This bill credit implementation plan is slightly different from the rest of the State Utilities given that LIPA is unique and the plan seeks to avoid further administrative costs LIPA would have to pay to PSEG Long Island.

City of New York

The City of New York stated that it is supportive of the Working Group recommendations included in the Bill Credit Report, except with respect to three issues. First, the City of New York disagrees with the recommendations regarding the distribution of the utility allocated budget funds, and proposes that relief be provided to residential customers only, as PULP proposed, given the finite level of assistance that is available, rather than allocating the budget funds to all customers (residential and non-residential) equally through a

one-time fixed credit. In this respect, the City of New York states directing the budget funds to residential customers is most reasonable given that affordable energy is a critical component to creating a healthy and safe home environment.

Second the City of New York states that it prefers a one-time bill credit as opposed to passing back a smaller bill credit over several months as proposed in the Staff Proposal. The City notes that providing a one-time bill credit during the winter months when utility bills are highest due to cold weather and heating costs would provide prompt and more impactful assistance to residential utility customers.

Third, the City of New York recommends differentiating natural gas heating customers from natural gas cooking-only customers for the purpose of allocating the budget funding. The City states that residential gas cooking-only customers have much smaller bills (both from a cost and usage perspective) as compared to a residential gas heating customer and thus providing the same level of one-time bill credit to both sets of customers would result in a disproportionate percentage impact to their bills. That is, the residential gas cooking-only customer would have a very large percentage of their bill offset, while the residential gas heating customer would have a much smaller percentage of their bill offset by the one-time credit.

AARP

AARP states that it continues to believe that the \$200 million budget appropriation is not an effective use of scarce taxpayer money. AARP claims that one-time bill credits are negligible for upper-income New Yorkers and will have little impact on the more than a million utility customers who are in arrears. AARP continues to believe a better use of the money is to target moderate-income utility customers.

Outreach and Education

The Bill Credit Report states that the Joint Utilities, the Department, and stakeholders plan to execute an outreach plan for the Energy Bill Credit. Specifically, the Joint Utilities would provide customers and other stakeholders (such as elected officials) with general information about the program, including eligibility and the lack of a required application. The Working Group would continue to coordinate on bill messaging and other communication methods for the Commission-approved program. The Bill Credit Report states that outreach messaging should not specify when the credit will be issued, rather include a general statement such as "Your credit will be issued in the next billing cycle" would be used to avoid confusion and set realistic expectations for customers.

NYSEG AND RG&E FILING

On December 1, 2023, NYSEG and RG&E (collectively, NYSEG-RG&E) contacted Staff and explained that the calendar year 2022 EAP expenditures as reported on its General Ledgers and contained in the Energy Bill Credit Report, Attachment B, were overstated. NYSEG-RG&E explained to Staff that they did not properly assign some EAP participants to the correct EAP tier, resulting in the EAP participants not being billed the proper monthly EAP bill discount. NYSEG-RG&E stated that this error could have a material impact on the allocation of the \$200 million appropriation. NYSEG-RG&E initially estimated a \$6 million overstatement of their 2022 calendar year EAP expenditures, which was relayed to the Working Group on December 5, 2023.

On January 16, 2024, NYSEG-RG&E filed a letter with the Secretary to the Commission that contains a refined estimate of the Companies' EAP expenditures for calendar year 2022.

Table 1 below identifies the 2022 EAP expenditures reported in the Energy Bill Credit Report, the estimated 2022 EAP expenditures, and the difference between the reported EAP expenditures for each company and business.

Table 1

Utility / Business	Energy Bill Credit Report	Estimated	Difference
NYSEG Electric	\$17,867,095	\$15,045,745	(\$2,821,350)
NYSEG Gas	\$8,733,743	\$7,361,832	(\$1,371,911)
RG&E Electric	\$14,414,689	\$12,442,288	(\$1,972,401)
RG&E Gas	\$7,342,838	\$6,322,400	(\$1,020,438)
Total	\$48,358,365	\$41,172,265	(\$7,186,100)

On January 18, 2024, NYSEG-RG&E filed a supplement providing further explanation regarding the overstatement. NYSEG-RG&E stated that in July 2023, the companies provided Staff with 2022 EAP expenditures as reported on their general ledgers, which were then included in the Energy Bill Credit Report and used to develop proposed allocations of the \$200 million budget funds and estimated bill credits for customers. NYSEG-RG&E explained that in late November 2023, during their ongoing analysis of the EAP program and HEAP crediting processes, they discovered an error. NYSEG-RG&E explained that their internal manual process to update EAP tier bill coding was not completed in accordance with HEAP benefit updates made by the New York State Office of Temporary and Disability Assistance (OTDA). As a result, some NYSEG-RG&E EAP customers remained on, or were assigned to, incorrect EAP tiers and thus received incorrect monthly EAP bill discounts. The companies initially estimated that the EAP tier assignments led to calendar year 2022 EAP expenditures for NYSEG-RG&E being greater than they

would have been, absent the issues with the EAP tier coding process. NYSEG-RG&E stated that their analysis of data determined that over 85 percent of NYSEG's and 80 percent of RG&E's EAP customers were on the correct EAP tier.

After NYSEG-RG&E informed Staff of the error, they continued to investigate the impacts of the EAP tier assignment issue and worked to create a more refined estimate of what the companies' calendar year 2022 EAP expenditures would have been had the EAP tier issue not occurred. As part of this analysis, NYSEG-RG&E reviewed OTDA's historical annual HEAP guidance documents for each HEAP year, which is November 1 through October 31, to determine which tier an EAP customer should have been assigned based on the HEAP benefit the company received for the EAP customer. The companies conducted this review for the following HEAP program years: 2020-2021, 2021-2022, and 2022-2023. NYSEG-RG&E queried their system data to identify impacted EAP customers and determined how many bills were impacted in each HEAP year. The companies calculated by customer, by HEAP year, the difference between the amount billed at the incorrect EAP discount rate and the correct EAP discount rate. They then multiplied the dollar difference by the number of impacted bills to determine the HEAP year variance by customer. The companies' refined estimate of calendar year 2022 EAP expenditures is a sum of all of the impacted customers allocated to calendar year 2022 and the aggregate dollar impact is shown in Table 1.

NYSEG-RG&E recommend the Commission use the estimates for their calendar year 2022 EAP expenditures in place of the 2022 EAP expenditures included in the Energy Bill Credit Report for purposes of allocating the \$200 million budget appropriation. NYSEG-RG&E state the refined analysis provides a reasonable estimate that results in minimal risk to other Utilities' allocations and customers' energy bill credits.

CENTRAL HUDSON FILING

In early January 2024, Central Hudson contacted Staff and explained that the calendar year 2022 EAP expenditures as reported on its General Ledger and contained in the Energy Bill Credit Report, Attachment B, may be overstated. Central Hudson explained to Staff that it made a one-time EAP billing adjustment in January 2022 to correct for EAP discounts that should have been billed in 2021 and it placed a small number of customers on to the wrong EAP tier. Central Hudson stated these issues likely over-stated the 2022 EAP expenditures contained in the Energy Bill Credit Report.

On January 25, 2024, Central Hudson filed a letter with the Secretary that contains an estimate of the amount of the EAP expenditures that the Company would have expended in calendar year 2022 in the absence of the billing adjustment and EAP tier coding errors. Table 2 below identifies the 2022 EAP expenditures reported in the Energy Bill Credit Report, the estimated 2022 EAP expenditures, and the difference between the reported EAP expenditures for each business.

Table 2

Utility / Business	Energy Bill Credit Report	Estimated	Difference
Central Hudson Electric	\$8,929,251	\$7,924,372	(\$1,004,879)
Central Hudson Gas	\$3,257,684	\$2,891,071	(\$366,613)
Total	\$12,186,935	\$10,815,443	(\$1,371,492)

Central Hudson explained that in response to Staff's questions regarding its EAP and HEAP crediting processes, the company identified two issues that could have an impact on the

allocation of the \$200 million budget funds to the Utilities. The first issue Central Hudson identified was a one-time billing adjustment of approximately \$1.1 million that occurred in January 2022 to resolve a billing system issue which had affected EAP participants during the 2021 calendar year. This one-time billing adjustment resulted in Central Hudson's calendar year 2022 EAP expenditures being greater than otherwise would have been had the billing been completed on time in calendar year 2021.

The second issue Central Hudson identified was that some low-income customers were placed into incorrect EAP tiers in calendar year 2022. Like all of the other utilities, Central Hudson relies on HEAP tables provided by OTDA; however, the company did not update the billing system values used to code EAP participants in 2021 and 2022. As a result, during calendar year 2022, Central Hudson stated that it placed one subset of EAP participants into an incorrect EAP tier from January through October, and a second subset of EAP participants into an incorrect EAP tier for part of November and/or December 2022. For each subset of EAP participants, Central Hudson stated that the impacted EAP customers received higher credit amounts in 2022 than they would have received had they been placed in the correct EAP tier.

Central Hudson estimated the impact of the EAP tier coding issues by reviewing the HEAP desk guide for the 2021/2022 and 2022/2023 HEAP program years to determine which EAP participants should have been placed into which EAP tier. Central Hudson identified EAP participants that may have been placed in the incorrect EAP tier based on the amount of their HEAP benefit. Central Hudson claims it determined the impact of the error by calculating a customer-level variance, equal to the difference between the credit amount the customer received

and what they would have received had they been placed in the correct tier after their HEAP grant was processed. Central Hudson stated it performed an account level analysis for the 2021-2022 HEAP program year, with potential impacts from January through November 2022. Central Hudson estimated the impact by multiplying the customer-level variance by the number of months in 2022 each customer was impacted. Central Hudson indicated it conservatively estimated a variance of \$253,234 for the 2021/2022 HEAP program year. Central Hudson stated it performed an account level analysis for the 2022-2023 HEAP program year, with impacts in November 2022 and December 2022, which indicated a variance of \$11,159.

Central Hudson recommends that the Commission use its revised estimates for its calendar year 2022 EAP expenditures. Specifically, Central Hudson recommends revising Central Hudson's Gas expenditures downward by \$1,004,879, and Central Hudson's Electric expenditures downward by \$366,613 for the purposes of determining the allocation of the \$200 million budget funds. Central Hudson states the estimated amounts represent the best conservative estimate of the impacts to customers and Central Hudson states it will continue to collaborate with Staff to evaluate potential customer impacts more precisely.

KEDNY FILING

On February 9, 2024, KEDNY informed Staff that it discovered a programming error that caused its calendar year 2022 EAP expenditure amount contained in the Bill Credit Report to be understated. On February 12, 2024, KEDNY filed a correction to its reported 2022 EAP expenditures. KEDNY explains that, while developing its monthly and annual EAP reports, it identified a discrepancy with the expenditures in

those reports. While this discrepancy did not impact customers' enrollment in KEDNY's EAP nor the amount of EAP discounts provided to customers, KEDNY asserts that it did impact the reported 2022 EAP expenditures which was derived from its monthly and annual EAP reports.

Table 3

Utility / Business	Energy Bill Credit Report	Estimated	Difference
KEDNY	\$39,034,320	\$40,809,620	\$1,775,300

More specifically, KEDNY explains that there are three items included on the EAP monthly reports: (1) EAP Discounts; (2) Gross Receipts Tax; and (3) Total Discounts. According to KEDNY, a programming error mistakenly reported the "EAP Discounts" amounts as its actual EAP expenditures when it should have actually utilized the "Total Discounts" for the actual EAP amounts. KEDNY asserts that it conducted an account-by-account review of the underlying data and confirmed that the "Total Discount" figure is reflective of actual EAP expenditures.

The Bill Credit Report presented KEDNY's calendar year 2022 EAP expenditures as \$39,034,320. KEDNY explains that after identification and remediation of the programming error, the actual calendar year 2022 EAP expenditures were \$40,809,620. KEDNY proposes that this value be the basis for determining KEDNY's proportional share of the \$200 million budget funds.

LEGAL AUTHORITY

The Commission's authority derives from the PSL, through which the Legislature delegated numerous legislative powers. Pursuant to PSL §5(1), the "jurisdiction, supervision, powers and duties" of the Commission extend to the "manufacture, conveying, transportation, sale or distribution of . . .

electricity.” PSL §§4(1) and 5(2) also provide the Commission with “all powers necessary or proper to enable [the Commission] to carry out the purposes of [the PSL]” including, without limitation, a guarantee to the public of safe and adequate service at just and reasonable rates, environmental stewardship, and the conservation of resources.²⁰ Further, PSL §65 provides the Commission with authority to ensure that “every electric corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable.” PSL §66(2) provides that the Commission shall “examine or investigate the methods employed by [] persons, corporations and municipalities in manufacturing, distributing and supplying ... electricity ... and have power to order such reasonable improvements as well as promote the public interest, preserve the public health and protect those using such gas or electricity...”

DISCUSSION

One of the Commission’s core obligations is to ensure that the provision of energy distribution services is affordable. Indeed, since the onset of the COVID-19 pandemic, the Commission has diligently focused on energy affordability in the context of two orders. First, on June 16, 2022, the Commission issued an order authorizing a Phase 1 Arrears

²⁰ See Consolidated Edison Co. v Public Service Comm’n, 47 N.Y.2d 94 (1979) (describing the broad delegation of authority to the Commission and the Legislature’s unqualified recognition of the importance of environmental stewardship and resource conservation in amending the PSL to include §5); Int’l R. Co. v. Pub. Serv. Comm’n, 264 A.D 506, 510 (3rd Dep’t 1942) (determining that the “public interest” standard is directly related to and limited by the general purpose of the agency’s enabling legislation).

Reduction Program, which provided a one-time bill credit to low-income utility customers who accrued arrears during the COVID-19 pandemic.²¹ Additionally, on January 19, 2023, the Commission issued an order, which offered financial relief to all eligible non-EAP residential and small commercial customers with an existing arrears balance prior to May 1, 2022.²² The historic arrears relief provided by the Commission has aided thousands of customers in arrears and avoided thousands of service terminations. However, as noted above, the economic hardship caused by the pandemic was exacerbated by sharply increased commodity prices in 2022, which resulted from a combination of the war in Ukraine and an unexpected acceleration of economic activity in the country. In addition, the Commission authorized increases in the base delivery rates of several utilities. These exogenous factors have collectively made energy affordability extremely challenging for many households in the State.

To address the issue of energy affordability anew, last year's State Budget included a \$200 million appropriation to provide needed relief for customers. To implement that appropriation, on August 21, 2023, Staff filed a proposal for the Utilities administering an EAP and LIPA to receive budget funds and provide their customers bill relief. Subsequently, on November 21, 2023, the Working Group filed a thorough Bill Credit Report that included additional recommendations on how to administer such relief to customers. In this Order, the Commission adopts the recommendations in the Staff Proposal, with modifications, to provide immediate and automatic relief

²¹ Cases 14-M-0565, et al., Order Authorizing Phase 1 Arrears Reduction Program (issued June 16, 2022).

²² Cases 14-M-0565, et al., Order Authorizing Phase 2 Arrears Reduction Program (issued January 19, 2023).

for all residential and non-residential utility customers that pay into the Utilities' and LIPA's EAPs. Customers that do not pay into the EAP would not receive a bill credit. As noted, the application of this relief will assist an 8.3 million energy customers, with estimated credits per Utility and LIPA shown in the Appendix to this Order.

Allocation of the \$200 Million Budget Appropriation to Utilities

The Staff Proposal recommends the Commission allocate the \$200 million budget funds to each of the Utilities and LIPA based on their share of statewide calendar year 2022 EAP expenditures. The proposed allocation is consistent with the language accompanying the \$200 million appropriation included in the State Budget and is a reasonable method for allocating the budget funds. Accordingly, the Commission authorizes the Department to distribute the \$200 million in accordance with allocations consistent with the calendar year 2022 EAP expenditures, which are summarized in the Appendix and are to be used to determine each Utility's (and LIPA's) share of the \$200 million appropriation. However, as noted, four utilities (NYSEG, RG&E, KEDNY, and Central Hudson) discovered errors with their reported calendar year 2022 EAP expenditures that warrant further discussion and process. Nevertheless, given the requirement to act promptly, the Commission is comfortable with moving forward with allocations based on the existing estimates subject to further review discussed below.

NYSEG-RG&E Filing

As previously discussed, NYSEG-RG&E informed Staff on December 1, 2023, of an overstatement to their reported calendar year 2022 EAP expenditures which would have materially impacted how the \$200 million in budget funds would have been allocated if not found. NYSEG-RG&E stated that the error resulted from a failure to update a subset of low-income customers to the

appropriate EAP tier level based on the most recent HEAP benefits the companies received from OTDA. To place low-income customers in a particular EAP tier, the companies rely on HEAP benefit tables provided by OTDA each year that associate a specific HEAP benefit amount with a particular EAP tier. The companies stated that they failed to update the HEAP benefit amounts in their system resulting in some low-income customers not being assigned to the appropriate EAP tier. NYSEG-RG&E state that the overstatement had the effect of inflating the companies' calendar year 2022 EAP expenditures, which (if not caught) would have resulted in an overallocation of the \$200 million appropriation to the companies.

Throughout December 2023 and January 2024, NYSEG-RG&E filed multiple documents developing their estimate of revised 2022 EAP expenditure amounts. Due to the large number of accounts that required review and time constraints for applying energy bill credits to customers statewide, the companies' analysis included several assumptions to calculate an estimated calendar year 2022 EAP expenditure to adjust for EAP customers being placed to the incorrect EAP tier in the companies' systems. The companies' filing included a description of the assumptions and steps completed in their analysis, as well as the workpapers supporting the revised 2022 EAP expenditure amounts. NYSEG-RG&E stated that the revised 2022 EAP expenditures are \$22,407,577 for NYSEG and \$18,764,688 for RG&E, or a reduction of \$4,193,261 and \$2,992,839 from the 2022 EAP expenditure amounts reported in the Energy Bill Credit Report, respectively.

To determine the reasonableness of the companies' assumptions, Staff reviewed a small random sample of customer accounts. Staff's sample size was small because of the time-consuming nature of gathering and reviewing individual

customer's bills spanning multiple HEAP years. Further, Staff reviewed the workpapers to support the revised calendar year 2022 EAP expenditures to assess the reasonableness of the calculations used to derive the revised EAP expenditures and to determine whether the proposed revisions were sufficiently supported and properly reflected the applicable HEAP year. Based on its review, Staff reported that the estimates appear to be reasonable for the purpose of allocating NYSEG-RG&E's share of the \$200 million appropriation.

We agree with Staff's conclusion that the estimates provided by NYSEG-RG&E are reasonable for the purpose of making the required allocations to each Utility (and LIPA) associated with the \$200 million appropriation. However, based on the errors made and the technical nature of recalculating the 2022 EAP expenditures, the Commission lacks confidence with the accuracy of the numbers used to calculate the companies' allocation. For this reason, we direct NYSEG-RG&E to undertake an additional review process, discussed further below, to further assess the reasonableness of the estimated amounts. Any discrepancies found in the context of this additional review may result in a reconciliation of the allocations across the Utilities and LIPA.

Additional Staff Analysis to Address Accuracy of 2022 EAP Expenditures

NYSEG-RG&E's reported error caused Staff to become concerned that other Utilities may have also miscalculated their calendar year 2022 EAP expenditure amounts - the key input in calculating each of the Utilities' allocation of the \$200 million appropriation. To assess the accuracy of the calendar year 2022 EAP expenditure amounts reported in the Energy Bill Credit Report by the other Utilities (and LIPA), Staff examined whether each entity billed correct EAP discount rates and coded

EAP customers in the correct EAP tier. Importantly, Staff also obtained Officer Certifications attesting to the accuracy of the data provided. Staff deemed these certifications necessary to ensure a high-level review at each of the companies.

To determine if the Utilities correctly billed the Commission approved EAP monthly discount rates contained in their tariffs, Staff required the Utilities to provide the monthly EAP participants in calendar year 2022 delineated by EAP tier, heating, and non-heating. In addition, using the data provided by the Utilities, Staff calculated an estimate of the calendar year 2022 EAP expenditures for each Utility by multiplying the monthly EAP participants for each Utility by the applicable approved monthly EAP discount rates. Staff's estimated calendar year 2022 EAP expenditures reasonably aligned with the Utilities reported expenditures, except for Central Hudson which is discussed in further detail below. This analysis, however, would not reveal utility EAP tier coding errors.

To detect any potential Utility EAP tier coding errors, Staff sent information requests to each of the Utilities and PSEG Long Island (on behalf of LIPA), seeking an assessment of the specific HEAP tables used to code customers in calendar year 2022 and the associated programing logic used to code EAP participants into the appropriate EAP tier. Most of the Utilities and PSEG Long Island responded and confirmed that they placed low-income customers into the correct EAP tiers in 2022 by relying on the information published by OTDA.²³ However, Central Hudson's responses to the information requests

²³ OTDA revised HEAP benefit amounts twice in calendar year 2022; once effective November 1, 2022, and again effective December 11, 2022. The Utilities stated that their EAP tier programming logic was updated as soon as possible to match the revised HEAP benefit amounts.

identified a one-time billing adjustment in January 2022, as well as an issue with the HEAP payment ranges used to place customers into the correct EAP tier.

Furthermore, as noted, Staff requested that the Utilities and PSEG Long Island each file an Officer Certification stating that the amounts reported to the Department as EAP expenditures for calendar year 2022, as reflected on the utility's books and records, are a true and accurate representation of the amounts expended. The record shows that the Utilities and PSEG Long Island filed Officer certifications in the 23-M-0298 proceeding.

Central Hudson Filing

Central Hudson reported to Staff that its billing system could report EAP participants by EAP tier but could not report monthly EAP participants by heating and non-heating due to system limitations. Therefore, Central Hudson developed proxy ratios for electric heating, electric non-heating, gas heating, and gas non-heating customers for each EAP tier to test the reported calendar year 2022 EAP expenditures. In performing its analysis to test the reported EAP expenditures, Central Hudson identified a one-time billing adjustment, recorded in January 2022, totaling approximately \$1.1 million. Central Hudson stated that the one-time billing adjustment was processed to resolve a billing system issue that affected EAP customers in calendar year 2021.

In the process of responding to Staff's request to determine if there were any EAP coding errors, Central Hudson identified an issue with the HEAP payment ranges used to place customers into the correct EAP tier. The company explained that these ranges are hardcoded into its customer information system and the ranges thus were not updated in the system when enrollment began for the 2021/2022 and 2022/2023 HEAP program

years. The result of this error was that a subset of EAP participants was placed into the incorrect EAP tier in calendar year 2022. These EAP participants received a larger HEAP credit than they would have received had they been placed in the correct EAP tier. The aggregate amount of the error was calculated by manually identifying each impacted customer and taking the difference between the credit they received, and the credit associated with their correct EAP tier.

To audit the amounts reported in Central Hudson's filings, Staff requested that the company provide documentation to support the one-time billing adjustment. Staff determined after review that Central Hudson's documentation adequately supported the one-time billing adjustment. Specifically, the Company provided Staff with the journal entries demonstrating that it adjusted the EAP expenditures in January 2022 in the amount of \$1.1 million. Thus, based on the information provided by Central Hudson, Staff was able to confirm the amounts reported in the Central Hudson's filing related to the one-time billing adjustment.

Regarding EAP tier coding errors, Central Hudson provided documentation to Staff showing the HEAP payments that it processed for November and December 2022, as well as the payments that should have been processed. To date, however, Central Hudson has not provided supporting documentation for the EAP tier coding errors for the months of January through October 2022.

The Commission will utilize the estimated calendar year 2022 EAP expenditures for Central Hudson but recognizes that the coding errors and the large one-time billing adjustment may have a material impact on the \$200 million allocation and the resulting Energy Bill credits to customers statewide if a utility's EAP expenditures are incorrect. Like NYSEG-RG&E,

Central Hudson's estimate of 2022 EAP Expenditures must also be subject to additional review. Any discrepancies may result in a reconciliation of the allocation of the \$200 million.

KEDNY Filing

On February 12, 2024, KEDNY filed a correction to its reported 2022 EAP expenditures. According to KEDNY, the 2022 EAP expenditures presented in the Bill Credit Report are underreported by \$1,775,300 and require revision. KEDNY explains that a programming error causes its internal EAP reporting to be incorrect, but that this issue did not impact customers' enrollment in KEDNY's EAP, nor did it impact the amount of EAP discounts provided to customers. However, KEDNY has not provided supporting documentation for the correction.

The Commission agrees with and adopts the recommendation in the Staff Proposal, modified to use estimated calendar year 2022 EAP expenditures for NYSEG-RG&E, KEDNY, and Central Hudson. The errors identified by each of these four companies raises concerns regarding the accuracy of their reported EAP expenditures and necessitate additional process. Like NYSEG-RG&E and Central Hudson, KEDNY's reported 2022 EAP expenditures will be subject to further review as discuss below. Any discrepancies found in the context of this additional review may result in a reconciliation of the allocations across the Utilities and LIPA.

Future Process Regarding EAP Expenditure Estimates

While the Commission has decided to utilize the estimated calendar year 2022 EAP expenditures provided by NYSEG, RG&E, KEDNY, and Central Hudson for the purpose of allocating the \$200 million appropriation to provide bill relief to customers, a subsequent reconciliation process, independent of the EAP true-up reconciliation described below, will be necessary to ensure the proper allocation of budget funds to the

Utilities and LIPA, and to ensure the proper disbursement to utility customers. As part of this process, NYSEG, RG&E, KEDNY, and Central Hudson will be required to, within 90 days of the effective date of this Order, each make a filing with the Secretary to the Commission that explains the actual impact of the identified errors and provides an accurate EAP expenditure amount for calendar year 2022 and to ensure that no customers were impacted financially. Specifically, NYSEG, RG&E, and Central Hudson shall include the following information in their filing:

1. Identify when the errors started and provide evidence that the errors didn't go back farther.
2. Review all EAP participants from the start of the errors to January 2024.
3. Identify which customers were placed on the correct EAP tier and which customers were placed on the incorrect EAP tier.
4. Explain how OTDA's Residential Arrears Supplement program impacted customers being placed on an EAP tier.
5. Quantify the dollar impact of the error for each impacted customer.
6. Explain the procedure for removing customers from the EAP. Identify, by HEAP year, how many customers were left on the EAP without a HEAP benefit or self-certification.
7. Did the error impact the EAP rate allowance in the last two rate cases?
8. Quantify the impact on the EAP deferral with supporting workpapers.
9. Identify all customers that were under credited and were charged late payment charges.
10. Identify all customers that were under credited and were terminated.
11. Provide the internal controls that were effective during the error. Identify any process improvements or changes in procedures to ensure similar errors do not occur in the future.
12. Propose a plan to correct the errors, including a communication plan for impacted customers.

Specifically, KEDNY shall include the following information in its filing:

1. Identify when the error started with supporting evidence.
2. Identify all EAP reports that are impacted.
3. Identify the impact to the energy affordability program deferral account, with supporting workpapers.
4. Provide the internal controls that were in effect during the error. Identify any process improvements or changes in procedures to ensure similar errors do not occur in the future.
5. Propose a plan to correct the error.

The Commission leaves open the possibility of another order and/or further process to address any discrepancies resulting from the review required here. The Commission also acknowledges the contract agreements by NYSEG, RGE, KEDNY, and Central Hudson to remedy any future errors found in their reported calendar year 2022 EAP expenditures through the use of shareholder funds only.

Allocation of Budget Funds to Customers

Staff proposed that the Utilities allocate their share of the budget funds to each of their electric and/or gas service classes using a methodology similar to how EAP expenses are recovered from customers. The Bill Credit Report described Staff's, PULP's, and several other options considered by the Working Group to address which customers receive relief. The Bill Credit Report explained that the Working Group first focused its deliberations on the specific language in the State Budget law referring to "utility customers" as the recipients of this assistance.

The Working Group also considered the language in the State Budget law that provided the Department additional administrative discretion regarding the distribution of the \$200 million. The law provides that "amounts appropriated herein may be disbursed to the utilities, including the Long Island Power

Authority, on behalf of utility customers as determined by the Department of Public Service based on their share of energy affordability policy program expenditures during calendar year 2022.”

The Staff Proposal interpreted “utility customers” to refer to all customers that contribute to the “cost of utility affordability programs.” Staff identified the methodology in each Utility’s most recent rate case to recover EAP expenditures from each service classification to assess how each Utility’s allocated share of the budget funds should be distributed amongst the various service classifications.

The Bill Credit Report explained that the Working Group discussed the pros and cons of Staff’s and PULP’s proposals, as well as four additional proposals. The Working Group considered the current arrears balances of all residential (EAP and non-EAP) and non-residential customers and also considered targeting the non-residential one-time bill credit to small commercial customers using the same eligibility criteria approved in the Phase 2 UARP. The Bill Credit Report notes the multiple drawbacks, such as administrative costs and programming requirements, of attempting to target small commercial customers out of the non-residential allocation.

After considering all the options, the consensus of the Working Group focused on the option that would take the total allocated utility budget funds and divide by the number of customers that contribute to the cost of the EAP to develop a single one-time credit that would be the same for all customers that pay into the EAPs. The Bill Credit Report, Attachment B, estimated the one-time bill credits for each utility, in the range of \$7.69 to \$24.28. These one-time bill credits would be applied automatically without any action by the customers or any application process. The City of New York, however, recommends

the utility allocated funds be provided to residential customers only and that gas residential cooking-only customers be provided smaller credit.

The appropriation language at issue here provides that the funds are to be used “[f]or prompt assistance to utility customers related to the costs of utility affordability programs,” and specifies that the “[a]mounts appropriated . . . may be disbursed to the [U]tilities, including [LIPA] based on their share of energy affordability policy program expenditures during calendar year 2022.” This language indicates that the Legislature intended to provide the Department with discretion in how to disburse the funds, including that it “may” base the disbursement on EAP program expenditures from 2022. That is precisely the methodology used here. There is otherwise a lack of specific directives regarding the form or frequency of bill relief, leaving those issues to the discretion of the Department.

The Commission notes that the analysis of current and past customers arrears is also an important factor to consider in providing bill relief. This data is included as Attachment E to the Bill Credit Report and shows arrears levels for both residential and non-residential customers.²⁴ Arrears data is one measure of energy affordability for the Joint Utilities and is summarized in Table 4 below.²⁵

²⁴ Case 91-M-0744, Collection practices of the major gas and electric utilities in New York, Order Instituting Proceeding (issued July 30, 1991).

²⁵ LIPA arrears is excluded from Table 1 because it is not required to file EAP residential arrears data to the Commission.

Table 4

Joint Utilities' Arrears Data	Dec-2019 (\$M)	Aug-2023 (\$M)	Percent Change
Total Residential Arrears	\$725	\$1,320	82%
EAP Residential Arrears	\$310	\$369	19%
Non-EAP Residential Arrears	\$415	\$951	129%
Total Non-Residential Arrears	\$134	\$578	331%

As summarized in Table 4, prior to the COVID-19 pandemic, as of December 2019, the Joint Utilities' residential and non-residential arrears greater than 60 days totaled \$725 million and \$134 million, respectively. As of August 2023, after the Phase 1 and Phase 2 UARPs, residential and non-residential arrears greater than 60 days totaled \$1.320 billion and \$578 million, respectively. Footnote 17 the Bill Credit Report indicates that approximately 70 percent of non-residential customers may be considered small commercial customers (i.e., small businesses). Table 4 also indicates that non-EAP residential arrears greater than 60 days comprised of 57 percent of total residential arrears in December 2019. As of August 2023, non-EAP residential customers in arrears increased to 72 percent of total residential customers in arrears. Moreover, as shown in Table 4, non-EAP residential arrears remain higher than EAP residential arrears. The Bill Credit Report reasoned that this was due to the facts that EAP residential customers were provided significant arrears relief under Phase 1 of the UARP and continue to receive a monthly bill discount via EAP and, although non-EAP residential customers were provided some arrears relief in Phase 2 of the UARP, these customers do not receive continued monthly assistance.

The arrears data generally indicates that both residential and non-residential customers need assistance. The Commission agrees that targeting more of the one-time bill

credit to low-income customers isn't supported by the arrears data and minimizes the relief to non-low-income residential customers. The arrears data also demonstrates that non-residential customers, most of which are small commercial customers, are also in need of relief. The Commission believes that the additional administrative costs and likelihood of errors that would occur in targeting relief to only small commercial customers makes this option unattractive. Providing an equal credit to all customers in a utility service territory, specific to electric and gas service, strikes the right balance between providing more relief to residential customers and providing some relief to small commercial customers.

The Commission acknowledges and appreciates the City of New York's recommendation to design a residential bill credit that produces the same percentage benefit to residential gas cooking-only and residential heating customers, resulting in a larger bill credit to customers with larger bills. However, this issue is generally limited to New York City and is not a statewide issue. If the Commission adopted the City of New York's recommendation, it would require programing changes and complicate the messaging to customers for little benefit beyond Con Edison and KEDNY's customers. New York City residential cooking-only customers likely have heating costs included in rent and therefore the fixed benefit to all customers will assist all customers with their energy costs. The Commission therefore accepts Staff's Proposal that all customers who pay into the EAPs receive a bill credit. The Commission, however, modifies Staff's Proposal and adopts the Working Group's recommendation to provide the same one-time credit to all customers, as discussed further below.

Method and Term to Provide Relief to Customers

The Staff Proposal recommended that the Utilities distribute the budget funds to customers volumetrically using an existing rate mechanism over a term of six months beginning December 1, 2023. PULP recommended that the budget funds be distributed with a one-time equal dollar amount sur-credit per customer irrespective of volumetric use. All Working Group stakeholders recommend an automatic one-time bill credit be applied to customers' accounts that pay into the EAPs. The Bill Credit Report states that the approach is simple and easy to message to customers. The Commission agrees that an automatic one-time bill credit would be most efficient and least administratively burdensome and would allow relief to reach customers as quickly and cost-effectively as possible and is therefore adopted, as shown in the Appendix to this Order.

Other Financial Matters

O&M Expense

There exists the possibility that the Utilities would incur any incremental administrative expenses to facilitate the disbursement of credits to customers. The possibility of incremental costs mainly related to programming adjustments to the Utilities' billing systems was discussed in the Bill Credit Report. The Utilities clarified that deploying a one-time credit to all utility customers would allow such costs could be addressed within the Utilities' existing budgets and utilizing existing personnel and, therefore, the Utilities would not ask to recover any incremental administrative expenses from customers. Given that any incremental administrative costs would be addressed within the Utilities existing budgets, utilizing existing personnel, the Commission finds that any such costs, if incurred, should not be an impediment to implementing the proposed relief.

Uncollectible Expense

The Working Group evaluated whether providing customers with one-time bill credits would have any impact on utility's uncollectible expenses. Specifically, the Working Group considered whether the one-time bill credit would reduce uncollectible expenses to levels that are below the amounts recovered from customers in base delivery rates, resulting in an over-collection of uncollectible expense from customers. The Bill Credit Report indicates that the one-time bill credits could have a small impact on arrears for certain customers, as the credit would be applied to prior balances first, and any impact on utility uncollectible expense is expected to be de minimis. Moreover, the Bill Credit Report explains that due to the impacts of COVID-19, most of the Utilities have a provision within their existing rate plans to address any variation between the uncollectible expense level provided for in rates and their actual net write-offs. Thus, the Commission finds that implementation of the Energy Bill Credit would not have a material impact on the utilities' uncollectible expenses.

Reconciliations

The Staff Proposal states that providing the budget funds to customers via a sur-credit may impact the Utilities' energy affordability program true-ups and RDMs. The Bill Credit report states that, for the consensus proposal, each utility will derive a one-time fixed credit for each electric and/or gas service based on its number of active customers for that service at a point in time. Because the number of utility customers is not static, there may be a change in the number of utility customers that are provided the credit between period time in which the credit is derived and applied to customers' accounts. Although this difference in the number of active customers is expected to be small, it will necessitate a reconciliation.

The Utilities are currently authorized to true-up EAP costs through various reconciliation mechanisms (e.g., surcharge/sur-credit, RDM, deferral to next rate case). To minimize administrative costs, the Bill Credit report proposes that each utility defer the difference to its respective EAP regulatory asset/liability account for recovery/pass-back through its existing EAP reconciliation mechanism(s). Amounts transferred to the EAP regulatory asset/liability account from the Energy Bill Credit will generally be treated as EAP costs (e.g., for purposes of determining timing of reconciliations and carrying costs).

The Bill Credit Report stated, if the deferral proposal was approved, a balance owed to customers as a result of the Energy Bill Credit (less credits applied than expected), will reduce utility EAP recoveries, and a balance owed to the utility (more credits applied than expected), will increase utility EAP recoveries. For tracking purposes, the Utilities state that they will maintain separate accounting balances for the EAP and the Energy Bill Credit.

The Commission agrees that a small reconciliation is expected and using the existing EAP reconciliation mechanism(s) will minimize administrative costs. Accordingly, the Utilities will identify, separately for each electric and gas service, any difference between their portion of the \$200 million budget fund allocation and the amount credited to customers' accounts and include the balances in their report filed with the Secretary to the Commission. Regarding LIPA's proposal to pass back its share of the \$200 million budget funds through its low-income discounts and its existing RDM, we expect the Department's Long Island Staff to thoroughly review the monthly tracking and accounting reports to ensure that LIPA's share of the budget

appropriation has been entirely provided to customers and that the Energy Bill Credit did not have an impact on LIPA's RDM.

Accounting Treatment

The Utilities provided proposed accounting entries to effectuate the Energy Bill Credit. Generally, the Utilities propose to record their allocated share of the budget funds to a regulatory liability account, which would then be offset when the bill credit is provided to customers. In addition, as previously noted, the Utilities proposed to defer any difference between their respective budget fund allocation and the amount credited to customers to its respective EAP regulatory asset/liability account for recovery/pass-back through its existing EAP reconciliation mechanism. The accounting treatment proposed by the Utilities is reasonable and consistent with the Uniform System of Accounts for electric and gas utilities and is therefore approved.

Tariffs

The Staff Proposal anticipated that utility tariffs were required to be updated to reflect the approved mechanism to sur-credit customers. PULP concurred with this aspect of the proposal. The Utilities indicated that another option would be to provide a one-time bill credit to customers, which they indicated would require limited system changes. This option could be implemented as early as January 2024 for every utility and would not require a tariff change. Because the Commission is adopting the one-time bill credit approach, no tariff changes by the Utilities are required.

Reporting

The Staff Proposal recommends monthly reporting and a final report on the status of execution of the bill relief to customers to ensure the implementation of the bill credits is both transparent and adequately documented. The Bill Credit

Report recommends that the Utilities apply the one-time bill credits on customer accounts as early as January 2024, to the extent practicable, and no later than 45 days after receiving the budget funding. After application of all one-time bill credits, the Commission directs each of the Utilities to file a report within 60 days of applying the last credit to customers' accounts and file the report in Case 23-M-0298. The report shall contain the amount of the budget funds allocated to the utility, the total number of customers receiving the Energy Bill Credits, and the total costs of the credits applied to accounts and identify any residual amounts that are deferred to EAP regulatory asset/liability accounts. In addition, the report shall also include the actual accounting entries recorded by the Utilities to account for the Energy Bill Credit.

Outreach and Education

The Bill Credit Report includes plans for a multi-pronged outreach effort designed to foster customer understanding of the one-time bill credit. The Bill Credit Report explained that the Working Group will continue to coordinate on messaging for the Commission-approved program. The Bill Credit Report indicated that the various stakeholders intend to create common, plain language messaging and use multiple outreach and education channels, including, but not limited to, bill messages, social media, and postings on individual websites. The plain language messaging would not specify when the one-time credit will be issued. Instead, the messaging would be a general statement such as "Your credit will be issued in the next billing cycle" will avoid confusion.

The Commission approves the proposed outreach and education plan addressed here. To the extent practicable and depending on the type of outreach and education vehicle, common language should be developed so that messaging state-wide is

simple, consistent, describes the genesis of the funds, and is ready to be deployed as credits are applied to customers' accounts.

CONCLUSION

The Commission adopts the recommendations in the Staff Proposal, with modifications, as recommended in the Working Group's Bill Credit Report to distribute the \$200 million budget funds based on the Utilities' and LIPA's share of statewide calendar year 2022 EAP expenditures. The Utilities will calculate a one-time credit by dividing their appropriation for each electric and/or gas service by the total number of customers for that service to develop a one-time credit that will be applied to all customers' accounts that pay into EAPs. The credit will be applied to customers' accounts within 45 days of receiving the budget funds. The adopted plan will provide relief to all customers that pay into EAPs, with the greatest benefit to residential customers.

The Commission orders:

1. The Department of Public Service Staff Proposed Implementation Plan for Financial Assistance to Utility Customers is approved, with modifications, as discussed in the body of this Order.

2. Central Hudson Gas and Electric Corporation, Corning Natural Gas Corporation, Consolidated Edison Company of New York, Inc., Liberty Utilities (St. Lawrence Gas) Corporation, National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, 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, Rochester Gas and Electric Corporation, and Orange

& Rockland Utilities, Inc. shall provide all active accounts that pay into the Energy Affordability Programs a one-time New York State Energy Bill Credit, as discussed in the body of this Order. Credits shall be applied to customers' electric and/or gas accounts in March 2024, to the extent practicable, and shall be applied no later than 45 days after receiving the budget funding, as discussed in the body of this Order.

3. Central Hudson Gas and Electric Corporation, Corning Natural Gas Corporation, Consolidated Edison Company of New York, Inc., Liberty Utilities (St. Lawrence Gas) Corporation, National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, 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, Rochester Gas and Electric Corporation, and Orange & Rockland Utilities, Inc. shall, after application of all one-time bill credits to electric and/or gas customers' accounts, each file, in Case 23-M-0298, a report within 60 days of applying the last credit to customer accounts, as discussed in the body of this Order. The reports shall contain: the amount of the budget funds allocated to the utility, broken out by electric and/or gas service, as applicable; the number of electric and/or gas customers used to develop the one-time credit; the total number of electric and/or gas customers receiving the Energy Bill Credits; the total costs of the credits applied to electric and/or gas customers; identification of any residual electric and/or gas credit amounts that are deferred to the utility's energy affordability program regulatory asset/liability accounts; and, the actual accounting entries recorded by the utilities to account for the Energy Bill Credits, as discussed in the body of this Order.

4. Central Hudson Gas and Electric Corporation, Corning Natural Gas Corporation, Consolidated Edison Company of New York, Inc., Liberty Utilities (St. Lawrence Gas) Corporation, National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, 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, Rochester Gas and Electric Corporation, and Orange & Rockland Utilities, Inc. shall each defer the difference between their respective budget fund allocation and the amount credited to customers to its respective energy affordability program regulatory asset/liability account for recovery/pass-back through its existing energy affordability program reconciliation mechanism, as discussed in the body of this Order.

5. Central Hudson Gas and Electric Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, New York State Electric and Gas Corporation, and Rochester Gas and Electric Corporation shall, within 90 days of the effective date of this Order, each file a report in Case 23-M-0298 that explains the actual impact of the errors identified in the body of this Order, provides accurate Energy Affordability Program expenditure amounts for calendar year 2022, and addresses the information requirements, as discussed in the body of this Order.

6. In the Secretary's sole discretion, the deadlines set forth in this order 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.

CASES 23-M-0298 AND 14-M-0565

7. Cases 23-M-0298 and 14-M-0565 are continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

\$200 Million Budget Fund Allocation to Utilities and LIPA,
Estimated One-Time Credits, and Bill Impacts

Utility / Business	Reported / Estimated 2022 EAP Expenditures	Allocator	\$200,000,000	Customers	Estimated One-Time Bill Credit	One Month Estimated Residential Total Bill Impact
Con Edison Electric	\$121,619,135	35.23%	\$70,463,020.31	3,589,371	\$ 19.63	-9.6%
Con Edison Gas	\$35,022,486	10.15%	\$20,291,133.81	1,080,157	\$ 18.79	-6.5%
Central Hudson Electric	\$7,924,372	2.30%	\$4,591,178.72	324,072	\$ 14.17	-8.1%
Central Hudson Gas	\$2,891,071	0.84%	\$1,675,012.69	88,429	\$ 18.94	-25.4%
KEDLI	\$8,925,100	2.59%	\$5,170,974.97	630,195	\$ 8.21	-4.9%
KEDNY	\$40,809,620	11.82%	\$23,644,051.43	1,274,001	\$ 18.56	-10.8%
NMPC Electric	\$29,117,374	8.43%	\$16,869,862.75	1,712,657	\$ 9.85	-10.3%
NMPC Gas	\$9,774,876	2.83%	\$5,663,313.48	638,350	\$ 8.87	-12.2%
NFG	\$15,116,751	4.38%	\$8,758,259.40	540,942	\$ 16.19	-14.6%
NYSEG Electric	\$15,045,745	4.36%	\$8,717,120.34	916,528	\$ 9.51	-9.8%
NYSEG Gas	\$7,361,832	2.13%	\$4,265,257.42	271,630	\$ 15.70	-12.9%
RGE Electric	\$12,442,288	3.60%	\$7,208,743.85	390,454	\$ 18.46	-18.2%
RGE Gas	\$6,322,400	1.83%	\$3,663,037.07	322,924	\$ 11.34	-11.2%
ORU Electric	\$10,307,112	2.99%	\$5,971,677.42	241,228	\$ 24.76	-17.7%
ORU Gas	\$5,384,733	1.56%	\$3,119,776.76	142,004	\$ 21.97	-12.5%
PSEG-LI	\$16,609,311	4.81%	\$9,623,010.54	1,155,814		
Corning	\$299,418	0.09%	\$173,475.14	15,230	\$ 11.39	-8.4%
Liberty Gas	\$226,268	0.07%	\$131,093.90	16,715	\$ 7.84	-8.4%
Total	\$345,199,892	100.00%	\$200,000,000	13,350,701	\$ 14.98	
			Electric Customers	8,330,124		
			Gas Customers	5,020,577		
			Electric customers minus PSEG-LI	7,174,310		
Notes:						
Con Edison's GL numbers were adjusted to remove sales tax and GRT						
NYSEG & RGE's numbers are an estimate of corrected expenditures.						
Central Hudson's numbers are an estimate of corrected expenditures.						
KEDNY's numbers are an estimate of corrected expenditures.						