ENERGY AFFORDABILITY POLICY WORKING GROUP

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.

Phase 2 Arrears Report

By:
Energy Affordability Policy Working Group Members

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PHASE 2 ARREARS REPORT

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I. Introduction

The COVID-19 pandemic has greatly undermined New York utility customers'[1] ability to pay their utility bills, resulting in customers accruing past-due balances on their bills, or arrears. The Phase 1 Utility Arrears Relief Program (Phase 1 program) was conceived as part of a projected two-phase approach to managing the unprecedented level of utility bill arrears in New York State. The Phase 1 program was successful in reducing arrears for low-income customers enrolled in utility bill discount programs (EAP or Energy Affordability Program). Phase 1 arrears totaled $478 million as of June 2022, which dropped to $194 million following the implementation of the Phase 1 program.[2] However, despite the success of Phase 1, overall arrears throughout the State remain far above pre-pandemic levels. For this and other reasons discussed below, the Energy Affordability Policy[3] Working Group (Working Group)

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[1] Except where specifically denoted, "customers" in this report refers to all residential and business consumers.

[2] This $194 million figure also reflects low-income customer arrears accrued between May 2, 2022 and September 30, 2022.

[3] Several stakeholders use the term "EAP" to also refer to the utility bill discount programs or "energy affordability programs." For the purposes of this Report, EAP shall refer to those

recommends that the Public Service Commission (Commission) adopt a second phase of relief as described here. Without further action to address residential and small-commercial customers' arrears, many of those customers may not be able to manage large utility bill balances accrued during the pandemic.

Under normal circumstances, customers unable to pay their utility bills would be subject to the collection process and potential service terminations in the upcoming months and years, resulting in increased utility collection costs that all customers would ultimately pay for in future rates. A Phase 2 Utility Arrears Relief Program (Phase 2 program) would substantially reduce terminations, collection activities, and prevent economic hardship in our state's communities by reducing customers' arrears balances to a more manageable level. The Phase 2 program would help customers move past the financial impacts of COVID-19 and, in turn, avoid increased utility rates associated with the cost of collections activities and recouping uncollected debt.

The Working Group has determined that the cost of the recommended statewide Phase 2 program, the design of which is described in this report, is lower than any "inaction" scenario. In either an inaction or action pathway (*i.e.*, a pathway where no program is created to reduce and manage unpaid bills, or where a program is designed to limit economic impact upon customer bills), all customers would pay for the full utility cost of service. A Phase 2 program, however, can provide tangible customer relief by providing residential utility customers who did not receive arrears relief under the Phase 1 program (*i.e.,* residential non-EAP customers and small-commercial customers) with a one-time bill credit to reduce utility arrears accumulated through the COVID-19 pandemic period (through May 1, 2022). This would reduce the financial hardships of customers in arrears by amortizing the existing arrears over a longer but reasonable period of time, providing certainty to both existing utility customers and the utilities, proactively managing and limiting utility bill impacts, and reducing collections and service terminations. In short, a Phase 2 program would provide an appropriate balance between assisting customers by reducing their arrears, ensuring relatively insignificant impacts to existing customers, and including utility financial contributions toward the program.

The Working Group has assembled a robust record on the size of the arrears problem created by the COVID-19 pandemic in New York State, which also explains how the group

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utility energy affordability programs.

designed the Phase 2 program and demonstrates why the program is in the public interest. The Working Group recommends the Commission authorize the Phase 2 program and provide relief to residential non-EAP and small business customers recovering from the COVID-19 pandemic. Additionally, the Working Group is cognizant that customers face many challenging circumstances today and it will continue to evaluate new strategies and improve existing mechanisms that support utility customers who are experiencing financial hardship.

a. Summary of Recommendations and Estimated Costs of Program

In this report, the Working Group presents several recommendations to the Commission for consideration regarding a Phase 2 program, which would apply to both residential non-EAP customers and small-commercial customers. These recommendations are summarized below.

- **Arrears Relief Credits:** The Working Group recommends a Phase 2 program that would provide one-time arrears credits of approximately $672.1 million across the Joint Utilities' (JU) service territories.[4] The credits would provide relief to all residential non-EAP and small-commercial customers in arrears during the qualifying COVID-19 period, eliminating all such arrears for over 75% of residential non-EAP and small-commercial customers. Although program sizes vary across service territories, the recommendations here have been developed to restore utility customers to generally comparable positions across the State.
- **Covered Relief Period**: The Working Group recommends limiting the Phase 2 program to accounts that have arrears through the COVID-19 pandemic period (the period through May 1, 2022). The Working Group concluded that it was the extraordinary economic impact, the speed of job losses, and the overall nature of

[4] The JU is comprised of the following utilities: Central Hudson Gas and Electric Corporation (Central Hudson); Consolidated Edison Company of New York, Inc. (Con Edison); National Fuel Gas Distribution Corporation (National Fuel); The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY); Keyspan Gas East Corporation d/b/a National Grid (KEDLI) and Niagara Mohawk Power Corporation d/b/a National Grid (NMPC, collectively with KEDNY and KEDLI, National Grid); New York State Electric and Gas Corporation (NYSEG) Rochester Gas and Electric Corporation (RG&E); and Orange & Rockland Utilities, Inc. (O&R).

the pandemic that made a large-scale relief program appropriate. As a result, although the Phase 1 and Phase 2 programs are being implemented at different times, it is appropriate to align the Phase 2 covered relief period with the Phase 1 relief period so that only arrears accrued through May 1, 2022, are eligible.[5]

- **Credit Customers "Up to" a Cap**: The Working Group recommends providing a one-time credit to all residential non-EAP and small-commercial customers with eligible arrears. The credit is subject to an "up to" cap for each utility,[6] which would be designed to eliminate COVID-19 period arrears for at least 75% of eligible customers. For the relatively small group of customers with notably higher arrears amounts, the "up to" design of the credit should help make balances more manageable but would not cover the full arrears balance.
- **Eligibility**: The Working Group recommends that the Phase 2 program provide automatic relief,[7] subject to a cap, to all residential non-EAP customers who did not receive relief under the Phase 1 program and all small-commercial customers with certain usage characteristics. COVID-period arrears are now at least six months older than the close of the eligibility period (*i.e.*, May 1, 2022), and customers still carrying such arrears are likely experiencing financial difficulty. The Working Group maintains that providing automatic relief is more efficient and effective than providing relief that requires an application or self-certification process. An automatic relief mechanism will allow utilities to provide relief credits to customers quickly and without the creation of new administrative expenses or burdens.
- **Arrears Term**: The Working Group recommends that residential non-EAP customers who previously had their service terminated in 2022 for non-payment be allowed to reinstate their account through June 30, 2023, so that their eligible

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[5] *See* Cases 14-M-0565, et al., Proceeding on the Motion Regarding Energy Affordability, Order Authorizing Phase 1 Arrears Reduction Program (issued June 16, 2022) (Phase 1 Program Order) at Ordering Clause 3.

[6] The "up to" limits the size of the credit for eligible customers for each utility and is set forth in Attachment E.

[7] The Working Group defines "automatic relief" as relief that, subject to eligibility screens, does not require an affirmative application or some form of self-certification or guided certification.

arrears might be resolved. Customers must contact their utility to re-activate service to receive a Phase 2 program bill credit for eligible arrears and proceed to have the service activated by satisfying necessary requirements under the utilities' procedures, and consistent with the Home Energy Fair Practices Act (HEFPA).[8]

- **Uncollectibles**: The Working Group believes that the Phase 1 and Phase 2 programs together may be broad enough to materially impact the uncollectible, or bad debt, expenses included in the utilities' rate plans. The Working Group further recommends that utilities proposing an uncollectible reconciliation within the context of this proceeding be required to make a filing with the Commission, as discussed in the body of this report, to address the potential for over- or under-collection of such expenses.[9]
- **Terminations**: Finally, the Working Group recommends adoption of the proposal by the JU to suspend residential terminations of service for non-payment while the credits are being applied to accounts, for the period through March 1, 2023, or 30 days after credits have been applied by the incumbent utility, whichever is later.

II. Working Group Participants

The EAP Working Group has allowed all interested stakeholders to participate in the advisement of EAP improvements.[10] To date, participation has included multiple state agencies, utilities, and interested stakeholder groups. Participants include: the Department of Public Service Staff (Staff); the New York State Department of State Utility Intervention Unit (UIU); the New York State Energy Research and Development Authority; the New York State Office of Temporary and Disability Assistance (OTDA); the JU; PSEG – Long Island; the Long Island

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[8] 16 NYCRR §11.10

[9] Central Hudson and O&R currently have reconciliation mechanisms as part of their current Rate Plans. Con Edison, NYSEG, and RG&E have requested such a mechanism in the context of an ongoing rate proceeding.

[10] And consistent with the State Administrative Procedure Act (SAPA) and proceedings before the Public Service Commission generally, the deliberations of the Working Group and any continuation(s) of affordability proceedings shall welcome public and stakeholder input.

Power Authority (LIPA);[11] the Public Utility Law Project (PULP); the City of New York (City); the Association for Energy Affordability; CMC Energy Services; the New York Municipal Power Agency; AARP New York (AARP); the Alliance for a Green Economy (AGREE); Citizens for Local Power (CLP); Oracle; the Green and Healthy Homes Initiative; the Long Island Progressive Coalition (LIPC); and the New York Energy Democracy Alliance (NYEDA).[12]

III. Background

In March of 2020, the Governor declared a Disaster Emergency in response to the COVID-19 pandemic,[13] which directed State and local agencies to undertake measures to protect the public health and welfare of New York State residents, many of whom experienced significant economic turmoil as a result of the pandemic. On February 4, 2021, Staff issued a report on the status of the Energy Affordability Policy (referred to herein as the Whitepaper). Based on a review and analysis of the Energy Affordability Policy and associated procedures, and consideration of the comments received from various stakeholders, Staff recommended that the Commission modify the low-income assistance programs at each of the utilities within the JU. While acknowledging that the Commission has a parallel and concurrent ongoing case to address the impacts of the COVID-19 pandemic,[14] Staff provided a total of 24 recommendations, for Commission consideration, to modify the Energy Affordability Policy and provide specific COVID-19 relief.

On August 12, 2021, the Commission issued its Energy Affordability Policy Modification Order[15] adopting certain modifications and improvements to the Energy

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[11] LIPA is a not-for-profit public power utility governed by a Board of Trustees appointed by the Governor and Legislature. Though LIPA is not subject to the jurisdiction of the Commission, staff of LIPA and its service provider, PSEG-Long Island, participated in the Working Group proceedings on the Phase 2 program and intend to propose a Phase 2 arrears relief program to LIPA's Board for its consideration in the first quarter of 2023.

[12] Collectively referred to herein as the Working Group unless otherwise specifically denoted.

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

14 Cases 14-M-0565, *supra*, Staff Report on New York State's Energy Affordability Proceeding (filed February 4, 2021).

15 Case 14-M-0565, *supra*, Order Adopting Energy Affordability Policy Modifications and

Affordability Policy framework established in the May 2016 Affordability Order,[16] and February 2017 Implementation Order[17] and Rehearing Order.[18] The Energy Affordability Policy Modification Order noted that COVID-19 relief measures would be addressed in a future Commission order and directed Staff to convene a stakeholder Working Group. Since the issuance of the Energy Affordability Policy Modification Order in August 2021, the Working Group has met no less than bi-weekly to consider cooperative ways of improving the Energy Affordability Policy and COVID-19 relief measures.

The Energy Affordability Policy Modification Order also directed Staff, the JU, and other stakeholders to continue to address the standardization of certain aspects of the JU EAPs and the identification of low-income customers through data sharing and file matching between the JU and OTDA, and the enhancement of customer self-certification mechanisms.

Appropriation language in the Fiscal Year (FY) 2022-2023 Executive Budget authorized the Department of Public Service to establish a residential arrears reduction program, in consultation with the Working Group, to, among other things, prioritize the expenditure of $250 million included as part of the budget toward utility arrears held by eligible low-income customers (*i.e.*, customers in utility EAPs).[19] The Working Group collaborated on these efforts, filed a report to the Secretary to the Commission on May 23, 2022, and recommended that the Commission adopt the following recommendations:

1) Implement an arrears reduction program in two phases:
    a. Phase 1 would focus on providing relief to low-income customers through a one-time bill credit that eliminates accrued arrears through May 1, 2022. Phase 1 would also include authorization for utility recovery of arrears reduction program costs not covered by OTDA programs or State funds.

Directing Utility Filings (issued August 12, 2021) (Energy Affordability Policy Modification Order).

16 Case 14-M-0565, *supra*, Order Adopting Low Income Modifications and Directing Utility Filings (issued May 20, 2016) (May 2016 Order).

17 Case 14-M-0565, *supra*, Order Approving Implementation Plans with Modifications (issued February 17, 2017).

18 Case 14-M-0565, *supra*, Order Granting in Part and Denying in Part Requests for Reconsideration and Petitions for Rehearing (issued February 17, 2017).

19 See, 2022-2023 New York State Budget – Aid to Localities Appropriation (Chapter 53 of the Laws of 2022, pp. 1141-1143).

   b. Phase 2 would provide one-time bill relief to residential non-EAP and small-commercial customers who incurred past-due utility balances.

2) Authorize the Phase 1 program for any customer that is enrolled in the JU's bill discount programs before December 31, 2022.

3) Encourage (*i.e.*, not require) small utilities and municipalities to implement the Phase 1 program using applicable federal and/or State funds.

4) Direct the Working Group to continue discussions to develop a second phase that provides incentives and/or other measures to reduce arrears for customers who were not eligible for the Phase 1 program, with the goal of developing specific recommendations for Commission consideration at a later date.

On June 16, 2022, the Commission issued its Order Authorizing Phase 1 Arrears Reduction Program adopting the recommendations and outlining reporting requirements.[20]

Based on its determination that the $250 million included in the FY 2022-2023 State budget would be insufficient to eliminate accrued arrears through May 1, 2022, the Commission authorized utility recovery of additional ratepayer funds to supplement the amount appropriated through the budget process. The goal of the Phase 1 program was to address as closely as possible the entirety of the $587 million in arrears held by low-income customers through May 1, 2022. Consistent with the directive of the budget appropriation, the Commission made the accomplishment of this goal dependent upon the ability of the utilities to use funds available under the two OTDA-administered programs – Emergency Rental Assistance Program (ERAP) and the Home Energy Assistance Program (HEAP) Regular Arrears Supplement (RAS) before application of the $250 million of State funds. Importantly, the Commission did not require any action on the part of existing low-income customers to receive the Phase 1 program benefits, but rather directed utilities to automatically apply Phase 1 program credits to customer accounts.

The utilities are required to provide ongoing monthly reporting on the total number of customers and total dollars associated with arrears credits through January 2023. The utilities' reports show that, as of the end of August 2022, nearly 300,000 customers who were enrolled in the utilities' EAP received approximately $460 million in arrears reduction credits. That number has grown to $489 million as of October 31, 2022. Additionally, as of October 31, 2022,

[20] Case 14-M-0565, *supra*, Order Authorizing Phase 1 Arrears Reduction Program (issued June 16, 2022) (Phase 1 Program Order).

approximately 16,000 customers with approximately $17.4 million of arrears are awaiting arrears credits through ERAP, exclusive of PSEG-Long Island.

IV. Current Status of JU Arrears

During the COVID-19 pandemic, customer arrears grew to unprecedented levels. The JU provided the following tables summarizing the current level of all arrears and a comparison to pre-pandemic (*i.e.*, baseline) levels. Additional details, including how the baseline data is defined, are contained in Attachment A.

Table 1

Customers in Arrears Greater than 60 days	Baseline	September 2022	Change	Percent Change
Residential (including Low-Income)	893,735	1,193,747	300,012	34%
Non-Residential	68,427	128,307	59,880	88%

Table 2

Arrears Dollars Greater than 60 days	Baseline	September 2022	Change	Percent Change
Residential (including Low-Income)	$677,363,316	$1,343,906,743[21]	$666,543,427	98%
Non-Residential	$117,011,146	$601,103,838	$484,092,692	414%

V. Cost of Inaction vs. Cost of Action

Although the Phase 1 program was successful in reducing balances for known low-income customers enrolled in the utilities' bill discount and other qualifying programs, arrears for other customers throughout the state remain far above pre-pandemic levels. Consistent with proper stewardship of the ratepayers' money and the public interest, the Working Group carefully examined the cost of taking no action on a Phase 2 program versus recommending a Phase 2 program. The Working Group concluded that without action to address the remaining residential non-EAP and small-commercial customer arrears, many customers would be left with

[21] The September 2022 residential number would be larger but for the application of the Phase 1 program's funds.

unmanageably large balances accrued during the pandemic, with a risk for termination of unprecedented numbers of customers. Keeping potential economic hardship in mind, the Working Group arrived at program sizes that would put the total cost estimates of a Phase 2 pathway below even the low end of cost estimates of inaction. The Working Group explains its analytical approach below, and includes the detailed supporting workpapers developed by Staff and the JU in Attachment C.

a. Cost of Inaction

Staff and the JU developed a range of cost estimates associated with taking no action (*i.e.*, the inaction pathway). Many of the costs of inaction are highly variable and dependent on multiple factors over which the JU and Staff have minimal or no control (*e.g.*, inflation, general economic conditions, further governmental relief, such as local tax relief or appropriation of federal or State funds). However, the Working Group believes that having a range of cost estimates reasonably accounts for the risk and variability and provides a sound basis for making a determination on a Phase 2 program. As detailed below, the statewide estimates for the inaction pathway range from $1,011 million to $1,346 million for the incremental cost to utilities and customers.

There are three primary elements to the cost of inaction: (1) potential costs of incremental uncollectible expense, (2) incremental financing associated with the higher arrears, and (3) incremental operation and maintenance (O&M) costs. The first and largest element of the "cost of inaction" is incremental uncollectible expenses. These represent the additional utility write-offs forecasted over the next five years. While there is a range of reasonable forecasts for write-offs, the current pandemic-created arrears situation is unlike any other recession or economic event experienced by the utilities. A moratorium on service disconnections/terminations lasted for over two years, resulting in customers accumulating multiple years' worth of arrearages.[22] Add to that the impending possibility of a recession, high forecasted energy prices this winter, and inflation rates not seen since the 1970s, and it appears reasonable to conclude that a range of 40% (best case) to 60% (worst case) of the incremental outstanding arrears would be unpaid under the inaction pathway. Applying the 40% and 60% scenarios to arrears balances results in

[22] Chapter 53 of the Laws of 2020 – Amendments to Public Service Law (PSL) §§ 32, 89-b, 89-l and 91. Chapter 106 of the Laws of 2021 – Amendments to PSL §§ 32, 89-b, 89-l, 91, 216 and General Business Law (GBL) §399-zzzzz (hereafter COVID-19 Moratorium Law.)

estimated outstanding arrears ranging from $468.3 million to $702.4 million (Attachment C, pages 3 and 4).

The second element is incremental financing costs. While arrears remain elevated, utilities are financing the gap in cash flow from the marked reduction in customer payments. This results in incremental financing costs that will continue to accrue, and as utilities file new rate cases or deferral petitions, future incremental financing costs will be reflected in customer rates. Although neither the JU nor Staff can predict the rate of customer payments or defaults, based on current arrears balances, as defined below, and economic conditions, they have estimated a range of $488.3 million to $564.1 million for future COVID-19 arrears-related incremental financing costs (Attachment C, pages 3 and 4).

The final element is O&M costs. As large numbers of customers enter the termination and collection process, utilities will incur additional O&M costs (*e.g.*, additional call center representatives, collections and field agencies, payment assistance functions, deferred payment agreement (DPA) management, enhanced customer outreach and education activities). To account for the additional collection and other associated activity, the JU and Staff estimated a 10% (best case) to 15% (worst case) O&M increase. Over five years, this leads to estimated incremental costs ranging from $54.9 million to $79.5 million across the JU's service territories (Attachment C, pages 3 and 4).

It is also worth noting that large arrears balances undermine utility credit quality metrics. The rating agencies consider the existence, size, scale, and cost recovery timeline for an arrears reduction program within a utility's credit quality metrics. Any resulting credit downgrades directly increase financing costs, which will raise customer rates. The JU cannot predict the comparative differences in credit quality metrics with or without an arrears reduction program, or the cost impact of a credit downgrade. They expect, however, that regulatory support for proactively addressing the arrears issue through an arrears reduction program will be looked favorably upon by credit rating agencies, which could avoid downrating by the agencies and help mitigate the risk of future rate increases created by increased costs for financing.

b. Cost of Action

In evaluating the Phase 2 pathway requiring programmatic action, there are costs of the Phase 2 program to consider as well as the costs to customers to resolve residual incremental arrears after the Phase 2 program credits have been applied. The Working Group is

recommending a Phase 2 program that places the full costs of the Phase 2 pathway at $1,010 million, which is below the lowest cost option of the “inaction” cost range of $1,011 million, and approximately $336 million less than the worst-case "inaction" scenario of $1,346 million (Attachment C, pages 2, 3 and 4).

There are two elements to the Phase 2 program costs. First is the amount of arrears credits to be issued. The Working Group recommends $672.1 million in relief credits to residential non-EAP and small-commercial customers statewide, which would provide relief to 478,074 residential non-EAP customer accounts and 56,007 small commercial customer accounts. The size of the utilities’ Phase 2 program is detailed in Attachment F. Second is the financial carrying cost associated with providing the relief. In order to minimize the current financial impact of the arrears relief, utilities have agreed to amortization periods ranging from 1 year up to 10 years. The resulting carrying costs are $168.9 million (Attachment C, page 2). Together, the program credits and carrying costs equal $841.0 million. It is important to note that the surcharge to customers for the Phase 2 program will be offset by various deferrals totaling over $83.3 million (Attachment F, page 1).[23]

After the Phase 2 program credits are applied, varying numbers of the customers served by this program will still have residual incremental arrears, as will their respective utilities. Absent any as yet unforeseen additional federal or State appropriations, those incremental residual arrears will be resolved through the standard collections/terminations process. This entails uncollectible write-off costs, incremental O&M for call center and collections activity, and incremental financing costs. For uncollectible write-offs, the JU and Staff expect that the application of the Phase 2 program credits will make customer balances more manageable, so a 30% write-off rate is reasonable for a post-Phase 2 pathway analysis. This write-off rate assumption results in $123.1 million in estimated write-off costs. For O&M, the JU and Staff expect two years of incremental O&M costs at 10% higher than pre-pandemic cost levels, resulting in $22 million in O&M costs. Finally, the JU and Staff expect two years of incremental financing on the residual arrears, amounting to $23.9 million. In total, the expected post-Phase 2 costs are $169.0 million. Shareholder contributions for a Phase 2 pathway were also built into the analysis (Attachment C, page 2).

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[23] To provide a consistent comparison for this section of the report, these offsets were not factored into either the cost of inaction or the cost of action.

c. Recommendation

The Working Group has concluded that arrears relief is a better pathway for customers than inaction and is recommending the most comprehensive statewide relief program that it has determined is cost effective and in the public interest. The Working Group has erred on the conservative side and is recommending a Phase 2 program that is below the range of cost of inaction estimates statewide. As noted above, this is approximately $336 million lower than a worst case "inaction" scenario. Phase 2 program sizes were set so that individual utilities are all near or below the lowest end of the "inaction" scenario cost range.[24] Overall, the Working Group is putting forward a comprehensive Phase 2 program proposal that takes into account customer needs in various areas, the benefits to customers from arrears relief, the benefits to the State from resolving these arrears, and the overall potential costs of the program.

VI. Phase 2 Program Recommendations

In the Working Group's May 2022 Phase 1 Arrears Relief Report filed in Cases 14-M-0565 and 20-M-0266, the Working Group noted that the resolution of low-income customer arrears under the Phase 1 proposal would have only addressed approximately 24% of total residential and small business customer arrears. As a result, the report noted that without action on the remaining residential non-EAP and small-commercial customer arrears that did not receive relief under the Phase 1 program, many customers would likely remain unable to manage the large unpaid balances accrued during the pandemic. To avoid this financial hardship, the Working Group continued its work to develop arrears management solutions and to file a proposal to address the remaining residential non-EAP and small commercial customer arrears with the Commission.

In its Order Authorizing a Phase 1 Arrears Reduction Program in Cases 14-M-0565 and 20-M-0266, the Commission noted, "All stakeholders are also supportive of continued discussion on a Phase 2 arrears solution for non-low-income customers. In addition, stakeholders expressed an urgency for Phase 2 implementation but generally agreed that an arrears reduction solution requires further study."[25] The Commission concluded, "In sum, the Commission finds

[24] At the individual utility level, a small variance (margin of error) relative to the estimated cost is reasonable and expected (Attachment C, page 1).

[25] Phase 1 Program Order at 24.

Phase 1 of the Arrears Report to constitute a sufficient first step in resolving the utility arrears problem and looks forward to a Phase 2 proposal to address the arrears from other customer classifications resulting from the COVID-19 pandemic."[26]

Since approval of the Phase 1 program, the Working Group has worked to review the need, objectives, scope and design of a Phase 2 program, including the current status of the billing systems as summarized in Attachment B. The Working Group recommends a Phase 2 program, with the objective of reducing arrears balances for customers not covered under the Phase 1 program, which will help these customers manage their arrears balances, enter more affordable DPAs, and avoid termination of service for non-payment.

a. Phase 2 Program Customer Eligibility

i. Options Considered by the Working Group

The Working Group discussed the customer groups that should be included in a Phase 2 program. All stakeholders agreed that residential customers who did not receive relief under the Phase 1 program require relief. In addition, the Working Group agreed that small businesses require relief, as their financial challenges have a large impact on the State's economy, including the continued employment of many New York State residents and utility customers. While there was consensus among the Working Group that both groups required relief, the Working Group expressed a desire to validate the financial need of customers requiring relief in order to address concerns that relief might be provided to customers who had the financial ability to pay their arrears.

The Working Group considered several options to address concerns about validating the financial need of customers. The first option was an eligibility process where customers would provide their income level and financial need to the utilities; however, the Working Group ultimately determined that such a process would make implementation challenging and slow. Challenges associated with this option included the fact that customers may be unwilling to submit income documentation to a non-governmental entity; customer confusion surrounding the eligibility validation process; concerns regarding the impacts on utility customer service without additional staffing needed to handle customer inquiries and process applications; the time necessary for developing such processes; the time necessary to responsibly validate the

[26] *Id*. at 42.

income(s) reported by customers, and privacy concerns regarding the utilities' handling of customer income information.

A second option considered by the Working Group would have authorized potentially eligible customers to self-certify through an application or other filing that they meet income requirements and are experiencing financial need. The Working Group decided against a self-certification option because it fails to address many of the challenges noted with respect to the first option; specifically, it would also require the customer to fill out an application and the utilities to respond to inquiries and process the applications.

A third option considered by the Working Group would recommend assistance to all remaining utility arrears held by residential non-EAP and small-commercial customers. To assist in evaluating this option, the Working Group first examined whether existing utility data could be used as criteria for determining financial need. For example, the Working Group identified the following categories of utility data as providing reasonable evidence of financial need related to arrearages held by residential non-EAP customers:

- The utility's transmittal of multiple final disconnect notices that were left unresolved;
- Use of a DPA for prior arrearages;
- The customer's prior participation in a utility's EAP;
- The customer is currently coded as a Life-Support Equipment user;
- The customer is currently coded as being elderly, blind or disabled; and,
- The customer previously received HEAP payments.

The Working Group acknowledged however that some customers that do not meet any of the criteria may nevertheless be experiencing financial need. With that said, the JU created a list of residential non-EAP customer accounts with arrearages held during the applicable time period and applied the criteria for financial need noted above to determine the percentage of such customers that meet one or more of the criteria. The results (shown in Attachment D) indicate that more than 95%[27] of the residential non-EAP customers with arrearages meet at least one or more of the criteria for financial need.

[27] Because Central Hudson has not yet resumed terminations for residential customers, there was no data available related to final disconnect notices during the period of this analysis. As a result, Central Hudson's percentages vary from the other utilities.

The Working Group then considered whether it made sense under this option to create a process by which the remaining 5% of residential non- EAP customers with eligible arrears could make a showing of financial need or, instead, to simply allow all arrearages held by residential non-EAP customers to be subject to arrears relief. For reasons similar to those noted with respect to the first and second options, the Working Group determined that it did not make financial or logistical sense to set up a process to determine whether the remaining 5% of residential non-EAP customers should be subject to a process of determining financial need.

Under this third option, the Working Group next examined the availability of financial need criteria that could be applied to small-commercial customers with eligible arrears. However, the Working Group determined that it should use a definition of small-commercial customers that would be subject to relief in a manner that did not include an application requirement or other validation from the customer. One definition examined by the Working Group is from amendments to the Public Service Law (PSL) that applied during the COVID-19 State of Emergency and provided consumer protections to small business customers experiencing financial hardship. Specifically, PSL § 32(6), effective from June 17, 2020 until July 1, 2022, provided certain consumer protections regarding termination of service for "a small business customer with twenty-five or fewer employees that is not a (a) publicly held company, or a subsidiary thereof, (b) seasonal, short-term, or temporary customer, (c) high energy customer as defined by the commission, or (d) customer that the utility can demonstrate has the resources to pay the bill."[28] The JU indicated, however, that the utilities implemented this provision by requiring small-commercial customers to contact the utility to both attest to their financial hardship and provide information showing that the company had 25 or fewer employees. Of concern to the JU was the inability of the utilities to independently validate the attestation and underlying information. Thus, the Working Group decided not to utilize this definition for the purposes of providing Phase 2 relief to small-commercial customers.

As an alternative, the JU considered a definition of small-commercial customer from Commission regulations, which is based on energy usage. Specifically, under 16 NYCRR §13.5(b), small-commercial electric customers are defined as accounts taking service under electric non-residential service classes, with the exception of an electric account that, during the

[28] Chapter 108 of Laws of 2020 (adding PSL §32), effective June 17, 2020.

previous 12 months, had a combined average monthly billed demand in excess of 20 kilowatts (kw), or who registered any single demand in excess of 40 kw. Additionally, the Commission has defined small-commercial gas customers as those accounts using less than or equal to 750 dekatherms (dth) of gas per year.[29] Unlike the application of criteria to determine the "small business customers" subject to PSL §32(6), which could not be validated, the utilities can easily identify small-commercial customers through access to internal energy usage data. For this reason, the Working Group believes a definition based on energy usage is a good proxy for small-commercial customers eligible for Phase 2 program credits.

The Working Group also believes that the following criteria should be applied as sufficient proof of final need:

- Received multiple final disconnect notices that were not cured;
- Has previously worked with the utility on a DPA; and
- Financial Assistance Attestation under the COVID-19 Moratorium Law.[30]

The JU applied the definition of small-commercial customer based on energy usage to do an analysis of the pool of commercial customers with eligible arrears, and then applied the above criteria to determine the percentage of such customers experiencing financial need. The results in Attachment D show that more than 87% of small-commercial accounts meet either of the criteria for financial need.[31]

ii. Recommendation

After considering all the factors, JU data, the options noted above, and the best interest of customers, the Working Group recommends a Phase 2 program that provides relief through direct bill credits to all residential non-EAP and small-commercial customers who have eligible arrears and who did not receive relief under the Phase 1 program, without a need for any application process or action by the customers. This program design is consistent with the Phase 1 program and would allow relief to reach customers as quickly and cost-effectively as possible,

[29] Case 15-M-0127, et al., Retail Access, Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process (issued December 12, 2019).

[30] *Supra* at footnote 22.

[31] Because Central Hudson has not yet resumed terminations for small-commercial customers, there were no data available related to final disconnect notices during the period of this analysis. As a result, Central Hudson's percentages vary from the other utilities.

potentially before peak bills for the upcoming winter become due. The Working Group recommends that this relief be provided to all residential non-EAP customers with eligible arrears who did not receive relief under the Phase 1 program. For small-commercial customers, the Working Group recommends that relief be provided to all customers with eligible arrears who meet the usage-based Commission regulations definition of small-commercial as noted above.

b. Definition of Eligible Arrears

In addition to customer eligibility, the Working Group discussed the criteria for eligible arrears. All stakeholders agreed that it would be most equitable to customers for the Phase 1 and Phase 2 programs to have consistent eligibility criteria where practicable. Therefore, the Working Group recommends that eligible customers receive a credit for outstanding arrears for service through May 1, 2022. In addition, the Working Group recommends that the criteria for "eligible arrears" remain the same as the Phase 1 program, resulting in the following definition of arrears:

1. Includes past-due balances on accounts that are taking active service only, with one exception. While not included in the Phase 1 program, because service terminations have resumed for residential non-EAP customers, the Working Group recommends that eligible arrears on closed accounts for residential non-EAP customers who previously had their service terminated in 2022 for non-payment be included in the Phase 2 program. Customers must contact their utility by June 30, 2023, to reactivate service to receive a Phase 2 program bill credit for eligible arrears and proceed to have the service activated by satisfying any other requirements under the utilities' procedures.
2. Arrears balances included in a DPA in good standing are included, because customers with DPAs would be subject to termination of service for non-payment should they default on the DPA.
3. Aged balances currently held in "abeyance" pursuant to the Social Services Law due to a customer's prior participation in a utility guarantee or direct vendor public assistance program are included because these charges could become subject to collection activities when the customers are removed from these public assistance programs.

4. Aged balances on accounts that are currently in good standing on a level payment program are excluded regardless of their current actual account balance.

c. Maximum Phase 2 Program Bill Credit for Each Eligible Account

The total eligible arrears statewide for Phase 2 is substantially larger than the arrears addressed under Phase 1. As a result, the Working Group discussed various options to provide meaningful relief to customers in need through the Phase 2 program, while also balancing the overall cost of the program to ratepayers. To manage the costs of the Phase 2 program, the Working Group discussed providing each customer with relief for a fixed percentage of their eligible arrears across the State. For example, under this option, each customer might receive relief up to 50% of their eligible arrears. The concern with this option was that no customer, regardless of their level of eligible arrears, would receive relief for their full eligible arrears. Another option was discussed that managed the cost of the program by limiting the maximum bill credit per account under the program. Under this option, each eligible customer would receive full relief for arrears for service through May 1, 2022, up to a maximum benefit or "cap." This option allowed many customers to receive full arrears relief and provides partial relief to customers with higher arrears balances.

The Working Group then reviewed data from the JU and discussed how to establish a maximum benefit or "cap" per account. To aid the analysis, each utility ran a "Cap analysis" which provided details of the total eligible arrears, the amount of arrears and number of customers that would receive full arrears relief at various "cap" levels, and the number of customers and remaining arrears that would be above the various "cap" levels. The "Cap analysis" for each utility is shown in Attachment E.

After reviewing the data, total Phase 2 program costs were developed for a program that would provide relief for full eligible arrears for a percentage of customers at each utility. After considering all of these factors, the Working Group recommended a cap be established separately for eligible residential non-EAP and small-commercial customers for each utility, such that at least 75% of residential customers and at least 75% of small-commercial customers would receive full relief of their eligible arrears.

Data indicates that the arrears situation in New York City is particularly pronounced,

with arrears at well over 200% of pre-pandemic baseline levels.[32] This vast increase in New York City based arrears is explained by the COVID-19 pandemic having a larger and longer economic impact on New York City. One telling measure of this impact is the unemployment rate, which is correlated with arrears. The New York State Department of Labor's data shows that New York City's unemployment rate has been consistently higher than the rest of the State since the pandemic began, even though its seasonally adjusted unemployment rate was lower than the rest of the State pre-pandemic. Early on in the pandemic, the seasonally adjusted unemployment rate for New York City surpassed 20% and remained elevated for longer than in the rest of the State.[33] As the State has begun to recover, there have been slower gains in New York City. In September 2021 for example, New York City's seasonally adjusted unemployment rate was 8.2% compared to a range of 3.1% to 4.4% in other areas of the State. In September 2022, New York City's seasonally adjusted unemployment rate was still 5.2% compared to a range of 2.7% to 3.4% in other areas of the State. Due to the greater economic impact of COVID-19 in the New York City area and the higher poverty rates in distressed census tracts in New York City, higher levels of relief are required for customers in New York City to move total customer arrears balances closer to those of the rest of the State.

Attachment E provides the recommended "cap" amounts for each utility. Table 3 below provides the projected size of each utility's Phase 2 program as referenced in Attachment F.

Table 3

Company	Projected Program Size
Con Edison	$388,704,391
O&R	$2,945,429
NMPC	$87,994,480
KEDNY	$91,603,726
KEDLI	$21,028,972
NYSEG	$18,414,185

[32] Con Edison's September 2022 aged arrears were at $1,086 million from a pre-pandemic baseline of $379 million and KEDNY's September 2022 aged arrears were at $202 million from a pre-pandemic baseline of $62 million.

[33] *See* New York State Department of Labor's Local Area Unemployment Statistics: *available at* https://dol.ny.gov/local-area-unemployment-statistics.

RG&E	$13,562,151
Central Hudson	$30,133,922
National Fuel	$17,735,675
Total	**$672,122,931**

d. Implementation Plan and Costs

i. Timeframe of application of credits

To facilitate bill credits to eligible customers under the Phase 2 program, the utilities agreed to identify customer accounts eligible for an arrears credit using data in their billing systems, which would then be used to process application of credits during the eligibility period.[34] The utilities would apply credits directly to customers' accounts, and the credits would be reflected in the balance on the next bill received by the customer. The utilities would apply credits to customers as soon as practicable, with the goal of providing the credit to the majority of non-EAP residential and small-commercial utility customers within 90 days of Commission issuance of an order regarding the Phase 2 program. The utilities would also suspend terminations of service for non-payment while the credits are being applied, for the period through March 1, 2023, or 30 days after credits are applied to accounts by the incumbent utility, whichever is later.

ii. Program Costs

Phase 2 program costs consist only of the arrears credits and associated carrying charges. There are no incremental administrative costs included. As discussed above, the Phase 2 program costs are below the low range (*i.e.,* best case) estimate for the statewide cost of inaction. The Phase 2 program would be paid for by ratepayers and collected by each utility via a surcharge to delivery customers effectuated by a tariff filing. This approach is consistent with cost recovery of the Phase 1 program costs exceeding the State funds appropriated for use in the Phase 1 program. Phase 2 program costs would be offset by the application of available economic development funds, which will be generally applied to small business accounts, or

[34] To address concerns about Central Hudson's billing system implementation, the Company has agreed to have its Chief Financial Officer certify the accuracy of customers' arrears balances and the Phase 2 arrears credit amounts.

other deferrals that specific utilities had deferred for future use for customers.[35] Utilities more recently in rate cases may have included, or be including, credits for such funds as rate mitigators in their rate plans. Utilities that have available deferrals, including economic development funds described further below, would be expected to apply these credits to offset bill impacts of the Phase 2 program, provided however that such application of regulatory liabilities will not take precedence over an agreed-upon joint settlement proposal (JP) in an existing rate case. Attachment F sets out the projected Phase 2 program size for each utility. Attachment F also lists all deferrals that would be used to offset the Phase 2 program surcharges and the resulting bill impacts.[36]

The Working Group's goal in designing Phase 2 program cost recovery was to minimize customer bill impacts while implementing the agreed upon comprehensive relief. Consequently, the Working Group proposed that costs for the Phase 2 program be recovered in a manner that is consistent with the Commission's Phase 1 Order regarding cost recovery. The Commission directed the utilities to allocate Phase 1 program costs to each service class consistent with how uncollectible costs are allocated in base delivery rates, if practicable. Certain utilities cannot reasonably allocate the costs as described above due to the companies currently undergoing a transition to a new billing system. These companies would thus allocate costs in a manner that is allowed within the limits of the existing billing system and would transition to an allocation consistent with base delivery rates once the new billing systems are deployed. Although exact bill impacts would depend on the reconciled program costs and surcharge mechanism implemented, the Working Group has proposed setting a recovery period for each utility that targets estimated residential bill impacts of approximately 0.5%.[37] The proposed surcharge recovery would remain in place for the duration of the recovery period, which may differ due to the disparate situations of each utility's service territory. The JU's estimated bill impacts, and proposed recovery periods, are included in Attachment F.

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[35] *See* Attachment F for a description of the use of these offsets and deferrals.

[36] Consistent with the Phase 1 program, bill impacts are based on ordinary ratemaking treatment for a utility deferral. The rate of return would reflect each utility's authorized rate of return for the applicable Rate Year.

[37] The EAP Working Group proposed a recovery period that targets estimated bill impacts of approximately 0.5% for residential customers, but some service classifications may be higher.

Staff proposes that the JU file tariff amendments to effectuate the surcharge, if necessary, and statements to effectuate the recovery of the arrears reduction program costs in accordance with the terms as described in this report. The tariffs would be filed on no less than five days' notice and would be effective on a temporary basis until approved by the Commission. The utilities would begin surcharge recovery of actual program costs the month after the first application of arrears credits., and if any other federal or state funds are made available for this arrears relief program the utilities will apply them to the consumer arrears, thus presumably reducing the surcharge amount.

iii. Economic Development and Other Deferrals

Many utilities have programs to support economic development in their service territories. These programs generally take the form of a business incentive rate or grants. For utilities with grant programs, due to the periodic timing of rate cases, there may be amounts deferred for the benefit of customers that have not yet been passed back to customers. Economic development and additional deferrals that are available to offset arrears relief are listed in Attachment F, which also outlines how each would be applied for arrears relief per utility. The total deferrals in Attachment F of $84.3 million are included in the bill impact calculations in order to reduce the term of the collection periods.

iv. Shareholder Contributions

The JU has committed shareholder contributions of over $100 million to support the Phase 2 program.

Table 4

Utility[38]	Phase 2 Shareholder Contributions ($000)
Con Edison	$45,540
O&R	$460
NMPC	$21,780
KEDNY	$14,528

38 National Grid has also committed $7 million in incremental philanthropic funds to help New York customers and communities navigate winter supply costs. National Fuel is also committing $2.4 million of non-ratepayer funds as an offset to reflect the impact of an adjustment to the Company's allowance for uncollectible accounts resulting from the Phase 2 bill relief program.

KEDLI	$4,373
NYSEG	$3,069
RG&E	$3,017
Central Hudson	$4,048
National Fuel	$4,768
Total	**$101,583**

For each utility, the contribution includes the full value of incremental carrying costs on incremental arrears through 2022 (exclusive of those incremental carrying costs committed in the Phase 1 program).[39] The JU collectively were required to finance well over a $1.1 billion cash shortfall during the COVID-19 moratoria. The costs associated with financing this amount (interest and return on equity) are real costs that the JU incurred while making up for the cash flow decline associated with the pandemic-related increase in arrears. Under the circumstances, utilities would be able to recover these incremental financing costs in accordance with their respective rate plans or could petition the Commission for recovery of such costs from customers. As part of the Phase 2 program, the JU agree to forego recovery of such costs through 2022 and their shareholders will absorb the financial consequences of doing so.

e. Phase 2 Program Reporting

To ensure documentation and transparency associated with the implementation of the Phase 2 program, the Working Group proposes ongoing reports on the status of execution of the program. Specifically, the Working Group propose that the JU report on the total customers receiving Phase 2 program credits and total dollars associated with the Phase 2 program. The information will be reported in Cases 14-M-0565 and 20-M-0266 on a monthly basis until all credits are applied, consistent with the monthly reporting schedule adopted in the Phase 1 Program Order. Each report will show monthly data since inception of the program.

To the extent practicable, utilities will file Phase 1 and Phase 2 program data in the same report and delineate between the programs. A final Phase 2 report will be filed by each utility by August 31, 2023.

The JU will also file an annual report no later than March 31 of each year on the costs (carrying charges) and recoveries of the Phase 2 program and address any reconciliations necessary. This annual report will continue until recoveries and reconciliations are completed.

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[39] Case 14-M-0565, et al., May 2022 Arrears Report (filed May 23, 2022), pp. 20-21.

VII. Customer Outreach Plan

a. Outreach to Begin Upon Commission Approval

In order to foster understanding by customers of the relief provided under a Phase 2 program, the JU, DPS, and stakeholders plan to execute a multi-channel outreach plan. Specifically, the JU will communicate with customers and other stakeholders (such as, *e.g.*, elected officials) providing general information about the Phase 2 program including eligibility, eligible arrears, and relief credit caps. In addition, as relief credits are applied to customer accounts, the utilities will provide specific communications to customers receiving relief. Finally, since many customers will need to continue to manage arrears balances after relief, the utilities will include in communications information about payment assistance, including DPAs. The Working Group intends to continue coordination on messaging for any Commission-approved program.

While each stakeholder's outreach activities will differ, the Working Group plans communications in the following channels:

Joint Utilities

- Dedicated email blast to all eligible customers who have an email address on file;
- Websites to include information on the arrears credits;
- Social media posts;
- Notification of application of arrears credit through one or more of the following:
    - Bill message/inserts
    - Letter or email to customers once arrears credits are applied
- Inbound call center messaging;
- Newsletters; and
- Presentations as part of each utility's ongoing community outreach.

Department of Public Service

- Press release;
- Dedicated email blast to Office of Consumer Services stakeholders/partners list;
- Website; and
- Social media.

Stakeholders

- Letters;
- Website;
- Social media; and
- E-mail to elected officials.

b. Enhancements to Standard Offer Agreements

As part of the discussion regarding the Phase 2 program, the Working Group discussed the importance of working with customers to enter into affordable DPAs to manage customer arrears which will remain for numerous customers after relief is provided. To support this discussion, the Working Group reviewed information provided to customers by each utility when a standard DPA is provided to a customer in accordance with HEFPA. Collectively, the Working Group recommended changes to each utility's standard DPA to more prominently highlight language that describes customers' rights under HEFPA to an equitable and affordable payment agreement based on the customers' ability to pay, with terms as low as zero down payment and $10 a month. Each of the JU have completed, or will be completing, changes to these communications as recommended by the Working Group. See Attachment G for the updated communications for each of the JU.

VIII. Uncollectible Expense

The Commission's order adopting the Phase 1 program noted that a significant reduction in arrears could lower uncollectible expenses incurred by the utilities to an amount below the level established in each utility's delivery rates. The Commission determined the Phase 1 program alone was not broad enough to materially lower the uncollectible expense amounts included in utilities' rate cases. However, the Working Group believes the combination of the Phase 1 and Phase 2 programs could be enough to do so. Conversely, the uncollectible expense amounts that will accrue if no action is taken could be significantly higher than the level established in each utility's delivery rates.

The JU indicated in the Phase 1 Report that they are committed to working with Staff on this issue because there is significant uncertainty involved in forecasting future uncollectible expense amounts. Several of the utilities already have or have proposed reconciliation mechanisms that would alleviate such concerns.

- Central Hudson: Pursuant to the Order in Case 20-E-0459 and 20-G-0460, Central Hudson has a symmetrical deferral of any differences between the actual 12 months of net write-offs experienced as compared to the 12 months of billed uncollectibles.
- O&R: The Commission approved the reconciliation of uncollectible expenses for

O&R in Cases 21-G-0073 and 21-E-0074. This is a cumulative reconciliation from 2020 to 2024 to cover the pandemic period.

- Con Edison: Con Edison does not have an uncollectible expense reconciliation mechanism under its current rate Order. In the event no uncollectible write-off reconciliation is in effect for its electric and gas services by the end of December 31, 2023 (the rate year in which the Phase 2 program arrears relief would be provided), Con Edison is agreeable to a cumulative reconciliation for its electric and gas services for the period 2020 to 2025 to cover the pandemic period. Con Edison has already proposed such a reconciliation in its on-going electric and gas rate cases.[40]
- National Grid: National Grid's three utilities (NMPC, KEDNY, and KEDLI) do not have uncollectible expense reconciliation mechanisms in their current rate plans. For the period March 2020 to May 2022, the amount recovered through base rates exceeded the amount of actual write-offs and, therefore, the Company proposes to reduce the amount to be recovered through the Phase 2 program surcharge by that amount (approximately $59 million, as shown in Attachment F) contingent upon Commission approval of two-way uncollectible expense reconciliation mechanisms covering the term of the current rate plans (through March 2024 for KEDNY and KEDLI and through March 2025 for NMPC).[41] National Grid proposes that upon approval of an uncollectible expense reconciliation mechanism by the Commission the three National Grid utilities will reduce the Phase 2 program surcharge by including offsets for uncollectible amounts recovered in base rates, less actual write-offs for the period (*i.e.*, March 2020 through May 2022). National Grid's proposed mechanism will be consistent with the two-way reconciliation mechanisms previously approved for peer utilities, as set forth above.
- National Fuel Gas: National Fuel does not have an uncollectible expense

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[40] *See* Cases 22-E-0064 and 22-G-0065.

[41] Absent a two-way uncollectible expense reconciliation mechanism for the periods identified above and the proposed offsets, the Phase 2 program surcharge recovery period for NMPC electric is 8 years (compared to 4 years with the offsets), 6 years for NMPC gas (compared to 2 years with offsets), and 11 years for KEDNY (compared to 10 years with offsets).

reconciliation mechanism under its current tariff. National Fuel is proposing that upon approval of an uncollectible expense reconciliation mechanism by the Commission, National Fuel will reduce the Phase 2 program surcharges by including the net impact of amounts that have been reserved as credits in the Company's allowance for uncollectible accounts over the course of the COVID-19 pandemic to cover the anticipated increase in future write-offs. The offsets recognize and allocate amounts collected from ratepayers in base rates during the pandemic to the Phase 2 program, as well as account for amounts reserved by the Company in excess of ratepayer recoveries. The net amount of these offsets will be up to $6.9 million, which includes $2.4 million of non-ratepayer credits. National Fuel's surcharge reduction proposal is contingent upon the Commission approving an uncollectible cost reconciliation mechanism for the period of March 2020 through September 2024[42], which would capture the impact of all write-offs that would occur once terminations resume in full during the spring of 2023.[43]

- NYSEG/RG&E: NYSEG and RG&E do not currently have uncollectible expense reconciliation mechanisms in their current rate plans. NYSEG and RG&E have proposed in their current rate case filings that uncollectible expenses, defined as a combination of uncollectible write-offs plus changes in the uncollectible reserve amounts, be symmetrically reconciled starting with the rate year beginning May 1, 2023. NYSEG and RG&E believe that their current rate cases are the appropriate venue to determine the future application of an uncollectible expense reconciliation.

Staff recommends that utilities not already pursuing an uncollectible reconciliation in a separate proceeding (*e.g.*, a rate proceeding), and are proposing a reconciliation in the context of this proceeding, be required to make a filing with the Commission, describing their proposed reconciliation mechanism. The filing should include the following: a) the period covered by the uncollectible reconciliation mechanism; b) a recovery mechanism (*e.g.*, surcharge or deferral), if a surcharge mechanism is being proposed the utility should indicate whether it would be a

[42] If the reconciliation mechanism is not approved the bill impacts and/or collection periods associated with National Fuel's program reflected herein may change.

[43] National Fuel's write-off cycle generally concludes one year after an account is final-billed.

separate surcharge or be included in an existing surcharge (*e.g*., Monthly Adjustment Clause) as well as whether the surcharge should be subject to a cap; c) the proposed carrying cost rate on any deferred balances; and d) the impact on prior period earnings resulting from an uncollectible reconciliation had such a reconciliation been in effect during the proposed reconciliation period. Further, the filing should include the actual amount of any over/under recoveries (*i.e.*, net write-offs vs base rate allowance) for the period of March 2020 through October 2022 and a forecast of the over/under recoveries for the period of November 2022 to the proposed reconciliation end date.

IX. Stakeholder Positions[44]

a. Joint Utilities

The JU supports a Phase 2 program that will essentially eliminate the remnants of COVID-19 arrears, providing much-needed relief and enabling customers to move forward. These arrears grew to current levels because utilities, acting in compliance and coordination with governmental entities, largely ceased activity that would result in customers losing service during the pandemic. The utilities supported the government and stakeholders' calls to cease routine credit and collections for an extended period of time, the consequence of which is that a large number of customers have accrued significant past-due balances. Without a Phase 2 program, routine credit and collections, as contemplated by the Commission's rules, will result in a large number of customers who are unable to pay their utility bills (even with the most flexible payment agreement terms) and active customers will have to pay for substantial arrears that have accrued during the pandemic when shutoffs were prohibited. It is the JU's understanding that all stakeholders believe it is in the public interest for customers to instead pay for an arrears relief program that will decrease terminations and put customers in position to better manage their bills. Given the unprecedented circumstances associated with COVID-19, the JU have taken the extraordinary action of agreeing to shareholder contributions of over $101 million to support the Phase 2 program – an amount that far exceeds what the JU have observed in other jurisdictions

[44] Staff notes here that including candid statements of positions from the stakeholders is an important part of the transparency of this historic Working Group's task. Each stakeholder is providing its own positions and/or beliefs but does not speak for the whole. The consensus portions of this report, sections I to VIII, speak to the consensus of the Working Group.

seeking to address the COVID-19 arrears challenge.

Nevertheless, a number of parties advocated for significantly higher contributions from the JU and contend that utilities have been "benefiting" from the current economic environment. Imposing such an appropriation would directly result in a reduction in each utility's credit quality metrics, which are monitored closely by the investment community. It is also contrary to the actual conditions in which utilities operate. For instance, on November 10, 2022, Moody's released an Outlook Report that changed the outlook on the U.S. regulated utilities sector to negative from stable because of increasingly challenging business and financial conditions (Attachment H). Investors are necessary to fund capital improvements that allow the utilities to replace aging infrastructure, modernize their systems, and facilitate the achievement of Climate Leadership and Community Protection Act (CLCPA) goals. In short, these investments are needed to continue to provide safe, reliable service, and to facilitate the clean energy transition. The cost of these investments is recovered from customers over decades but must be immediately funded by investor contributions. Significant reductions to the ability for investors to earn a return on these investments will either increase future costs or reduce the availability of these funds in future years.

In addition, the appropriation would negatively impact how the investment community views the New York regulatory environment. New York has among the lowest return-on-equity in the country, and the traditional justification is that New York is better at providing reconciliations and cost recovery for utilities than other jurisdictions. Requiring a shareholder contribution here, beyond what the utilities have agreed to provide, would be contrary to this New York "regulatory compact" and could be costly for New York customers because ratings agencies would see this as being contrary to that regulatory justification. If ratings agencies and investors see greater regulatory risk in New York, they will require a higher cost of capital which is ultimately borne by New York utility consumers.

The critical implications of significant appropriations from shareholders and their direct negative impact on costs to customers cannot be ignored. This is demonstrated by the fact that the two major credit rating companies, Standard & Poor's and Moody's Investors Service, view utility credit quality from both a quantitative and qualitative perspective. One of the key underpinnings of rating agency qualitative analysis is the regulatory environment in which utilities operate. A regulatory decision supporting an appropriation from utilities would signal a

negative trend in New York's regulatory environment and potentially result in at least some of the JU being given a negative outlook or even put on credit watch for a ratings downgrade. Such a result is significant. A reduced credit rating means higher costs of borrowing, which leads to a greater overall cost of capital to customers going forward and less financial flexibility when going to the market to raise capital. This is particularly critical given the capital-intensive nature of the utility industry in New York. Indeed, forecasts from the CLCPA's Climate Action Council are that utilities will need to make substantial amounts of new investments to meet the State's ambitious clean energy goals;[45] raising this capital in a strongly negative regulatory environment will be more costly to customers, perhaps significantly so.

Neither should it be ignored that utilities are voluntarily contributing to the bill relief effort – both in their proposal here for the Phase 2 program and their contributions to the first phase of this effort. Indeed, the utilities have supported customers' relief and been a partner to stakeholders and the government throughout the pandemic, not just through bill relief, but in numerous other public safety efforts, the cessation of fees, and offering flexible payment plans, among other things. Importantly, as utilities have offered these significant contributions to date, it should be noted that arrears encompass all parts of the utility bill – not only the delivery portion, but also supply and taxes/fees.[46] If further consideration is given to additional contributions outside of the substantial contributions already offered by the utilities, stakeholders should consider more holistically where such contributions should come, especially considering taxes/fees represent parts of a customer's bill largely outside the control of utilities.

b. City of New York

The City is generally supportive of the Phase 2 program as a means of assisting residential and small-commercial customers whose utility accounts have fallen deep into arrears as a result of hardships experienced by the COVID-19 global pandemic. Coupled with the Phase 1 arrears relief program, this program offers historic assistance to utility customers that will prevent mass amounts of collections and service terminations, in addition to putting ratepayers in

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[45] *See e.g.,* Climate Action Council, Draft Scoping Plan Overview (January 2021) at Slide 10 ("There are significant required investments to achieve Climate Action GHG Emission Limits….").

[46] The JU notes here that reduction of energy taxes, as the State legislature did for gasoline taxes, would provide additional help to customers at this time of higher energy costs.

a better position to manage their utility bills moving forward.

According to the data provided by the JU, the cost of a Phase 2 program will result in lower costs to ratepayers than taking no direct action. For this reason, the City supports moving forward with this proposed Phase 2 program. However, all customers will bear the costs of paying for this relief over a long duration, and the City has concerns with incremental bill impacts on customers. For example, for the Con Edison service territory, residential customers will experience up to a 0.41% bill increase for the next ten years, depending on their utility service class. While this may seem nominal when viewed in a vacuum, ratepayer utility bills will experience continued volatility over the coming years as the utilities request new rates and with the fluctuating (and anticipated significant increase in) electricity and natural gas supply prices. The City is very cognizant about balancing the impacts this Phase 2 program will have on customers over the next decade.

Lastly, given the size of the Phase 2 program, the City is disappointed with the level of shareholder contributions provided by the utilities. For Con Edison, their shareholder contribution was approximately 12% of their total program cost of $388 million. The gap between the balance of program costs borne by ratepayers versus shareholders should have been smaller. The City has been a strong advocate within the Working Group for increasing the utility shareholder contribution so that bill impacts to customers as a result of the Phase 2 program are mitigated to the greatest extent possible. The City submits that this would have been a more equitable outcome given that the utility was made whole through various reconciliations on customer bills throughout the pandemic.

The City looks forward to working together with the Working Group in the future to develop and implement a more structured arrears management program and to continue to educate and assist customers on utility bill affordability and payment plan options so that service terminations are avoided.

c. Alliance for a Green Economy

AGREE is grateful to the Staff for convening and facilitating this Working Group, and appreciates the opportunity to provide comments on specific aspects of the Phase 2 Arrears Report of the Working Group. Overall, AGREE is highly supportive of a program to address and relieve the arrears of residential non-EAP and small-commercial customers. AGREE recognizes the urgent need to resolve this crisis, and is certainly in agreement with Staff and the

JU that it is of the utmost importance to do everything possible to avoid a "Cost of Inaction" scenario, in which debts are not relieved and millions of households and small businesses begin experiencing terminations during the cold season.

However, AGREE is concerned that without a larger upfront commitment from the JU on shareholder contributions and from PSEG-Long Island, customers will bear nearly the full cost of a Phase 2 program, which could come out to approximately $672 million. Considering that we are heading into an exceptionally expensive winter with a predicted 51% increase in the cost of natural gas, it is imperative that the JU consider the other costs that customers will be incurring.

A Phase 2 program which is nearly entirely funded by ratepayers and future ratepayers does not meet the requirements for a just and equitable solution. AGREE emphasizes that shareholders were largely protected from the impacts of the COVID-19 pandemic due to regulatory mechanisms that make the utility whole. Forcing current ratepayers to shoulder almost all of the program costs would ignore the fact that shareholders will now continue to profit at the direct expense of ratepayers, who would essentially be shielding shareholders from the real-world conditions that continue to impact our economy.

AGREE encourages the JU and PSEG-Long Island to continue thinking about creative ways to find the money for true debt relief that does not place the burden of this unprecedented crisis solely on the shoulders of New Yorkers. AGREE understands the utilities have a financial obligation to their shareholders, but the JU and PSEG-Long Island must also balance this with societal and ethical obligations to their ratepayers. AGREE asks the utilities to act with an understanding of the magnitude of these costs for families, most of whom cannot keep up with the ever-increasing inflation of goods and services because wages simply have not increased commensurately. AGREE also asks the utilities to consider the fact that young people who will become ratepayers in the next ten years will face higher bills as a result of this program. From an intergenerational equity and justice standpoint, the full cost of this debt cannot be put on future young people who will face even higher energy costs due to the worsening climate crisis.

AGREE understands that the PSC must balance the comments of advocates with a "Cost of Inaction" scenario and would like to reiterate: inaction and the subsequent termination of millions of accounts is not a just outcome from this Working Group either. However, that is not the only alternative. During the pandemic, the utilities did not go forward with service

terminations in recognition of the unprecedented nature of this crisis. AGREE would contend that we are not yet out of this crisis, and AGREE strongly recommends that the utilities adopt another moratorium on shutoffs while they look for further pots of money to buy down as much debt as possible without putting it back on ratepayers in the form of a surcharge.

Debt relief which is borne by corporations and their shareholders is not without precedent in history. Investors usually take on some form of risk, but utility shareholders are unique in that they have reaped the benefits of nearly-guaranteed profits by maintaining a private monopoly over an essential service for many decades. It is time that these investors take on the risks inherent in our energy system, and not only the rewards. AGREE stands by the assertion that a greater shareholder contribution would benefit both shareholders and customers in the immediate and long term, as well as reduce utility terminations in the short and long term. AGREE hopes that the JU and PSEG-Long Island can find a way to move forward with the Phase 2 program with a far greater commitment from shareholders.

d. Public Utility Law Project

PULP welcomes this opportunity to provide comments on aspects of the *Phase 2 Arrears Report* of the Working Group addressing residential non-EAP and small-commercial customer arrears accrued through May 1, 2022 (Phase 2 Customers). PULP commends the Working Group's analysis of the arrears problem facing these customers and finds much of its recommended solutions sensible and in the public interest. Specifically, PULP agrees with the Working Group's assessment of the magnitude of the problem, the "cost of inaction", and the proposed use of "up-to-credits" to maximize the number of customers who would experience a complete elimination of their arrears balances. PULP also believes that the Working Group makes the case for immediate relief for Phase 2 Customers by providing evidence that a preponderance of such customers have had indicators of financial need in their utility account histories. The cost of Phase 2 relief is high, though less than the cost of inaction, which PULP agrees would cause unacceptable hardship for hundreds of thousands of households in need. The cost of proposed relief would place additional burdens on low-income households — both those who are, and those who are not, EAP enrolled, but many of these same households would also be Phase 2 beneficiaries. With that said, PULP must also identify two of its priorities for which agreement with the Working Group has not been reached. These are the need to:

- Ensure that low-income ratepayers pay for relief only for Phase 2 Customers

having indicators of financial need, and;

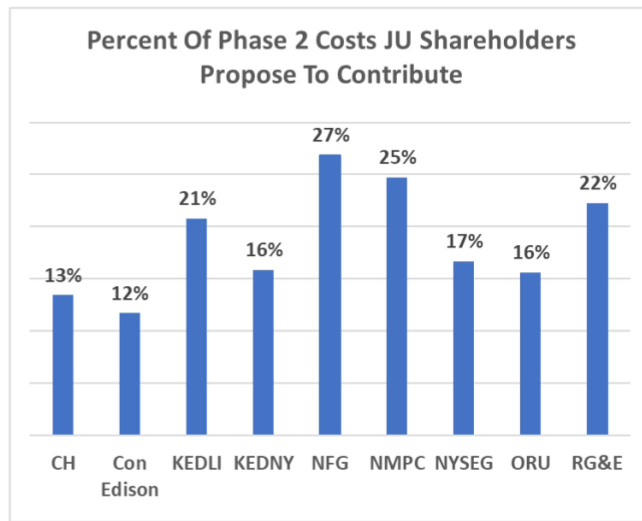
- Achieve an equitable sharing of Phase 2 costs between ratepayers and shareholders.

Based on U.S. Census Bureau data, New York's low-income households already suffer an average energy burden of 10% of household income, 67% higher than the Commission's 6% policy target. Ensuring that low-income households pay based on evidence of need is therefore a core priority for PULP. As stated, the JU make the case for immediate relief for Phase 2 Customers, however, they have only captured evidence of need (beyond just the issuance of FTNs) for 81% of these households — a healthy majority, but in PULP's opinion, not sufficient to ensure that low-income ratepayers only pay for relief for customers with indicators of financial need. As such, PULP presented a proposal to the Working Group on November 8 (PULP Proposal) recommending that — independent of the immediate provision of relief to all Phase 2 Customers — the JU extend the period of their eligibility screenings to May 1, 2017 – present. The PULP Proposal also recommended that OTDA conduct a match identifying any Phase 2 Customers receiving any form of OTDA assistance over the same period (OTDA Match). To ensure that low-income ratepayers only pay for relief to customers evidencing need, while separately providing immediate relief for all affected customers, the PULP Proposal further recommended that shareholders fund contributions for customers who, upon completion of these analyses, were still not identified as having financial need. PULP believes that its proposal is responsive to the practical challenges of providing relief in Phase 2.

The JU indicated that, due to their various systems limitations, PULP's request of the utilities could not be accomplished; however, OTDA indicated that a match as described in the PULP Proposal was feasible. Recognizing JU systems limitations, PULP accepts such eligibility screens from each utility as are feasible, provided that an OTDA Match can also be performed. PULP believes an OTDA Match could yield large numbers of Phase 2 Customers with indicators of need who have not yet been identified by JU screens, resulting in a more complete public record of the evidence of need among such customers. To cite but one example, OTDA caseload statistics as of August 2022 show that 675,000 more households statewide received HEAP of any kind in the 11 months ended August 2022 than were enrolled in utility EAPs as of September, with 530,000 of these households residing in the Con Edison service area alone.

PULP is also a signatory to the November 8, AARP, AGREE, CLP, LIPC and PULP

(Consumer Advocates) proposal that shareholders contribute at least 50% of the cost of furnishing Phase 2 arrears reduction credits plus carrying charges. The Consumer Advocates justify their proposal by citing the lack of state or federal support for Phase 2; the stubbornly high number of customers in arrears, despite the provision of Phase 1 relief; and the JU's own recommendation that relief be extended to all residential and small-commercial customers. The Consumer Advocates argue that it would be unfair to replicate the low levels of Phase 1 shareholder contributions in Phase 2 (as proposed they range from 12 to 27% of the cost of relief), especially since the JU have been able to increase dividends to almost $1.6 billion during the Pandemic, while ratepayers are now being asked to incur 3 to 4 times the cost they bore in Phase 1.



PULP acknowledges that the JU is concerned that the PULP and Consumer Advocate recommendations could negatively impact JU's costs of capital, and is aware of Moody's November 11, 2022 adoption of a negative outlook for U.S. utilities. However, PULP is not convinced that any incremental costs of capital to ratepayers that would result from its proposal for Phase 2 shareholder contributions would outweigh the savings ratepayers would realize through lower Phase 2 surcharges — especially after considering the favorable response with which the replacement of large JU uncollectible receivables balances with a "socialized" deferral/surcharge mechanism is likely to be greeted. That being said, PULP has expressed flexibility as regards shareholder contribution levels, and is also encouraged that contributions as currently proposed cover a substantial portion of what PULP estimates would be the cost to provide relief to Phase 2 Customers whose JU account histories do not currently include

persuasive indicators of need.

In conclusion, PULP appreciates this opportunity to comment on the Working Group's proposed plan to provide relief to Phase 2 Customers. PULP believes that much has been accomplished by the Working Group to assess the acute affordability crisis faced by these customers, weigh the cost of cost-of-inaction, devise a sensible method for providing relief, and provide a preponderance of evidence that Phase 2 Customers are in need of immediate assistance. PULP and the Working Group diverge on two important issues associated with providing Phase 2 relief, which PULP believes could be resolved by the adoption of aspects of the PULP Proposal, as updated by these comments. PULP acknowledges that time is of the essence to provide Phase 2 relief, and believes that the cost recovery aspects of its proposal are not as affected by these time constraints.

e. UIU

While the Phase 1 Electric and Gas Bill Relief Program provided much needed relief to such a vulnerable population, UIU in its' Statement of Support of the Phase 1 program expressed its concern for the other customers namely residential customers not enrolled in their utilities' affordability discount programs and small-commercial customers who also experienced economic hardship during the pandemic but did not receive the same arrears relief and at the same time were asked to help pay for some of the Phase 1 program costs. The Phase 2 program outlined in this report addresses many of our concerns. Therefore, UIU supports this proposal.

First, UIU commends the efforts of the Working Group led by Staff that worked diligently to arrive at the proposed relief program. The group met weekly and more recently daily to evaluate data; identified data gaps that were used to weigh unknown factors; consider alternative methods and level of forgiveness; and compare the possible impacts both to the customers in arrears and the broader customer base of inaction. UIU supports the proposed Phase 2 program based on the overwhelming need and that the cost of inaction likely exceeds the program costs.

As of September 2022, the cumulative arrears among the electric and gas utilities are approximately $1.9 billion compared to an average of approximately $800 million during 2018 and 2019. Various levels of arrears forgiveness were considered by the Working Group including a cost of no action. As the Phase 2 Report points out, without action to address the remaining residential and small-commercial customer arrears, many customers will be left with

unmanageable balances that accrued during the pandemic and be at risk for termination. Furthermore, customers rates could possibly increase as utilities incur additional costs associated with managing the incremental arrears. Rather than put these customers at risk of termination with no action the Working Group stakeholders considered different solutions including each customer receiving relief up to 50% of their eligible arrears and another was limiting the max bill credit per account. This scenario would provide full arrears relief for arrears accrued through May 1, 2022, up to a "cap." Different levels of the cap were analyzed and to what level the total percentage of a utilities' customers would see their total arrears balances forgiven. While all residential customers (with the exception of those enrolled in their utility's low-income discount programs) and all small-commercial customers would receive full arrears relief different program budget scenarios were considered based on, for example, 75% of utility's customers having their total arrears accrued through May 1, 2022, forgiven and another scenario where 95% of customers total arrears were forgiven. UIU carefully weighed all these different scenarios when considering the relief needed versus the impacts to ratepayers both in the near and long term. Ultimately, the program being recommended provides a different cap being established for each utility such that at least 75% of residential non-EAP customers and small-commercial customers receive full arrears relief.

While the total arrear balances are staggering, so too are the average customer arrears. Attachment E, page 2 illustrates the magnitude of the average arrears balances even after the relief is provided. For a customer to eliminate its debt, it could enter into a DPA for potentially many years and decades could be possible. Under the inflationary conditions now being experienced, UIU questions how likely those customers will be able to maintain a DPA. Even if customers are current on their DPAs, the utilities options to recover those DPA arrears balances include continuing to finance the arrears, petitioning the Commission for the financing cost, or increasing the arrears expense in its next rate case – all likely to be funded from ratepayers. While the Phase 2 arrears relief will not eliminate all customers' arrears, UIU expects the remaining balances and corresponding DPAs should be more manageable.

The relief provided in Phase 1 and Phase 2 is unprecedented and UIU expects this relief to be a one-time occurrence. Providing continued relief of this nature is not sustainable. An Arrears Management Program (AMP) is a structure that may encourage customers to pay current bills on time plus a portion of the arrears and if compliant with the agreement, have a portion of

past-due debt forgiven. During the Working Group Phase 1 discussions, the group explored AMPs that appeared to be effective in neighboring states. Current billing systems for New York utilities appear to limit them from implementing an AMP. From UIU's perspective post Phase 2, the Working Group should explore the eligibility criteria, enrollment structures, technology needs and the corresponding preliminary budgets, and other mechanisms to implement an AMP with the intended purpose to avoid accumulating such large arrears balances in the future.

f. Citizens for Local Power

CLP, also known as Communities for Local Power, supports the work of the Working Group (Cases 20-M-0266 & 14-M-0565) to make energy more affordable for utility customers throughout New York State, based on the understanding that:

1) in a modern economy, access to electricity is an essential good; and
2) energy costs must therefore be affordable. New York has set a goal of 6% as the highest acceptable percentage of their income that consumers should be expected to devote to energy – a goal that, so far, no New York utility has been able to meet.

In New York State, as the COVID-19 pandemic receded and winter approached, utility customers faced arrears (bills more than 60 days overdue) of more than $1.9 billion. The response of the Working Group was formulated in two phases.

1) Phase 1, funded in part by $250 million from New York State, cancelled all arrears through May 1, 2022, for residential customers in utility energy affordability programs, and left a window open to December 31, 2022, for other eligible customers to apply.
2) Phase 2, as described in this Report, will cancel all arrears through May 1, 2022, of ca. 75% of remaining residential customers. The other 25% will receive partial, "up to" relief, in amounts that differ from utility to utility and range from $4,750 (Con Edison) to $1,000 (NYSEG). Small business customers will also have their arrears cancelled through May 1, 2022.

CLP strongly supports all these measures. But let us be clear. Even accepting their frequently expressed concern for the well-being of their customers, the JU are doing this because it will save them money, and the ratepayers will continue to pay for it, because under the "regulatory compact" it is the ratepayers who always end up paying, while the utilities'

shareholders earn a guaranteed rate of return, typically around 9%.

The estimated "cost of inaction" is $1,011 million to $1,346 million: more than a billion dollars over 5 years. Without arrears relief, these costs would also fall on ratepayers, the difference being that we would be paying for misery and chaos, instead of offering urgently needed immediate relief. The only problem with this is that ratepayers will be paying for 85% of the program for up to 10 years, while only 15% will be covered by utility shareholders, who, by the way, have been doing just fine during the pandemic. A couple of examples, chosen more or less at random:

1) Fortis, Inc., which owns Central Hudson, announced a quarterly dividend of $0.565 per share (Canadian dollars), representing an approximately 6% revenue increase, payable on December 1 to the common shareholders of record, and "marking 49 consecutive years of increased dividends" (Fortis, Inc., news release of 09/28/2022 17:07 EDT).
2) Similarly, Con Edison recently reported "48 years of dividend increases" (dividend.com).

As CLP and other consumer advocates (AARP NY, AGREE, LIPC, and PULP) have argued, "In every case for which we have information, shareholder dividends have actually increased between 2019 and 2021. Not only is this discrepancy unjust – it also risks being politically untenable in ways that will create negative perceptions and resistance from ratepayers, affected communities, and their political representatives."

In the Working Group discussion, the JU expressed concerns that increased shareholder contributions would be negatively viewed by Wall Street analysts and their ratings could suffer. Moody's November downgrade of utilities shows that these worries are not unfounded. We also understand that, when it comes to the cost of inaction, estimates are hard to pin down. Finally, we recognize that the utilities have agreed, either in prior rate cases or in the context of Phase 2, to defer any positive budgetary impact (and potentially higher dividends) that result from this program.

Still, there is a fundamental unfairness here that sheds an unfortunate and harsh light on the structure of regulated, investor-owned utilities and that illuminates the inequity at the heart of our economic and financial system. It must also be noted that even after Phase 2 arrears cancellation, residential and small business customers will still owe an estimated $1.128 billion,

which is $343 million more than they owed prior to the pandemic. There is, finally, a limit to the amount of money that can be extracted from a population that has no guaranteed sources of income or wealth, much less profit, and that increasingly includes large numbers of people who are immiserated through no fault of their own.

CLP hopes the members of the Commission will take our concerns into account and will recognize that this essential and most welcome arrears relief program can be made more fair and reasonable, and certainly more just, by requiring a larger portion of the end costs to be borne by investor-owned utilities' shareholders. As proposed by the consumer advocates' group, CLP thinks 50% would be a fair and reasonable share.

g. Long Island Progressive Coalition

LIPC is a grassroots organization founded in 1979. LIPC fights for structural change at the local, state, and national levels to attain racial justice, build community wealth, and realize a just transition to a 100% renewable energy future.

LIPC is thankful to the Department of Public Service for establishing and hosting this Working Group as well as for allowing our participation. LIPC is also grateful for the participation of the advocates and LIPC appreciates the commitment of the stakeholders to establish a plan for Phase 2 for utility relief.

LIPC is in general support of Phase 2 Arrears Report of the Working Group. LIPC believes that the broad recommendations will be beneficial to ratepayers statewide and will be a model for PSEG-Long Island and LIPA to follow for Long Island and Rockaway ratepayers. However, LIPC does have major concerns that this working group did not make special considerations to ensure that PSEG-Long Island and LIPA were on board with the process and conducting a similar process for the advocates on Long Island and the Rockaways. This process seems to lack any way for advocates to hold PSEG-Long Island and LIPA to the same standard as the rest of the state. LIPC believes this puts Long Island and Rockaways ratepayers at a disadvantage and without protections that a statewide working group offers.

Although LIPC supports this report we are concerned about the cost of the program for ratepayers. This Phase 2 Arrears program will keep ratepayers on the hook to pay far into the future, which is already regressive and compounds the burdens of people who are already forced to struggle to keep their utilities on or are forced to struggle to get their utilities turned on. LIPC does not believe that the stakeholders paid enough attention to the human cost and concerns and

paid far too much attention to their monetary costs and bottom line. Having to choose to heat your home, put food on your table, pay your rent, pay for your medications and/or put gas in your car are real life everyday struggles for ratepayers. We must not assume that ratepayers do not want to pay their bills or choose not to pay their bills to do extravagant things and that ratepayers who are not able to pay their utility bill must face consequences. It is that mindset that only continues to compound and exacerbate the systemic issues of this society.

LIPC believes that the data showed that the shareholders were not only protected during the COVID-19 Moratorium Law on utility shutoffs, but they also benefited monetarily. LIPC believes that this Phase 2 Arrears program also protects and benefits shareholders monetarily. This is not the case for ratepayers. Ratepayers may have been protected from shut offs during the COVID-19 Moratorium, but ratepayers did not benefit monetarily. Ratepayers will shoulder the bulk of the cost of this Phase 2 Arrears program, which only adds a burden to the ratepayers who are already overburdened.

h. AARP

AARP appreciates the opportunity to provide comments on aspects of the Phase 2 program addressing residential non-EAP customer arrears. AARP commends the Working Group and the thoughtful analysis to address our state's utility arrears crisis. AARP believes that many aspects of this program are major steps forward to helping New Yorkers maintain essential utility service.

The pandemic negatively affected the financial health of millions of residents and small businesses. Arrears relief is important to our organization because a large majority of our 2.3 million members in New York would be directly affected by approval of the Report's recommendations as beneficiaries of the relief, as the primary funding source for the program, or both.

AARP agrees with all members of the working group that mass terminations must not occur. New York simply cannot let hundreds of thousands of families lose utility service in a compressed time interval. For that reason, we supported Phase 1, which covered utility customers who were enrolled in EAP low-income discount programs. Importantly, the federal government and the state covered a large proportion of the cost of Phase 1. Utilities also contributed a small amount.

Ratepayer funding added approximately 0.50% to customers' bills. The threat of

termination, moreover, has likely caused additional stress on top of the daily background stress of legacy poverty, exacerbated by the pandemic, among many seniors and others on fixed incomes and residents of disadvantaged communities in both rural and urban areas.

Utility bills are increasing dramatically as aging infrastructure requires maintenance and replacement and the cost of fossil fuels increases. The state, moreover, has not provided adequate taxpayer funding to implement the CLCPA and, instead, seemingly intends to rely on the regressive structure of utility bills to fund the legislation's important policy goals.

Phase 2, as proposed, would add another 0.43% to utility bills for as long as ten years. To date, the state has not offered any funding for Phase 2 as it did in Phase 1. The utilities have offered to use shareholder funds to cover finance charges ($101 million) but no dollars to apply to the approximately $672 million of arrears. According to the data provided in the workgroups, the cost of a Phase 2 program will result in lower costs to ratepayers than taking no direct action. However, all customers will bear the costs of paying for this and this does concern AARP.

AARP argued for substantial shareholder contributions in working group meetings, evenly splitting the cost of Phase 2 between ratepayers and shareholders. We believe an approach wherein shareholders, ratepayers, and the state all offer contributions could offer less of a bill impact on ratepayers. With state funding in the amount of one-third of the total cost of the program (principal plus finance charges), a one-third contribution by shareholders is appropriate.

As stated earlier, AARP appreciates the opportunity to provide comments on Phase 2. AARP believes that many aspects of this program provide major progress for helping New Yorkers maintain essential utility service.

i. <u>Long Island Power Authority</u>

LIPA and its contractor, PSEG-Long Island, have participated in the Working Group's discussions and considerations of a Phase 2 arrears relief program. LIPA is a not-for-profit public power utility governed by a Board of Trustees appointed by the Governor and Legislature. Though LIPA is not subject to the jurisdiction of the Commission, LIPA staff is supportive of the outcome summarized in this report and intends to propose a Phase 2 arrears relief program to LIPA's Board for its consideration in the first quarter of 2023. LIPA's Phase 2 proposal will follow the same general parameters as the Phase 2 programs proposed by the JU and will target elimination of all COVID period arrears for at least 75% of residential non-EAP and small-

commercial customers.

LIPA's structure as a not-for-profit public power utility allows it to provide service to customers at a lower cost. Because LIPA does not have shareholders, our Phase 2 proposal will not be supplemented by shareholder contributions. However, we expect to provide comparable relief to Phase 2 eligible customers while minimizing the impact on non-participating customers by utilizing our existing bad debt reserve and recovering additional costs over time.

LIPA staff applauds Staff for conducting these Working Group proceedings in an inclusive and transparent manner and achieving a collaborative resolution for New York utility customers burdened by COVID-related arrears. Stakeholders representing the interests of electric customers on Long Island and the Rockaways have participated in these proceedings and provided valuable contributions to the Working Group. Interested stakeholders will have additional opportunities to submit comments on LIPA's Phase 2 proposal in writing and to speak directly to LIPA's Board when it considers the proposal. For more information on LIPA's standards of transparency and stakeholder participation, please refer to the LIPA Board's Policy on Values of Responsiveness and Integrity.[47]

X. Conclusion

Similar to the Working Group's Phase 1 Arrears Report, this report presents the various positions and proposals by Staff, the JU, and various stakeholders on strategies to reduce the financial impact to residential non-EAP and small-commercial customers of arrears accrued during the pandemic. Given the length of time of the COVID-19 pandemic and its continued uncertainty, the Working Group strongly recommends implementation of the Phase 2 program, which would help customers move past COVID and their COVID-period arrears, be less expensive than the cost of inaction, and proactively manage bill impacts to customers. The Phase 2 program for residential non-EAP and small-commercial customers would provide crucial bill relief to struggling customers, and if approved by the Commission at an upcoming Commission session could be implemented during the peak of the winter heating season.

In addition, the Commission required, in its Energy Affordability Policy Modification Order, that the Working Group file status reports and recommendations for Commission

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[47] Available at https://www.lipower.org/wp-content/uploads/2022/10/Board-Policies-9-2022.pdf.

consideration twice per year, on June 30th and December 31st. Over the last six months, the Working Group actively worked to develop recommendations to reduce arrears held by residential customers not addressed in the Phase 1 program, and small commercial customers for Commission consideration. This report sums up the Work Group activities and satisfies is the reporting requirement.