

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**Petition of Multiple Intervenors Seeking Immediate, Material Rate Relief for Electric and Gas Customers, Including a Pause in Surcharges and Collections for Projects and Programs Delayed as a Result of the COVID-19 Pandemic** Case 20-M-\_\_\_\_\_

**In the Matter of a Comprehensive Energy Efficiency Initiative** Case 18-M-0084

**Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard** Case 15-E-0302

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**PETITION OF MULTIPLE INTERVENORS SEEKING IMMEDIATE,  
MATERIAL RATE RELIEF FOR ELECTRIC AND GAS CUSTOMERS,  
INCLUDING A PAUSE IN SURCHARGES AND COLLECTIONS  
FOR PROGRAMS AND PROJECTS DELAYED  
AS A RESULT OF THE COVID-19 PANDEMIC**

**PRELIMINARY STATEMENT**

Multiple Intervenors, an unincorporated association of approximately 60 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby petitions the New York State Public Service Commission (“Commission”) for immediate, material rate relief for electric and gas customers. The need for such rate relief is compelling, and related directly to the economic devastation resulting from the COVID-19 pandemic and efforts being undertaken to respond thereto. As addressed further below, while there may be numerous potential sources of customer rate relief, the relief provided should be expeditious, significant, and include all customer classes. To that end, Multiple Intervenors recommends that, at a minimum, surcharges and collections devoted

towards funding programs and projects likely to be delayed as a result of the pandemic temporarily should be paused, or reduced significantly, to provide customers with much-needed relief during these very difficult circumstances. Additionally, prior collections from customers for such programs and projects that remain uncommitted should be returned expeditiously to customers. Multiple Intervenors also requests that the Commission rule on this Petition expeditiously.

On March 7, 2020, Governor Cuomo, responding to the COVID-19 pandemic, issued Executive Order 202, declaring a state of emergency for New York through September 7, 2020.<sup>1</sup> Shortly thereafter, on March 20, 2020, Governor Cuomo issued Executive Order 202.8, which required, with limited exceptions, that all businesses in the State reduce in-person workforce at all work locations by 100 percent.<sup>2</sup> Essentially, Governor Cuomo’s Executive Orders required all businesses deemed non-essential to close effective March 22, 2020, and placed the State on “pause” in order to slow the spread of COVID-19.<sup>3</sup>

Given these circumstances, the consequences to state and local economies have been nothing short of devastating. In New York, which seemingly has borne the impacts of the COVID-19 pandemic to a greater extent than all or most other states, business largely has crawled to a standstill in most sectors. Factories have been idled, retail establishments have closed, and new capital investments have stopped. The stock market has plummeted, and unemployment has

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<sup>1</sup> Exec. Order No. 202, *Declaring a Disaster Emergency in the State of New York* (Mar. 7, 2020).

<sup>2</sup> Exec. Order No. 202.8, *Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency* (Mar. 20, 2020). The exceptions are limited to businesses, and entities providing services, that are deemed essential.

<sup>3</sup> See Press Release, *Governor Cuomo Signs the ‘New York State on PAUSE’ Executive Order* (Mar. 20, 2020), available at <https://www.governor.ny.gov/news/governor-cuomo-signs-new-york-state-pause-executive-order#top>.

risen substantially. Because most people are staying at home with all non-essential travel discouraged, if not prohibited, demand for most goods and services has dried-up considerably. Progress on non-essential (as deemed by the State) programs and projects has slowed significantly or grinded to a halt, as have most discretionary expenditures.

The COVID-19 pandemic already has stricken well over 100,000 New Yorkers, and it undoubtedly has impacted every business and person in the State. In addition to widespread illness and death, COVID-19 has caused economic devastation the likes of which New York has not experienced in many decades, perhaps since the Great Depression. Moreover, the dire economic consequences from the pandemic are likely to continue for some time, undoubtedly through calendar year 2020. Accordingly, the need for rate relief from energy costs for customers – residential, small non-residential, and large commercial and industrial – is immediate and significant, and worthy of the Commission’s urgent attention.

### **REQUESTED RELIEF**

Against this backdrop, Multiple Intervenors urges the Commission to provide immediate, material rate relief to customers. As a result of the COVID-19 pandemic, all New York residents and businesses are experiencing severe – and in many ways, unprecedented – economic hardship. For most businesses, large and small, activity has stopped, or at best slowed to a crawl, and many are struggling to survive.

In 2009, during an economic downturn, the Commission sought to provide rate relief to customers in the form of austerity measures.<sup>4</sup> Specifically, the Commission targeted

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<sup>4</sup> See Case 09-M-0435, *Proceeding on Motion of the Commission Regarding the Development of Utility Austerity Programs*, Notice Requiring the Filing of Utility Austerity Plans (issued May 15, 2009).

“austerity measures aimed at eliminating or deferring spending whenever such actions can be taken without compromising the provision of safe and reliable service.”<sup>5</sup> Upon information and belief, the economic devastation being caused by the COVID-19 pandemic and efforts to respond thereto are having much more severe economic consequences for customers of all types than the downturn that occurred roughly one decade ago. Thus, the need for Commission intervention on behalf of customers in the form of immediate, material rate relief is particularly pronounced.

One logical source of immediate, expansive rate relief during this extremely difficult period would be to temporarily pause, or reduce significantly, the collection of monies devoted towards funding programs and projects likely to be delayed as a result of the pandemic. For instance, due to the pandemic, work has stopped, or slowed substantially, on the implementation of energy efficiency programs administered by the State’s electric utilities and the New York State Energy Research and Development Authority (“NYSERDA”). Similarly, work has stopped, or slowed substantially, on utility heat pump programs. During an information session on energy efficiency and heat pump programs, Department of Public Service Staff (“Staff”) reported that: “All program administrators have suspended on-premises work conducted by direct employees or those under direct contract to the program administrator.”<sup>6</sup> Quite simply, energy efficiency and heat pump project installations are difficult if not impossible to undertake during this pandemic, with social distancing being required to slow its spread. Furthermore, due

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<sup>5</sup> *Id.* at 1.

<sup>6</sup> See Case 18-M-0084, *In the Matter of a Comprehensive Energy Efficiency Initiative*, Staff Presentation, *Energy Efficiency & Heat Pump Providers: COVID-19 Input Session* (Mar. 27, 2020) at Slide 7.

to the economic devastation occurring throughout New York, businesses and residents will have less discretionary funds to devote to such projects for at least some time into the future.

Work also largely has stopped, or slowed substantially, on new power generation and energy storage projects as result of COVID-19. For instance, in a recent order modifying interconnection requirements, the Commission noted that all non-essential businesses in New York are required to work from home, and that “new power generation and energy storage constitutes a non-essential service.”<sup>7</sup> Consequently, for some period of time, physical work on power generation and energy storage projects is not likely to progress, and the development of new projects almost certainly will be delayed as compared to recent trends due to the widespread economic turmoil being experienced. In addition to ones mentioned, there also may be other programs and projects where activity has stopped or slowed substantially due to the pandemic.<sup>8</sup>

Currently, customers fund, *inter alia*, the following programs and projects via electric and gas delivery rates and surcharges: (a) energy efficiency; (b) heat pumps; (c) large-scale renewable energy projects; (d) behind-the-meter renewable energy projects; (e) energy storage projects; and (f) electric vehicle charging stations and related infrastructure. Work on all of those programs and projects largely has come to a halt, or at least has slowed considerably, and

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<sup>7</sup> Case 20-E-0155, *In the Matter of Interconnection Deadline Modifications*, Order Suspending Certain Interconnection Payment Deadlines (issued April 6, 2020) at 4.

<sup>8</sup> The Commission and other State agencies have demonstrated significant care and attention to the clean energy industry during this time. On April 1, 2020, New York’s energy and environmental agencies issued a letter to “Members of the Clean Energy Industry” expressing their “support and compassion during these challenging times” and advising of the imminent launching of input sessions and other measures across a wide array of clean energy sectors. By this Petition, Multiple Intervenors seeks similar support for customers of all types. Customers have been funding the State’s clean energy programs for many years, and undoubtedly will continue to do so for many more years, but now urgently need a pause in such funding obligations and immediate, material rate relief.

the resumption of “normal” activities is expected to be some time away. Meanwhile, however, customers continue to fund these programs and projects, in full, notwithstanding expenditures thereon clearly will decline significantly, at least for some limited period of time while the State responds to the COVID-19 pandemic. Inasmuch as these customer funds are not able to be utilized at this time for their intended purposes, Multiple Intervenors urges the Commission to redirect such funds back to customers, thereby effectuating immediate, material rate relief without impacting safe and reliable electric and gas service.

In order to implement this approach, Multiple Intervenors recommends the following:

1. To the extent the State’s electric and gas utilities and/or NYSERDA currently are in possession of previously-collected and uncommitted customer funds for the above-mentioned programs and projects, such funds should be returned forthwith to customers in the form of bill credits.
2. Scheduled collections for the above-mentioned and similarly-situated programs and projects embedded in utility delivery rates temporarily should be paused, or reduced significantly, by implementing customer bill credits, thereby avoiding the need to alter existing delivery rates during what hopefully will be a limited period of time.
3. Similarly, scheduled collections for such programs and projects that are implemented through customer surcharges temporarily should be paused, or reduced significantly.
4. To the extent costs continue to be incurred for some or all of the above-mentioned programs and projects – at what Multiple Intervenors would suspect

would be very sharply-reduced levels – collections would be allowed to continue up to the level of the costs being incurred.

5. Fairness dictates the above-recommended customer bill credits must be implemented utilizing the same methodology or methodologies employed by utilities to collect the funds in question from customers in the first place. Thus, Multiple Intervenors' recommendations are not intended to shift collections or costs from one customer segment or class to another. All types of customers are suffering due to the severe economic downturn, and certain customer types should not be favored at the expense of others.
6. When the effects of the COVID-19 pandemic have lessened such that activity in the above-mentioned programs and projects resumes in earnest, the paused customer collections presumably could be reinstated, and the credits would cease. While Multiple Intervenors does have concerns, advanced previously, regarding the cost of many of these programs and projects and their growing impact on the energy bills of all New York consumers, the sole intent of this Petition is to provide immediate, material rate relief to customers by ceasing, or reducing substantially, collections that, due to the pandemic, cannot be utilized for their intended purpose at this time and for some period into the future.

The benefits of Multiple Intervenors' recommended approach are numerous. First, upon information and belief, the amounts that were – and continue to be – collected from customers to fund the above-referenced programs and projects are substantial, and, therefore, pausing those collections temporarily and returning any uncommitted funds to customers can provide immediate, material rate relief at a time when such relief is needed badly.

Second, because activity in the programs and projects in question has stopped, or slowed to a crawl, customer collections toward same can be repurposed, temporarily, without impacting activities in progress (or future activities). As mentioned above, to the extent certain activities are continuing during the pandemic necessitating a need for limited funding, collections up to such need could continue, while still benefitting customers by pausing collections that are not needed in the near-term.

Third, this approach should have limited, if any, impact on utility earnings or operations. Multiple Intervenors is sensitive to the fact that some utilities are operating under Commission-approved rate plans, while other utilities are attempting to address the impacts of the pandemic in good faith settlement negotiations on future rate plans. It is not Multiple Intervenors' intent to interfere with those rate plans or settlement negotiations unnecessarily. That noted, the Commission does possess broad authority to address existing rate levels, and the need for customer relief in the near-term is overwhelming.

Fourth, Multiple Intervenors' recommended approach is consistent with that adopted previously by the Commission in Case 09-M-0435, the 2009 austerity proceeding, wherein the Commission focused on "eliminating or deferring spending whenever such actions can be taken without compromising the provision of safe and reliable service."<sup>9</sup> Inasmuch as the Commission would be redirecting back to customers prior and current collections for programs and projects that currently are entirely or largely idled, the requested relief would not impact the continued provision of safe and reliable electric and gas service.

Finally, the specific approach recommended herein is intended to be temporary in nature, and not interfere with the above-referenced (and similarly-situated) programs and projects

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<sup>9</sup> Case 09-M-0435, *supra*, Notice Requiring the Filing of Utility Austerity Plans at 1.

when circumstances allow previously-contemplated activities therein to resume in earnest. Rather, Multiple Intervenors' recommended approach simply recognizes that in this time of overwhelming economic turmoil, when the need for immediate customer rate relief is exigent, if activity in certain programs and projects is paused due to the pandemic and the response thereto, then customer collections funding such programs and projects similarly should be paused, and previously-collected but uncommitted funds returned to customers.

While Multiple Intervenors favors its recommended approach, it is open to additional and/or different sources of funds that can be utilized for the same purpose; to wit: providing electric and gas customers of all types with immediate, material rate relief in light of the economic devastation brought about by the COVID-19 pandemic and the necessary, government-led responses thereto.

**CONCLUSION**

For all the foregoing reasons, Multiple Intervenors urges the Commission to take action expeditiously, consistent with this petition, to provide immediate, material rate relief to electric and gas customers of all types. Such relief is needed urgently as a result of the COVID-19 pandemic and associated response, and, as set forth herein, can be accomplished without jeopardizing the provision of safe and reliable service by utilities or the success of the State's various, customer-funded programs and projects.

Dated: Albany, New York  
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Respectfully submitted,

MULTIPLE INTERVENORS

*Michael B. Mager*

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Michael B. Mager, Esq.  
Counsel for Multiple Intervenors  
540 Broadway, P.O. Box 22222  
Albany, New York 12201-2222