STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Brooklyn Union Gas Company dba National Grid NY for Gas Service.	**CASE 19-G-0309**
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of KeySpan Gas East Corp. dba Brooklyn Union Gas L.I. for Gas Service.	**CASE 19-G-0310**

CORRECTED TESTIMONY OF WILLIAM D. YATES, CPA

FOR

PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.

Dated: February 10, 2020

Contents

Introduction and Overview

Q. Please state your name, business address, and identify for whom you are presenting testimony in these proceedings.

A. My name is William D. Yates, my office address is at Public Utility Law Project of New York, Inc., 90 South Swan Street - Suite 305, Albany, NY 12210. I am presenting testimony in these proceedings for the Public Utility Law Project of New York, Inc. ("PULP").

Q. Please describe PULP and your relationship to the organization.

A. PULP is a New York not-for-profit corporation that was formed in 1981. Its primary focus is to promote and defend the legal rights of residential utility consumers by educating the public, regulators and elected officials about the impacts of utility rates, conducting research on the rights and energy burden of utility consumers, and advocacy with an emphasis on the rights and needs of low-income utility consumers. I have been employed by PULP in various capacities since July of 1990. I am currently Director of Research for PULP.

Q. What is your educational background, your professional qualifications, and employment history?

A. I am a graduate of Colgate University (B.A. in History, 1982) and a graduate of the New York University Stern School of Business Administration (M.S. in Accounting, 1987). I am a Certified Public Accountant (CPA), licensed to practice in New York State since 1987, and I am a member of the American Institute of Certified Public Accountants (AICPA).

Q. Have you previously testified before the New York State Public Service Commission?

A. Yes, I have provided testimony before the Public Service Commission ("PSC" or "Commission") on behalf of PULP in a number of prior proceedings, including the following cases in 2012, 2013, and from 2016 through the present:

Cases 12-E-0201 and 12-G-0202 (Niagara Mohawk, a/k/a Nat'l Grid-Upstate);

Cases 13-E-0030 and 13-G-0031 (Con Edison);

Cases 16-E-0058 and 16-G-0059 (Nat'l Grid-NY; and Nat'l Grid-LI);

Cases 16- E-0060 and 16-G-0061 (Con Edison);

Case 16-G-0257 (Nat'l Fuel Gas);

Cases 15-M-0127, 12-M-0476 and 98-M-1343 (ESCO Evidentiary Proceeding);

Cases 17-E-0238 and 17-G-0239 (Niagara Mohawk);

Cases 17-E-0459 and 17-G-0460 (Central Hudson);

Cases 18-E-0067 and 18-G-0068 (Orange & Rockland);

Cases 19-E-0065 and 19-G-0066 (Con Edison); and

Cases 19-G-0309 and 19-G-0310 (KEDNY / KEDLI).

In Cases 12-E-0201 and 12-E-0202, I testified regarding the experience of utility customers of Niagara Mohawk who entered into contracts for "commodity" (or "supply") with energy service companies ("ESCOs"). The testimony I provided in that case was the first time that evidence of ESCOs systematically charging more than the utility was put forward in a PSC rate case.

In Cases 13-E-0030 and 13-G-0031, I testified regarding the Joint Proposal's low-income assistance changes, and data reflected in Collection Activity Reports filed monthly by Con Edison, concerning its residential customers with arrears who were at risk of actual or threatened interruption of utility service.

In Cases 15-M-0127, 12-M-0476 and 98-M-1343, I submitted direct and rebuttal testimony on ESCO excess electric and gas charges.

In Cases 16-G-0058 and 16-G-0059, I testified regarding affordability issues, matters relating to the Home Energy Fair Practices Act (hereinafter, "HEFPA"), and rate design in the KEDNY and KEDLI service areas of National Grid. I also provided testimony concerning the cost of SIRs and superfund site cleanup.

In Cases 16-E-0060 and 16-G-0061, I testified regarding affordability issues, HEFPA related matters and rate design in the Con Edison service area.

In Case 16-G-0257, I testified concerning affordability issues, rate design and low-income program funding in the National Fuel Gas service area.

In Cases 17-E-0238 and 17-G-0239, I testified concerning affordability issues, HEFPA related matters, collection practices, AMI, certain issues concerning medical conditions and low-income program funding in the Niagara Mohawk service area.

In Cases 17-E-0459 and 17-G-0460, I testified concerning affordability issues, rate design, HEFPA related matters, collection practices, electric vehicles subsidies, employee stock purchase plan matters, and reliability challenges in the Central Hudson service area.

In Cases 18-E-0067 and 18-G-0068, I testified concerning affordability issues, rate design, HEFPA related matters, collection practices, and identification procedures in the Orange & Rockland Utilities service area.

In Cases 19-E-0065 and 19-G-0066, I testified concerning affordability issues, rate design, HEFPA related matters, collection practices, and customer complaints in the Con Edison service area.

Q. What is the purpose of your testimony in these proceedings?

A. My testimony provides evidence of and examines and offers recommendations in several areas:

1. Evidence that, based on U.S. Census Bureau data, approximately two-thirds of low income households in the Companies' service areas spent at least 50% of their income on housing costs, including utilities, (a severe "Housing Cost Burden") by 2017; while the percent of moderate income households in the KEDNY/KEDLI service area suffering a severe Housing Cost Burden rose in all counties/boroughs of the combined service areas from 2014 - 2017. I estimate that approximately 305,000 low income households and 71,000 moderate income households with severe Housing Cost Burdens (a total of 376,000 households) are residential

KEDNY/KEDLI customers, which was based on the methodology I used and describe in the body of my testimony.

2. Evidence that 14% of KEDNY residential customers and 9% of KEDLI residential customers are more than 60 days late paying their bills and are falling further and further behind. Both the total dollars owed, and the amount owed per KEDNY customer have been in a strong uptrend since 2017. In the twelve months ending June 30, 2019 alone, the arrears of all KEDNY residential customers rose 15%.

3. Evidence that KEDNY and KEDLI's' proposed rate increases – which they state would increase gas delivery rates by 9.61% and 6.15%, respectively, do not include the bill impact of the earnings adjustment mechanisms (EAMs) proposed. Similarly, the Companies do not quantify the impact on bills of the increasing likelihood that significant additional capital investments and subsidies for alternatives to gas heating, gas efficiency programs and demand reduction programs will be needed as the Companies struggle with a hard moratorium on new gas service in both KEDNY and KEDLI's service territories.

4. Evidence that KEDNY has also failed to consider the bill impact of a Site Investigation and Remediation (SIR) Recovery Surcharge that could add 2% per year to residential customers' bills on a total bill basis for decades.

5. Evidence that while KEDNY has had significant success enrolling residential customers in its EAP who may be eligible, KEDLI has not been able to achieve comparable results. U.S. Census Bureau data strongly suggest only 20 - 30% of KEDLI potentially eligible households enrolled, compared to 70 – 90% for KEDNY.

6. Evidence that KEDNY's collection procedures do not ensure that residential customers having difficulty paying their bills are offered affordable deferred payment agreements (DPAs) meeting the statutory requirements set forth by the Home Energy Fair Practices Act (HEFPA).

7. Evidence that public assistance (PA) customers who encounter difficulties with payments and notifications by the New York City Human Resources

Administration (HRA) and the Nassau County and Suffolk County departments of social services (Nassau/Suffolk DSS) applicable to their KEDNY and KEDLI accounts would benefit from improved integration of agency and utility information systems; and better outreach and communication by the utilities.

8. Evidence that KEDNY and KEDLI residential customers seeking to code their accounts for protection as elderly, blind or disabled (EBD) and/or medical emergency (ME) households pursuant to NYCRR § 11.5 would benefit from initiatives by the Companies to automate the enrollment process reflecting these protections, and to conduct further outreach and communication to increase access to enrollment.

9. Evidence that KEDNY transfers balances to residential customer that are older than the six-year New York State statute of limitations (and PSC practice) or that are otherwise incorrectly transferred and must subsequently be reversed.

Q. Are you sponsoring any exhibits?

A. Yes. I am sponsoring (13) exhibits as follows:

- Exhibit__(WDY-01): Monthly Collections Activity Reports (hereinafter, "CARs") submitted by the Companies to the Public Service Commission (hereinafter, "PSC" or "Commission") from January 2010 through June 2019, pursuant to Case 91-M-0744.

- Exhibit__(WDY-02): The Company's responses to certain information requests (hereinafter, "I/Rs") made by PULP and other parties in these proceedings; as well as certain publicly accessible reports, the data from which I use in my testimony.

As a safeguard against posting to the DPS document and matter management system (hereinafter, "DMM") any I/R responses that may include incomplete redactions of any Personally Identifiable Information (hereinafter, "PII"), I have provided a confidential version of Exhibit ___(WDY-02) as Exhibit__(WDY-02) CONFIDENTIAL under the guidelines set forth for confidentiality in these proceedings. For I/R responses that do not contain any information that may be PII, I have provided a separate redacted version of this exhibit as Exhibit__(WDY-02) REDACTED.

- Exhibit__(WDY-03) - Corrected: A set of illustrations, tables and charts to which I refer in my testimony.
- Exhibit__(WDY-04): Documentation of HTML queries of datasets obtained from the U.S. Census Bureau's American Community Survey (hereinafter, "ACS") for 2010-2014, 2011-2015, 2012-2016, and 2013-2017 as well as summary analyses I performed on those datasets.
- Exhibit__(WDY-05) - Corrected: A set of analyses I prepared to support my findings and recommendations in this testimony.
- Exhibit__(WDY-06): A report published by United Way New York titled *Methodology Overview and Rationale for Use with 2019 ALICE Reports (2017 Data Year)*; together with updated survival and stability budgets for households in the Companies' service areas.
- Exhibit__(WDY-07): A report prepared by the New York State Department of Public Service (DPS) summarizing complaints by residential customers of KEDNY to the PSC for the period January 1 through December 31, 2016 obtained by PULP under the Freedom of Information Law (hereinafter, "FOIL").
- Exhibit__(WDY-08): A report prepared by DPS summarizing complaints by residential customers of KEDLI to the PSC for the period January 1 through December 31, 2016 obtained by PULP under FOIL.
- Exhibit__(WDY-09): Complaints by residential customers of KEDNY to the PSC for the period January 1 through September 30, 2018 obtained by PULP under FOIL. As a safeguard against posting to DMM, for any complaints that may include incomplete redactions of any PII, I have provided a confidential version of all 3,236 complaints as Exhibit__(WDY-09) CONFIDENTIAL under the guidelines set forth for confidentiality in these proceedings. For those complaints I reference in

my testimony, I have provided a separate redacted version of this exhibit as Exhibit__(WDY-09) REDACTED.

- Exhibit__(WDY-10): Complaints by residential customers of KEDLI to the PSC for the period January 1 through September 30, 2018 obtained by PULP under FOIL. As a safeguard against posting to DMM any complaints that may include incomplete redactions of any PII, for I have provided a confidential version of all 1,033 complaints as Exhibit__(WDY-10) CONFIDENTIAL under the guidelines set forth for confidentiality in these proceedings. For those complaints I reference in my testimony, I have provided a separate redacted version of this exhibit as Exhibit__(WDY-10) REDACTED.
- Exhibit__(WDY-11): A set of Google Maps directions by various modes of transportation between the center-point of the zip codes of certain residential KEDNY customers and their nearest customer service center.
- Exhibit__(WDY-12): The DPS details of fourteen residential KEDNY customers whose complaints pertain to either obtaining deferred payment agreements or establishing service at one of the Company walk-in service centers.
- Exhibit__(WDY-13): Listing of various Complaint IDs with citations to Exhibit__(WDY-09) CONFIDENTIAL, Exhibit__(WDY-09) REDACTED, Exhibit__(WDY-10) CONFIDENTIAL and Exhibit__(WDY-09) REDACTED.

Q. Please provide a brief overview of the sources you reviewed that led you to make your findings and form your recommendations.

A. As discussed in more detail in the remainder of my testimony, I reviewed information from several sources that provided evidence that most of the Companies' low income customers cannot afford their utility bills, and that the population of low income customers is much larger than the existing and future anticipated number of participants in the Companies' expanded Energy Affordability Plans (EAPs). Sources included testimony by the Companies' witnesses in these proceedings, ACS data from 2010 through 2017, monthly CARs for years 2010 through 2019 either obtained by PULP from the Company during discovery in these proceedings, through requests under FOIL, or by use of DMM; complaints by residential customers of the Companies to DPS from January 1, 2016 through September 30, 2018 obtained through FOIL; responses to I/Rs submitted by PULP and other parties; and other publicly available information. Using these sources, I analyzed indicia of unaffordability in the Companies' service area and other factors, such as:

1. The impact upon utility unaffordability that the Companies' proposals in these proceedings would have upon low-income customers who participate in the Companies' Energy Affordability Plans (EAPs), as well as the broader group of low-income households in the Companies' service territory that the U.S. Census Bureau has identified as having annual income of less than thirty-five thousand dollars ($35,000) and who spend at least fifty percent (50%) of that income on housing costs including utilities (hereinafter, households or customers suffering a severe "Housing Cost Burden");
2. The further impact that the Companies' proposals in these proceedings would have upon utility unaffordability for their low- and fixed-income residential customers;
3. The impact upon utility unaffordability that the Companies' customer service and collections procedures have upon their residential customers.

Q. What are your recommendations regarding the affordability and reliability problems faced by the Companies' low-income customers?

A. Based on the findings I discuss throughout my testimony, I recommend several actions that should be taken to reduce the affordability problems of many of the Companies' customers. In the context of this rate case:

1. The parties in these proceedings should endeavor to find the means to limit the total bill impacts of any rate increases for typical (average usage) residential customers to no more than two percent (2.0%) per rate year. Additionally, the parties should explore alternative rate designs that would lower basic service charges for residential customers and, more generally, reward conservation and energy efficiency through lower delivery bills.

2. KEDNY should agree, or be required, to use 100% of its share of any earnings-sharing mechanism adopted in these proceedings, including any "dead band" to reduce deferred Site Investigation and Remediation (SIR) costs.

3. The Companies should accelerate efforts to enroll residential customers in their energy assistance programs (EAPs).

4. The parties in these proceedings should consider expanding on the Companies' proposal to add additional employees that they deem necessary to implement the EAPs and Energy Affordability Engagement Initiatives to make the additional one-half full time equivalent (FTE) resource proposed by the Companies be one FTE, if the added one-half FTE could be dedicated to increasing KEDLI EAP participation rates, and if resources could be made available that would not create an excessive burden on ratepayers or result in additional administrative costs exceeding those contemplated by the Commission in Case 14-M-0465.

5. The Companies should accelerate efforts to provide energy efficiency assistance to high-usage residential customers who are EAP participants. Any associated earnings incentive mechanisms should set targets for incremental efficiency savings based on actual customer outcomes.

6. The Companies should accelerate the return to customers of excess unprotected accumulated deferred federal income taxes resulting from the 2017 Tax Cut and Jobs Act (TCJA) such that all net benefits are returned during the rate plans in these proceedings.

7. The Companies should improve affordability for their residential customers through better customer service, including more access to affordable deferred payment agreements (DPAs).

    a. KEDNY should abandon its requirement that residential customers must physically appear in person at customer service centers so as to provide evidence of their need for more affordable DPA terms. Instead, the Company should modify its residential payment arrangement and financial statement form (FSF) procedures to affirmatively instruct

CSRs to negotiate with residential customers DPAs that meet the statutory requirements of HEFPA. Specific modifications should include:

I. Instructing CSRs to negotiate such DPAs at the time residential customers first communicate difficulty payment on their KEDNY bills, including providing the KEDLI Residential Payment Terms Rights Disclosure Statement set to be implemented by KEDLI by the end of 2019 (Exhibit __(WDY-02) at 665) REDACTED;

II. Instructing CSRs to negotiate DPAs in a manner tailored to the individual financial circumstances of customers, in accordance with HEFPA;

III. Removing any restrictions currently imposed by the Company upon CSRs to solicit and obtain FSFs from residential customers as a means of objectively determining their individual financial circumstances and thereby serving as the basis for DPA terms;

IV. Evidencing the agreement of terms between the Company and its customers entering into DPAs with the signature of both parties. To the greatest extent possible, this should be accomplished using the Company's proposed E-DPA capabilities. When not possible, the Company should require customers to return signed copies of their agreements to evidence the agreement of the parties; and

V. Reporting on DMM the monthly number of:
   a) Completed FSFs;
   b) Completed E-DPAs, and;
   c) Signed hardcopy DPAs completed, including the separate reporting of Minimum DPAs, other more lenient DPAs, and Standard DPAs completed.

8. The Companies should provide access to six years of detailed billing data through the Companies' e-Billing portal. This data should be made available to residential customers as soon as they enroll in e-Billing, thus reducing the confusion and disputes that might otherwise lead to customers' filing complaints with DPS. In the case of public assistance (PA) customers who have "abeyance" amounts associated with their bills that are more than six years old or the UGC/DVC period has lasted more than six years, billing history extending back to three months prior to the earlier of: the removal of arrears constituting abeyance amounts from customer bills; or the beginning of UGC/DVC periods should be provided.

9. The Companies should pursue, as part of updating and improving their IT systems, and in partnership with New York City HRA and Nassau/Suffolk DSS, the development of an application that tracks the public assistance status of PA customers and reports such status to PA customers in "real-time" through their e-Billing portals (in the case of electronic billing customers) and through the mail anytime there is an update/change for non-electronic billing customers. An application of this sort would be beneficial to both the Companies and to customers, who each could monitor § 131-s, UGC/DVC and HEAP status in a manner that would allow much more timely action to prevent situations that could lead to unnecessary complaints and collections actions.

10. The Companies should provide to PA customers complete, detailed reconciliations of all transactions between HRA/DSS and KEDNY/KEDLI pertaining to their One-Shot grants, UGC/DVC assistance and HEAP grants, identifying any reconciling transactions that require follow up by the customer and/or the Company so as to ensure the accuracy of amounts owed by the customer.

11. The Companies should conduct telephone outreach to UGC/DVC customers with abeyance amounts at least annually to review their assistance status, including their abeyance amounts. This outreach should also include a reminder that once UGC/DVC status ends, customers are responsible for their own bills and the resolution of their abeyances. Summaries of discussions between CSRs and customers on these calls should be transmitted to each customer, who should be

requested to return an acknowledgement of their agreement about the CSR summary, indicating any differences in their understandings of such phone conversations.

12. The Companies should grant automatic thirty-day extensions for customers whose UGC/DVC status ends, during which time these customers should be provided the opportunity to complete an FSF and to negotiate a DPA with the Company that meets the statutory requirements set forth under HEFPA. During the extension period, all collections actions against these customers should be suspended.

13. The Companies should include regular messages on bills that reference communications between the Companies and customers regarding any pending HRA/DSS status changes, together with references to e-Billing portal resources described above helping to explain such transactions.

14. The Companies should provide an extension period of ninety days to those customers shown to have reconciling transactions between the Companies and HRA/DSS — such as UGC/DVC payments that HRA/DSS was supposed to make to the Companies but did not, or payments made by HRA/DSS that were later rescinded — during which all collections actions would be suspended while the affected customers attempt to resolve the reconciling transactions, complete an FSF and negotiate a HEFPA DPA.

15. Extensions should be commenced as of the date any bill including added amounts related to HRA/DSS is mailed. During extension periods, affected customers should be given the opportunity to engage with specially designated Company personnel to dispute transfers customers contend are erroneous and to seek resolution of such disputes. During the extension period, these customers should also be provided the opportunity to complete an FSF and to negotiate a DPA with the Company that meets the statutory requirements set forth under HEFPA; and all collections actions against related to disputed amounts should be suspended.

16. The Companies should develop secure web-based portals (if applicable, the e-Billing portal) be created to track the progress of applications for customers who

want their accounts coded for EBD and/or medical emergency status. The portal should also be designed to manage the ongoing status of certification and re-certification. Automatic thirty-day extensions for customers seeking either EBD and/or medical emergency coding should be granted to allow for necessary documentation to be provided to the Companies. During the extension period, these customers should also be provided the opportunity to complete an FSF and to negotiate a DPA with the Company that meets the statutory requirements set forth under HEFPA; and all collections actions against these customers should be suspended.

17. The Companies should engage in outreach to residential customers to notify them of the Companies' intention to make balance transfers to their accounts prior to making any such transfers. Automatic thirty-day extensions should be granted to residential customers who have balances transferred to their accounts. Extensions should be commenced as of the date any bill including such a transfer is mailed. During extension periods, affected customers should be given the opportunity to engage with specially designated Company personnel to dispute transfers that customers contend are erroneous and to seek resolution of such disputes. During the extension period, these customers should also be provided the opportunity to complete an FSF and to negotiate a DPA with the Company that meets the statutory requirements set forth under HEFPA; and all collections actions against related to disputed amounts should be suspended.

18. The Companies' Terminations and Uncollectibles EAMs should be modified to include an arrears component, updated positive revenue adjustments (PRAs) targets, and an added negative revenue adjustments (NRA). PRA targets should be established that challenge normal performance (so-called "stretch" or "reach" targets). These targets should be updated as of the month before any joint proposal in these proceedings is adopted using the methodology I provide in this testimony. (Exhibit ___(WDY-05) - Corrected at 4-7).

Residential Affordability

Bill Impacts of Companies' Proposed Rate Increases

Q. Please describe the Companies' proposed increases in residential rates.

A. According to the Companies' filing letter, a "typical" KEDNY residential heating customer would experience a $16.66 monthly increase, equating to an 11.99% increase in their bill. A typical KEDLI residential heating customer will see a $7.14 monthly increase, equating to a 5.15% increase in their bill. However, as the filing letter also indicates,

> *"…the effect on individual customer's monthly bills will vary depending on the customer's usage and service classification.*"
>
> (Filing Letter at 3)

In their July 3, 2019 filing corrections and updates, KEDNY and KEDLI indicated that typical residential heating customers would experience increases of $12.93 and $8.16, or 9.61% and 6.15% on their total monthly bills, respectively. (KEDNY Exhibit ___(RDP-4CU), Schedule 4 at 2); (Exhibit ___(RDP-4CU), Schedule 4 at 3). Total monthly bill increases factor in changes in cost of the supply of natural gas in addition to the delivery costs to provide the service, which renders the "total bill" increase noticeably lower than the delivery costs increases. Since the delivery cost is totally under the control of the Companies, whereas supply costs are not, delivery cost is a more accurate measure of the increases levied by the Companies upon their customers.

Q. What is a "typical" residential heating customer, and what are the equivalent increases in the delivery charge portion for such customers?

A. For both KEDNY and KEDLI, a typical residential heating customer is one whose average usage is 83 therms per month, or approximately 1,000 therms annually. The delivery bill increase for a typical KEDNY residential heating customer would be 13.93% under the Companies' proposal. (Exhibit ___(RDP-4CU), Schedule 4 at 2). For KEDLI, the average usage customer would experience an 8.64% increase in delivery charges. (Exhibit ___(RDP-4CU), Schedule 4 at 3).

Q. How might the Companies' proposed increases vary for other residential customers?

A. For KEDNY customers with average monthly usage less than 83 therms, the percentage of delivery bill increases range from 8.18% to 13.76%. Above average usage customers would experience delivery bill increases ranging from 14.72% to 20.69%. (Exhibit ___(RDP-4CU), Schedule 4 at 2).

For KEDLI customers with average monthly usage less than 83 therms, the percentage of delivery bill increases range from 5.59% to 8.59%. Above average usage customers would experience delivery bill increases ranging from 8.87% to 11.00%. (Exhibit ___(RDP-4CU), Schedule 4 at 3).

For non-heating residential customers, the proposed percentage increases are much higher on both a delivery bill and total bill basis. The average KEDNY non-heating customer uses 10 therms of gas monthly. These customers would experience delivery and total bill increases of 20.79% and 17.77%, respectively. Lower usage customers would experience 13.75% to 19.19% delivery bill increases, while higher usage customers would experience 22.51% to 34.32% higher delivery bills. (Exhibit ___(RDP-4CU), Schedule 4 at 1).

The average KEDLI non-heating customer uses 21 therms of gas monthly. These customers would experience delivery and total bill increases of 14.77% and 12.17%, respectively. Lower usage customers would experience 11.48% to 14.71% delivery bill increases, while higher usage customers would experience 14.96% to 19.21% higher delivery bills. (Exhibit ___(RDP-4CU), Schedule 4 at 2)

Q. What would the bill impact of the proposed rate increases be on customers who are enrolled in the Companies' Energy Affordability Programs (EAP customers)?

A. The typical KEDNY EAP heating customer uses 97 therms of gas per month, or approximately 1,164 therms each year; while the monthly usage of the typical KEDLI EAP heating customer is 86 therms, or 1,032 therms annually. These customers would face monthly delivery bill increases of $14.34 (18.05%) and $8.26 (10.78%) under the

Companies' proposals, respectively. The annualized increase for an average usage KEDNY EAP heating customer would be $172.08. For the equivalent KEDLI customer, the annual increase would be $99.12. (KEDNY Exhibit ___(RDP-4CU), Schedule 4 at 2; KEDLI Exhibit ___(RDP-4CU), Schedule 4 at 3).

The typical KEDNY EAP non-heating customer uses 7 therms of gas per month, or approximately 84 therms each year; while the monthly usage of the typical KEDLI EAP non-heating customer is 14 therms, or 168 annually. These customers would face monthly delivery bill increases of $4.80 (21.95%) and $5.35 (15.58%) under the Companies' proposals, respectively. The annualized increase for an average usage KEDNY EAP non-heating customer would be $57.60. For the equivalent KEDLI customer, the annual increase would be $64.20. (KEDNY Exhibit ___(RDP-4CU), Schedule 4 at 3; KEDLI Exhibit ___(RDP-4CU), Schedule 4 at 2).

Q. Why are the proposed increases higher in percentage terms for EAP customers than non-EAP customers?

A. Participants in the KEDNY and KEDLI energy assistance programs receive a monthly fixed discount on their bills. For purposes of reporting the bill impacts of the Companies' proposed rate increases, each has used the minimum discount available to EAP customers, which is $18 for heating and $3 for non-heating. These fixed discounts amplify the percentage impact of the Companies' proposed increases on EAP participants, which are the same in dollar terms but are larger when expressed as a percentage of EAP customers' typical bills than those of customers who are not EAP participants.

Q. Are there any adjustments to EAP plan discounts to mitigate the percentage impact of the Companies' proposed increases on EAP customers?

A. Not directly. Pursuant to the orders in Case 14-M-0565 that created a statewide framework for the administration of utility low income customer assistance programs in New York, each utility is required annually to update the amount of the discounts it provides to program participants.[1] The update process is formulaic, setting a single (fixed) discount amount for each "tier" within the utility's program. Discounts are therefore not based on individual customer bills (i.e. as a percentage of the total bill) and do not provide an adjustment mechanism tailored to individual customer bills sufficient to mitigate the impact of rate increases proportionately for all customers. For example, in the proposed Rate Year proposed for these rate plans, each Tier 1 heating EAP customer will receive an $18 monthly discount (up $1 from the previous discount of $17), regardless of their total bill. (Shared Services Panel Testimony at 72). Tier 1 customers with total bill increases of $10 resulting from the Companies' proposals would see 10% of such increases offset ($1 divided by $10); while Tier 1 customers whose total bills increased by $20 would only achieve mitigation of their increases of 5% ($1 divided by $20).

Q. Have the Companies proposed any changes to the enrollment tiers in the EAP for either KEDNY or KEDLI?

A. Yes. The Companies are proposing to eliminate Tier 5 for KEDLI and Tiers 5 and 6 for KEDNY, thereby transitioning those customers into Tier 1. (Shared Services Panel Testimony at 74). The Companies' rationale for these changes is that certain tiers are duplicative.

Q. Are the Companies proposing increases in their basic service charges for residential customers?

A. Yes. KEDNY proposes to increase its basic service charges for heating gas service by $1.85, or 8.58%, to $23.40 and to raise its basic service charges for non-heating $2.40, or 14.77%, to $18.65; while KEDLI proposes to increase its basic service charges by $1.64 (7.57%) for heating and $2.80 (14.18%) for non-heating, respectively. The resulting basic service charges for KEDNY would be $23.40 and $18.65 for heating and non-heating,

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[1] See: *Order Adopting Low Income Program Modifications and Directing Utility Filings*, Case 14-M-0465, available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BC2F31C9-B563-4DD6-B1EA-81A830B77276}, and *Order Approving Implementation Plans with Modifications*, Case 14-M-0465, available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={9BE99F5C-7F98-4376-8ABF-F3604F4495BF}.

respectively. For KEDLI, the heating basic service charge would rise to $23.30 and the non-heating charge would increase to $22.55.

Q. Are there any additional bill impacts residential customers of the Companies may experience in connection with these proceedings?

A. Yes. There are at least three other potentially significant additions to residential customer bills being proposed in these proceedings, none of which are included in the base rates for which the Companies have calculated bill impacts as described previously.

(1) Earnings Adjustment Mechanisms (EAMs)

The first potentially significant driver of increases to residential customer bills is a set of "earnings adjustment mechanisms" (EAMs) that are intended by the Commission and Company to "encourage achievement" of the State's clean energy goals, the Commission's REV objectives, and the Companies' commitment to sustainably and affordably meeting customers' heating requirements. (Future of Heat Panel Testimony at 95) Based on the Future of Heat Panel Testimony and the Companies' response to I/R UIU-19, KEDNY customers in general could experience up to $25.7 million of added bill impacts in Rate Year 1 due to these incentive mechanisms, while KEDLI customers could face up to $16.0 million of additional impacts. (KEDNY Revenue Requirements Panel Testimony, Exhibit ___(RRP-1CU) at 2; KEDLI Revenue Requirements Panel Testimony, Exhibit ___(RRP-1CU) at 2[2]; Future of Heat Panel Testimony at 96 - 97; Exhibit ___(WDY-02) REDACTED at 1[3]. The share of these costs that could be expected to be borne by residential customers of the Companies would be approximately 42% for KEDNY, or $10.8 million ($0.015 per therm) and 48% for KEDLI, or $7.8 million ($0.014 per therm). Direct Testimony of Theodore Poe, Jr., KEDNY Exhibit ___(TEP-4ACU) at 1, KEDLI Exhibit ___(TEP-4BCU) at 1).[4]

[2] KEDNY: $2,050,875 / $2,052,100 = 100%; KEDLI: $ 1,251,076 / $1,257,847 = 99%.
[3] KEDNY: 78 basis points times $3.3 million per 10 basis points * 100% = $25.7 million; KEDLI: 77 basis points times $2.1 million per 10 basis points * 99% = $16.0 million.
[4] KEDNY: Approximately 719,000,000 Residential Therms Usage / 1,695,000,000 Total Therms Usage = 42% Residential Share annually for 2020 – 2021; KEDLI: Approximately 549,000,000 Residential Therms Usage / 1,146,000,000 Total Therms Usage = 48% Residential Share annually for 2020 – 2021.

<u>Based on these per therm impacts, EAMs have the potential to raise monthly bills for the typical residential heating customers of each company by another 1 – 1.25% on a delivery bill basis ($1.25 for KEDNY and $1.16 for KEDLI).</u>

(2) Site Investigation and Remediation (SIR) Recovery Surcharge

The second potential major driver of increase to residential customer rates arises from the non-inclusion of the cleanup costs for KEDNY's superfund sites at Gowanus Canal and Newtown Creek in residential ratepayer bill impacts. The Company estimates non-superfund "site investigation and remediation" (SIR) costs for Rate Year 1 and Data Years 1-3 to be $66.1, $62.6, $44.9 and $30.0 million, respectively. (Testimony of Charles F. Willard at 13). The $204.6 million projected for non-superfund SIR expenses is certainly significant (while substantially less than the superfund cleanup costs), but also noticeably declines throughout the potential four-year rate plan — dropping by more than 50% between Rate Year 1 and Data Year 3. Significantly, the Company proposes to include recovery of all non-superfund SIR expenses in base rates.

The exact opposite seems to true for the Gowanus Canal and Newtown Creek superfund sites; estimated costs have not declined over time but instead, they have shot upward. Based on KEDNY's annual report filings with the Public Service Commission, the Companies' estimated liability for environmental clean-up costs has skyrocketed since 2009. Chart 1 reflects this dramatic increase:

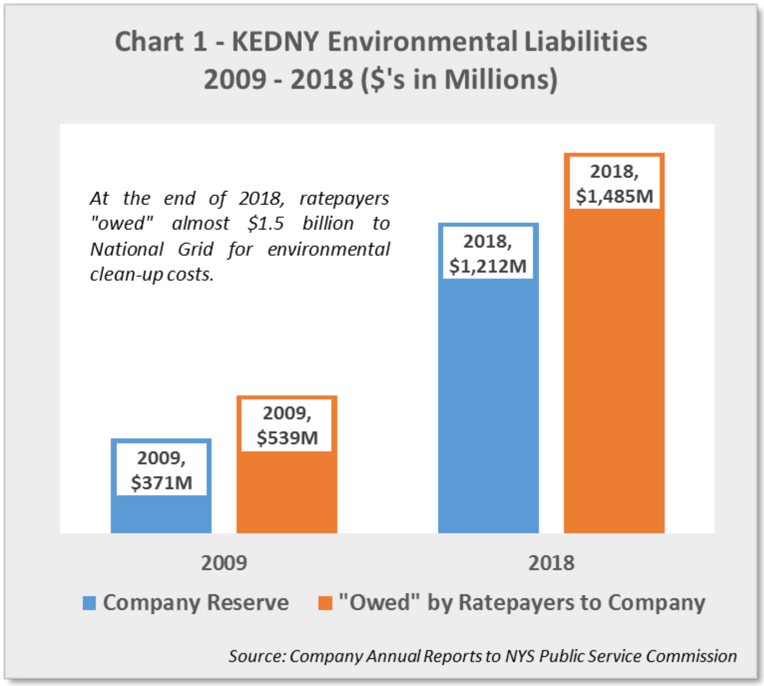

Exhibit ___(WDY-02) REDACTED at 2-5

Company environmental reserves — money KEDNY estimates it will have to spend in the future on clean-up activities — more than tripled from 2009 through 2018, from $371 million to $1.212 billion. During the same period, the amount the Company intends to recover from its rate payers related to environmental clean-up costs rose from $539 million to $1.485 billion. (Expected recovery equals costs already incurred but not yet recovered, plus expected future clean-up costs). Based on an estimated residential share of these costs of 42% (footnote 4), it appears that residential KEDNY ratepayers could be responsible for paying approximately $624 million of these liabilities ($1.485 billion times 42% equals $623.7 million). Based on an average residential customer count forecast of approximately 975,000 from 2020 - 2024, this represents an average amount "owed" by residential customers to the Company of $624. Worse, there is no sign that this liability will decrease in the short term.

Since it appears that SIR costs not related to Gowanus and Newtown Creek (those included in base rates) are declining; yet Company (and rate payer) liability has skyrocketed since 2009, it would be reasonable to conclude that most of the growth in SIR liabilities is related to the Gowanus and Newtown Creek super fund sites. This explains the adoption of the

SIR Surcharge Recovery mechanism in its current form (as ordered in Case 16-G-0058), which basically provides a mechanism for the Company to recover clean-up costs for these two sites from rate payers as they are incurred, with a cap on any single year recovery of 2% of the Companies' prior year aggregate revenue.[5] Given KEDNY's 2018 operating revenues of approximately $1.9 billion[6], a 2% surcharge on overall customer bills would amount to about $38 million per year. If 42% of that surcharge applied to residential customers, their share would amount to $16 million annually. Therefore, it appears possible that residential KEDNY ratepayers could see 2% monthly surcharges on their bills for Gowanus and Newtown Creek for at least the next 39 years (assuming liabilities for these sites do not increase further).

For the present, it would be prudent to anticipate that a 2% total bill surcharge would be added to the monthly bills in Rate Year 1, especially since Witness Willard anticipates that remediation work will begin at Gowanus Canal (Testimony of Charles F. Willard at 22). This surcharge would translate into an additional monthly charge of $2.99 — 2.9% on a delivery bill basis — for the typical KEDNY heating customer at 83 therms. (Exhibit __ (RDP-4CU), Schedule 4 at 2). No other utility in New York State history has imposed such a financial burden solely upon on its ratepayers arising from environmental degradation as has National Grid's New York City gas utility.

Q. Are there any other issues to consider with regard to KEDNY's proposal that its customers pay 100% of the cost for the clean-up at these sites?

A. Yes, it is troubling that KEDNY is asking customers across its service area to pay 100% of the clean-up costs of Newtown Creek and the Gowanus Canal. It is especially disconcerting that customers who live in the vicinity of the superfund sites; i.e., environmental justice zones, and who are already dealing with a variety of the sites' negative environmental side-effects, are expected under KEDNY's proposal to pay "their share" of the 100% recovery

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[5] See: *Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plans*, Case 16-G-0058 at 79, available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={A75F304F-604B-4ECA-A3B8-596DCAE1F72D},

[6] See: *2018 Annual Report of the Brooklyn Union Gas Company D/B/A National Grid NY* at 114-17, available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={1302D145-3D27-4EFF-A40E-B3968F8DF2AD}.

while KEDNY shareholders pay nothing at all. It is against the public interest for KEDNY to recover 100% of the clean-up costs from ratepayers, many of whom are already dealing with these negative impacts.

Q. Do you have an alternative recommendation/proposal to the Companies' request that 100% of SIR expenses be allocated to ratepayers?

A. Yes. I recommend that as a result of these proceedings, KEDNY agree, or be required, to use 100% of its share of any earnings-sharing mechanism adopted in these proceedings, including any "dead band," to reduce deferred Site Investigation and Remediation (SIR) costs.

Q. What is an "earnings-sharing mechanism"?

A. An earnings-sharing mechanism (ESM) is a pre-determined way of providing for the sharing of any potential earnings between ratepayers and the utility that are above specified return on equity (ROE) thresholds set in a joint proposal or by Commission order. For example, the Commission's order in Case 16-G-0058 adopted an ESM whereby KEDNY would keep 100% of any earnings above the 9.0% authorized ROE up to 9.5% (the "dead band"). Thereafter, 50% of any earnings exceeding 9.5% but less than or equal to 10%; 75% of any earnings exceeding 10% but less than or equal to 10%; and 90% of any earnings exceeding 10.5% were designated to be deferred for the benefit of customers.[7]

Q. Is there any precedent for utilizing the utility's share of earnings above the authorized ROE to pay down deferred SIR costs?

A. Yes. In Case 11-M-0034, a generic proceeding initiated by concerned intervenors focused on the allocation criteria of SIR costs between shareholders and ratepayers, the Commission declined to adopt a generic policy requiring sharing or reallocation of SIR costs between utility ratepayers and shareholders, but identified two circumstances in which sharing of SIR costs may be appropriate:

[7] See: *Order Adopting Terms Of Joint Proposal and Establishing Gas Rate Plans*, Case 16-G-0058 at 34-35. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={A75F304F-604B-4ECA-A3B8-596DCAE1F72D}.

- Where utilities have failed to adequately constrain SIR costs, or;
- As part of multiyear rate plans incorporating excess earnings mechanisms [8]

Additionally, in Cases 13-E-0030 and 13-G-0031, the Commission accepted the proposal of the settling parties to adopt an ESM designating 50% of Con Edison's share of earnings exceeding the "dead band" to be used to reduce deferred SIR costs. In the case at hand, KEDNY reasonably anticipates a multi-year settlement and an excess earning mechanism. One of the Commission's two preconditions for sharing of SIR costs between the utility and ratepayers identified above is therefore met.

Q. Why does your proposal designate 100% of KEDNY share of the ESM, including all of any potential dead band, to be used to pay down deferred SIR costs while the Order in Cases 13-E-0030 and 13-G-0031 designated only 50% for this purpose?

A. The scale of KEDNY's regulatory deferrals and reserves associated with SIR expenses far exceeds Con Edison's equivalent balances leading up to Con Edison's 2013 rate cases. KEDNY's $1.2 billion environmental reserve at December 2018 (Chart 1) was approximately three times that of Con Edison's reserve as of December 2012, the date of Con Edison's last annual report period before Cases 13-E-0030 and 13-G-0031 were initiated.[9] Additionally, KEDNY's $1.5 billion Deferred SIR regulatory asset (Chart 1) was about 2.5 times that of Con Edison's SIR regulatory asset.[10]

Another consideration leading to my recommendation that 100% of KEDNY's share of any ESM created in these proceedings be used to pay down deferred SIR cost is that Con Edison's total revenues are about 2.5 times those of KEDNY's, a situation that has, in part,

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[8] See: *Order Concerning Costs For Site Investigation and Remediation*, Case 11-M-0034. Available at:

[9] See: *Annual Report of Consolidated Edison Company of New York, Inc, 2012* at 1-C. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={5E893C7C-BC1F-46C5-8A51-D445E2711CA7}.

[10] See: *Annual Report of Consolidated Edison Company of New York, Inc, 2012* at 232. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={9D0E2E4F-2FA5-4B35-8215-142EF69CD774}.

led the Commission to approve a special "SIR Recovery Surcharge" as a supplemental source of recovery to be used to reduce KEDNY's environmental liabilities.[11,12]

(3) Potential Bill Impacts upon Ratepayers of Costs Associated with Moratoria on New Gas Connections

Q. Are there any other potential costs to ratepayers that have not been incorporated in the bill impacts presented by the Companies?

A. Yes. PULP is concerned about the implications of KEDNY/KEDLI's hard moratoria on "new" natural gas connections. Specifically, PULP finds that the Companies have not adequately presented to the public the potential service impacts (and potentially attendant bill impacts) that could result from decreasing sales, and/or the increasing likelihood that significant additional capital investments and subsidies for alternatives to gas heating, gas efficiency programs and demand reduction programs, will be needed as the Companies struggle to meet their duty to serve despite the moratoria on new gas service.[13]

Examples of these impacts are already apparent in the great confusion the moratoria have created for both residential and commercial customers. At public statement hearings attended by PULP, customers shared their experiences of "temporarily" suspending their gas service to make renovations to their homes and businesses who were later denied resumption of service. Statements were also made, for example, by a representative of a small business who indicated that he had spent considerable amounts of money to open a new restaurant (even hiring employees) only to be told that they could not be provided with gas service. (Public Statement Hearing Brooklyn, July 31, 2019, pages 58-60).

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[11] *Annual Report of Consolidated Edison Company of New York, Inc, 2012* at 300 (Electric Operating Revenues: $3,340,876,451), 64-A (Gas Operating Revenues: $1,420,837,640).

[12] See: *Annual Report of The Brooklyn Union Gas Company d/b/a National Grid New York*, 2018 at 64 (Gas Operating Revenues: $2,021,833,190). Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={1302D145-3D27-4EFF-A40E-B3968F8DF2AD}.

[13] See: *A high-level view of our New York City (KEDNY) rate proposal* at 12 (*Meeting today's needs: Northeast Supply Enhancement Project (NESE)*). Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={636864C3-839A-49BF-8016-96708492EF8F}.

Q. Taken as a whole, can residential customers of KEDNY/KEDLI afford the increased rates, added surcharges and other bill impacts proposed by the Companies?

A. **No.** For the Companies' low-to-moderate income residential (LMI) customers, the Companies' proposed rate increases would place a heavy burden on these already financially challenged households, especially considering the simultaneous rate increase request by Con Edison in the KEDNY service area.

Taken together, the impact of these unquantified increases, surcharges and other bill impacts increases KEDNY and KEDLI's effective increases on a delivery bill basis to 17.8% and 9.6%, respectively, for the proposed initial rate year alone[14]. These percentage increases far exceed historic rates of CPI and other measures of cost of living growth, as well as the past decade's average annual rate of increase in household income in the Companies' service areas. As will be shown, the Companies' proposed increases are well beyond anything that their LMI ratepayers can afford.

Q. How are LMI customers defined?

A. There is no single definition of a "low income" or "moderate income" utility customer in New York State. However, in recent years policies have been set forth by State agencies such as the Public Service Commission (PSC) and the New York State Energy Research and Development Authority (NYSERDA) that define "low income" customers as households whose annual income is at or below 60% of the statewide median household income and "moderate income" customers as households whose annual income is greater than 60% and less than or equal to 80% of the statewide median income. For example, in Case 14-M-0465, the PSC determined that utilities should develop low income affordability programs with the goal of achieving a 6% energy burden for households whose annual income is at or below 60% of the statewide median income.[15] And in April

[14] KEDNY: 13.93% (base rates) + 1.00% (EAMs) + 2.90% (SIR) + ? (Moratorium) = 17.83%. KEDLI: 8.64% (base rates) + 1.00% (EAMs) + ? (Moratorium) = 9.64%.

[15] See: Order Adopting Low Income Program Modifications and Directing Utility Filings, Case 14-M-0465, available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BC2F31C9-B563-4DD6-B1EA-81A830B77276},and Order Approving Implementation Plans with Modifications, Case 14-M-0465, available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={9BE99F5C-7F98-4376-8ABF-F3604F4495BF}.

2018, Department of Public Service Staff (Staff) and NYSERDA issued a report entitled *New Efficiency: New York* that defined "moderate income" customers as households with an annual income between 60% and 80% of the SMI or the Area Median Income, whichever is greater.[16] In the remainder of my testimony, I shall use these definitions to refer to the Companies' low and moderate income (LMI) customers.

Housing Cost Burdens

Q. Please describe the economic challenges that LMI customers in the Companies' service areas experience.

A. Since the Financial Crisis and Great Recession of 2008 – 2010, the biggest economic challenge faced by LMI customers has been that household incomes in this sector have not kept up with rising housing costs, which include utilities. This phenomenon was not new to the post-2010 New York State economy; but was made much more acute by substantial increases in rental housing demand and weakening incomes that increased competition for already-scarce affordable units following the Great Recession.[17] One indication of the growing disparity is the large gap between the compound annual growth rates of median household income and median gross rent since 2010 in the Companies' service areas, as shown in Chart 2.

[16] See: *New Efficiency: New York* at 8. Available at: https://www.nyserda.ny.gov/About/Publications/New-Efficiency.
[17] See: *Worst Case Housing Needs 2011: Report to Congress*, U.S. Department of Housing and Urban Development, February 2013. Available at: https://www.huduser.gov/portal/publications/affhsg/wc_HsgNeeds11.html.

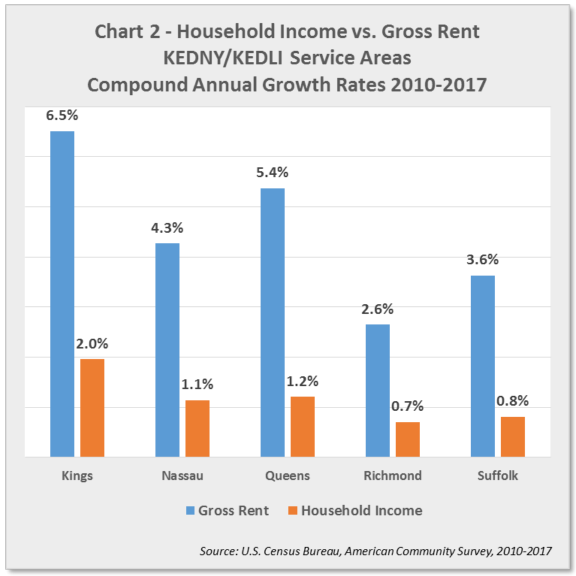

Exhibit ___(WDY-04) at 17

The shortfall of income growth versus increasing housing costs has been especially acute for LMI customers. The U.S. Department of Housing and Urban Development (HUD) defines cost-burdened families as:

> "*those 'who pay more than 30 percent of their income for housing' and 'may have difficulty affording necessities such as food, clothing, transportation, and medical care.' Severe rent burden is defined as paying more than 50 percent of one's income on rent.*"[18]

Since 2014, the U.S. Census Bureau has included in its *American Community Survey* (ACS) a more comprehensive measure of severe "Housing Cost Burdens" comprised of <u>both owner and renter</u> households who spend at least fifty percent (50%) of their annual incomes on housing costs, including utilities.[19] Analyzing these data for LMI households in the Companies' service areas between 2014 and 2017, as shown in Charts 3 and 4, reveals just how challenging and persistent the Housing Cost Burden has become for this sector, particularly for low income households.

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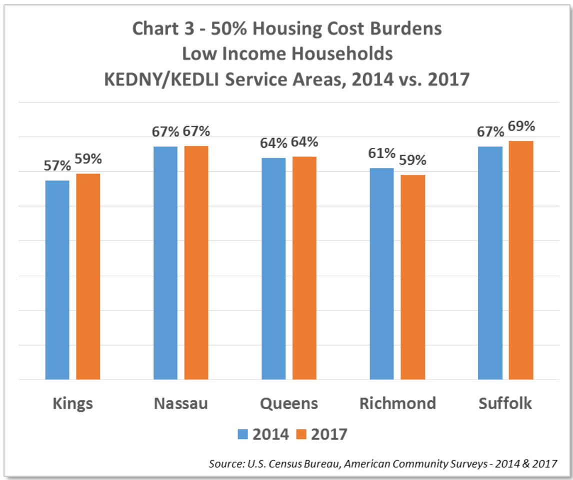
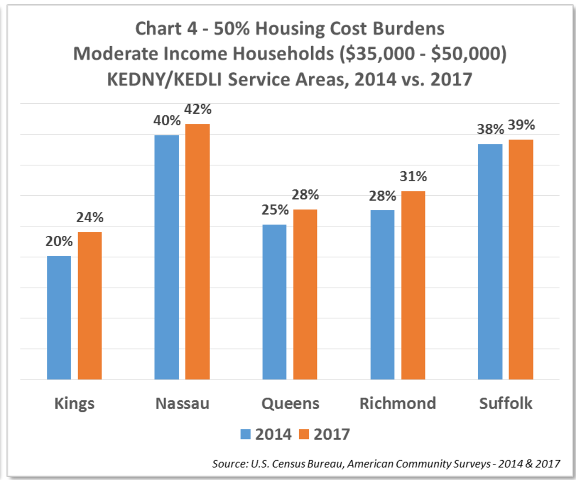
[18] See: *Rental Burdens: Rethinking Affordability Measures*, PD&R Edge, Accessed August 8, 2019. Available at: https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_092214.html.
[19] Prior to 2014, the *ACS* only tracked 50% Housing Cost Burdens for renters.





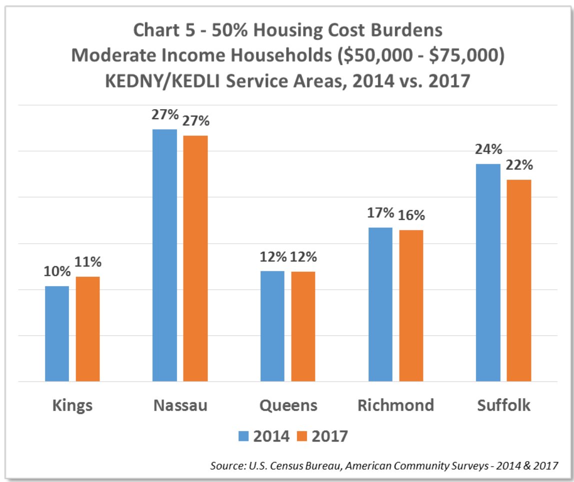


Exhibit ___(WDY-05) - Corrected at 1

The percent of low-income households in the Companies' service areas suffering severe Housing Cost Burdens increased in all counties/boroughs except Richmond (Staten Island) between 2014 and 2017. By 2017 severe Housing Cost Burdens were experienced by 59% to 69% (approximately 2/3) of low-income households in these areas. (Chart 3)

Among moderate income households in the KEDNY/KEDLI service area, the percent experiencing severe Housing Cost Burdens rose in all counties/boroughs. The most significant increase was in Kings County (Brooklyn), where 24% of households suffered from a severe Housing Cost Burden by 2017, up from 20% in 2014. Reflecting the persistence of more challenging housing economics for moderate income households on Long Island, severe Housing Cost Burdens affected approximately 40% of Nassau and Suffolk households in this income range by 2017. (Chart 4) Notably, however, between

2014 and 2017, severe Housing Cost Burdens for moderate income households ranging from $50,000 to $75,000 declined or held steady in all counties/boroughs of the Companies' service areas except Kings (Brooklyn). (Chart 5)

Q. Are you able to estimate the number of residential KEDNY and KEDLI LMI customers with severe Housing Cost Burdens using the ACS data you analyzed?

A. Yes. Exhibit ___(WDY-05) - Corrected at 1 uses counts of KEDNY/KEDLI residential customers by county/borough provided by the Companies' in their response to UIU-13 (Exhibit ___(WDY-02 at 640), together with ACS estimates of service area households who use utility-supplied gas as their source of heating fuel, and those who pay for at least one utility, to estimate the numbers of low income and moderate income KEDNY/KEDLI customers in each county/borough. Based on the methodology in Exhibit ___(WDY-05) - Corrected at 1, I estimate that there are approximately 305,000 low income customers in the combined service areas with severe Housing Cost Burdens (240,000 KEDNY; 65,000 KEDLI).[20]

Exhibit ___(WDY-05) - Corrected at 1 also estimates that there are about 71,000 moderate income customers of the Companies (36,000 KEDNY; 35,000 KEDLI) who suffer a severe Housing Cost Burden. These customers have household incomes that range from $35,000 to $75,000 annually, which largely corresponds to the 80% of AMI criterion set forth in the NYSERDA / Staff white paper. [21,22] (Exhibit ___(WDY-05) - Corrected at 1.

Q. With regard to the estimated 305,000 low income customers in the KEDNY/KEDLI service areas, what would the likely impact of the Companies' proposed rate increases be on the household finances of these customers?

A. <u>LMI households spending 50% or more of their incomes on housing costs are likely to have little, no, or negative disposable income.</u> A severely burdened household with income of

[20] Since this calculation applies the percent of ACS households by county/borough who have incomes less than $35,000 to counts of all KEDNY/KEDLI residential customers in these geographies, it is independent of any consideration of participation levels in the Companies' Energy Affordability Programs.

[21] Many more KEDNY/KEDLI customers may become eligible for LMI energy efficiency assistance based on their household income into these ranges; the purpose of this analysis is simply to estimate the number of those households experiencing a sever Housing Cost Burden.

[22] 2017 HUD AMI: NYC = $66,200 * .80 = $52,960; Nassau-Suffolk = $110,848 * .80 = $88,678.

$35,000 spends at least $17,500 on housing, leaving just $17,500 available for other essential living expenditures, such as food, clothing, medical costs, daycare, taxes, transportation, telecommunications and internet. Based on the methodology used by United Way New York to estimate the cost of basic needs ("Survival Budget") for individuals and families living in the counties/boroughs of the Companies' service areas, annual non-housing expenses for low income customers would exceed $17,500 for all households except those of single adults.[23,24] However, even for single occupants households, it must be noted that "Survival Budgets" are based on averages that do not apply for all households and also do not allow for any contingencies, making it unrealistic that the whole population of single person households could "survive" on a Survival Budget in the Companies' service areas. Therefore, I estimate that the number of low-income households who could not afford the Companies' proposed rate increases ranges somewhere between 220,000 and 305,000. (Exhibit ___(WDY-05) - Corrected at 2; Exhibit ___(WDY-06) at 3-6, 35, 41, 52, 54, 63).

Additionally, a comparison of Exhibit ___(WDY-05) - Corrected at 2 and ALICE Survival Budgets for larger families in the KEDNY/KEDLI services clarifies that moderate income households with severe Housing Cost Burdens — especially those in the $35,000 - $50,000 income range — may also lack disposable income and be unable to afford the Companies' proposed rate increases — adding perhaps 20,000 to 25,000 households to the 220,000 to 305,000 low income households who I estimate cannot afford the proposed increases.

Q. Could the KEDNY and KEDLI EAP programs help offset the effects of the Companies' proposed rate increases?

A. Yes, but in one (and only one) respect. Where the EAP programs will have the most positive impact is through increased participation. Currently, KEDNY's EAP program is in the process of ramping up its matching program with the New York City Human Resources Administration (HRA), having implemented an automatic enrollment

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[23] See: *United Way ALICE Report New York Budgets* (accessed 08-13-2019). Available at: https://www.dropbox.com/s/jx37uin4giv0y7l/18UW_ALICE_Report_NY_Budgets_Updated%202.13.19.pdf?dl=0.

[24] See: *ALICE Research Methodology Overview* (accessed 08-13-2019). Available at: https://www.dropbox.com/s/6i8o6q3apxeo492/19UW_ALICE_Project_Methodology_2019_06_17.pdf?dl=0.

mechanism similar to that of Con Edison in 2017. KEDNY's EAP annual report for 2017 and quarterly reports for 2018 – 2019 reflect the large increase in enrollments thus far.[25,26] However, once the KEDNY/HRA matching program is fully implemented, the beneficial offsets to KEDNY's proposed rate increase will have already been realized.

There is more room to offset the impact of KEDLI's proposed rate increases through new EAP enrollments. To date, KEDLI has experienced under-enrollment, largely due to the fact that it does not have a matching program for Nassau County and Suffolk County (Nassau/Suffolk) equivalent in functionality to KEDNY's matching program for New York City.

Apart from any beneficial offset to rate increases that might occur through increased participation in the Companies' EAP programs, there is no other way that these programs will provide an offset to low income customer bills. As discussed previously, discount levels will not have materially increased to take account of proposed rate increases, so existing participants will experience bill impacts just like all other residential customers of the Companies. In fact – as also stated previously – rate increases for EAP customers will be higher in percentage terms, since these customers receive a fixed discount on their bills.

Q. What happens to customers with severe housing cost burdens who have little, no, or negative disposable income if the Companies' increase their rates as proposed?

A. The most likely immediate effect will be that more LMI customers will not be able to pay their bills, increasing the Companies' arrears.

Q. Do the Companies' collections data suggest that residential customers are currently having difficulty paying their bills?

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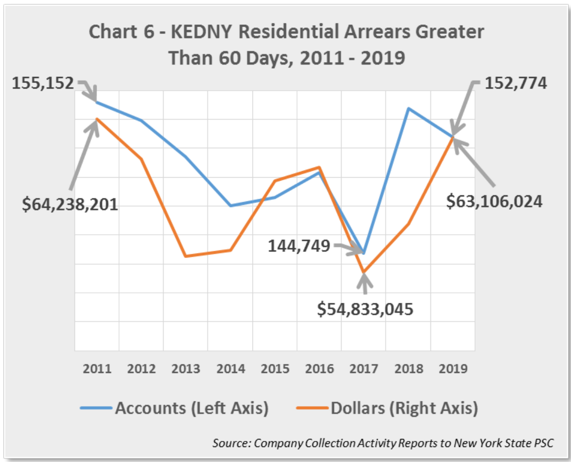
[25] See: *The Brooklyn Union Gas Company d/b/a National Grid NY Low Income Discount Rate Program Report (2017)*, Case 16-G-0059, Exhibit A. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C14079EF-FFD6-4A29-9EAB-B34830617846}.

[26] See: *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers*, Case 14-M-0565. Available at: http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=14-M-0565&submit=Search+by+Case+Number.

A. Yes, especially for KEDNY. Chart 6 illustrates a significant increase in residential arrears greater than 60 days since 2017, both in terms of the number of accounts in arrears and the amounts owed by these customers:



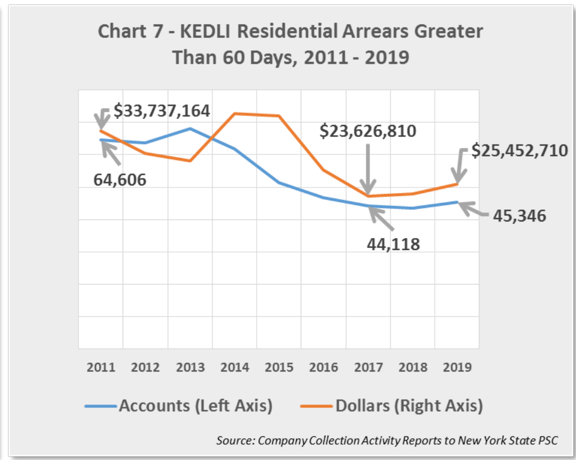


Exhibit ___(WDY-05) - Corrected at 3

Since the effective date of KEDNY's current rate plan in 2017, the arrears owed by residential customers have increased more than 15%, to $63.1 million, while the number of numbers of accounts in arrears has increased over 5%, to almost 153,000 accounts. The current level of arrears, both in terms of amounts owed and number of accounts, exceeds any levels seen since the end of the Great Recession of 2008-2010.

For KEDLI, the increase in residential arrears has been only slightly less precipitous since the current rate plan began. Chart 7 shows that KEDLI's dollar balance of arrears is up 8%, to $24.5 million since 2017; while its number of accounts in arrears has increased almost 3%, to 45,346.

In all likelihood, given my estimate that at least 220,000 — and perhaps as many as 305,000 — low income KEDNY/KEDLI customers are already experiencing severe Housing Cost Burdens, the Companies' proposed rate increase, if approved, would exacerbate any difficulty these customers are currently having paying their utility bills, leading to further increases in the Companies' arrears. It goes without saying that those customers that have not yet been enrolled in the Companies' EAP programs despite being eligible, would bear the brunt of the increase in unaffordability created by the proposed rate increase(s).

Q. At what point do increasing arrears become a problem for the Companies?

A. They are already a problem. The Companies' Shared Services Panel Testimony has this to say about the interplay between service terminations, accounts receivable and uncollectibles:

> *"The short-term effect of reducing terminations is to suppress uncollectible write off. However, the long-term effect of reducing terminations is to increase accounts receivable, which with all else equal, in turn leads to higher uncollectible write offs when these accounts with larger receivable balances are eventually written off. If efforts to further reduce terminations for the Companies continue, accounts receivable will continue to rise (with potentially higher write off)."*
>
> (Shared Services Panel Testimony at 32)

Q. Have the Companies been undertaking an effort to reduce service terminations?

A. Yes. The order in Cases 16-G-0058 and 16-G-0059 established an incentive mechanism for the Companies to identify and implement new measures to reduce residential service terminations for nonpayment while decreasing, or maintaining, the level of bad debt from residential accounts. KEDNY was provided with an opportunity to earn a positive revenue adjustment (PRA) of $1.260 million during any rate year in which it achieved less than 34,638 residential terminations, while keeping uncollectibles below $12,494,661. KEDNY was also given the ability to earn a PRA of $0.540 million during for any year in which it achieved either of these targets, provided that the other target was kept below levels of 37,917 and $16,119,629 for terminations and uncollectibles, respectively.[27] KEDLI was provided an equivalent incentive to earn $0.840 million if it achieved less than 12,470 residential terminations and less than $4,392,413 bad debt expense; or $0.360 million annually if it achieved certain other targets for residential terminations or bad debt expense.[28]

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[27] See: *Joint Proposal,* Cases 16-G-0058, 16-G-0059 at 47-48. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={981ADD4D-2258-440F-B82A-4546E3B2DE4B}.
[28] See: *Joint Proposal*, Cases 16-G-0058, 16-G-0059 at 96.

Q. Are you concerned that service terminations could increase in the near future?

A. Yes. When considered against the backdrop of the Companies' rate increase proposals and the severe Housing Cost Burdens already affecting at least 220,000 of the Companies' low income customers, the reservations expressed by the Shared Services Panel about reducing terminations further lead me to believe there is a growing possibility of *increased* service terminations during the next rate plan — particularly at KEDNY. PULP is especially concerned that such increased terminations during the period of the next rate plan could impact low income customers disproportionately.

Q. Have the Companies proposed a continuation of the Terminations and Uncollectibles Metric in these proceedings?

A. Yes. Despite expressing skepticism about the long-term effectiveness of this incentive, KEDNY and KEDLI propose to continue the metric in accordance with the Commission's interest in utilities pursuing alternatives to termination.

Q. Do you favor a modification of the Companies' residential terminations and uncollectibles metric adopted in cases 16-G-0058 & 16-G-0059?

A. Yes. In the twelve months from July 2018 through June 2019, KEDNY performed 28,561 residential service terminations, representing 2.4% of average residential customers for the period (statewide average: 2.3%). (Exhibit ___(WDY-5) at 4). The Company has achieved a positive revenue adjustment for exceeding its target in each of the years of its current rate plan, during which time the number of terminations dropped well below the target of 34,638. It is therefore time to reset the positive targets for the metric, and to also add to it a negative revenue adjustment (NRA) that would address any risk that a sudden spike in terminations might erode the progress that has been made in reducing terminations in recent years.

In a similar fashion, KEDLI performed 11,043 residential service terminations in the twelve months ending June 2019, representing 2.0% of average residential customers for the period. (Exhibit ___(WDY-5) at 6). KEDLI has therefore also achieved a positive revenue adjustment for exceeding its target in each of the years of its current rate plan, during which time terminations dropped well below its target of 12,470. It is therefore also time to reset the positive targets for KEDLI's metric, and to also add to it a negative revenue adjustment (NRA) that would address any risk that a sudden spike in KEDLI terminations might erode the progress that has been made in reducing such terminations in recent years.

Q. What do you recommend for a modified terminations and uncollectibles metric?

A. PRA targets for incentive mechanisms should be established that challenge normal performance. They should be so-called "stretch" or "reach" targets. Moreover, the incentive should operate in this framework with a counterbalancing NRA to provide a disincentive to high rates of service termination. My targets, which are the result of the analysis I performed on Pages 4 - 7 of Exhibit ___(WDY-05) - Corrected are set two standard deviations above and below the most recent normalized seven-year average of terminations for the twelve months ending June 30th. To normalize the data, I excluded the highest and lowest years from the averages. The results for KEDNY are: Terminations - PRA target of 27,206 / NRA target of 35,386; Uncollectibles - PRA target of $10,962,806 / NRA target of $13,635,112; Arrears - PRA target of $53,869,055 / NRA target of $62,734,400. For KEDLI, the targets are: Terminations – PRA 8,912 / NRA 13,249; Uncollectibles – PRA $3,784,231 / NRA $9,590,247; Arrears - PRA $20,055,915 / NRA $36,807,173.

To ensure that the most recent data serves as the basis for the ultimate targets for a modified terminations and collectibles metric, I also recommend that the targets be updated to reflect the latest available as of the effective date of any order in these proceedings.

Q. Why did you use two standard deviations when calculating the targets?

A. Statistically, a result that is more than two standard deviations from the average carries a 95 percent confidence level that the result is not due to normal, random variations. Such a result therefore is most likely due to utility actions. For this reason, all of the targets established in the above cases are based on the same standard.

Proposals/Recommendations

Q. In addition to the recommendations you have made thus far, do you have any proposals that could reduce the impact of the Companies' proposed rate increases on LMI customers?

A. Yes. Broadly speaking, the parties in these proceedings should endeavor to find the means to limit the total bill impacts of any rate increases for typical (average usage) residential customers to no more than two percent (2.0%) per rate year. Additionally, the parties should explore alternative rate designs that would lower basic service charges for residential customers and, more generally, reward conservation and energy efficiency through lower delivery bills. While such measures are sensible and promote the public interest in affordability and responsible environmental stewardship, increased gas efficiency and conservation-oriented rates are particularly compelling in the shadow the Companies' gas moratoria in their service territories, and the State's intermediate and long-term plans to reduce its carbon footprint. Toward these objectives, I offer the following recommendations for initiatives that could contribute to such achieving limited rate increases:

The Companies Should Accelerate Efforts To Enroll Residential Customers In Their Energy Assistance Programs (EAPs)

Q. Please describe the steps KEDNY and KEDLI have taken to increase participation in their respective EAPs during their current rate plans.

A. The Companies' current rate plans became effective as of January 1, 2017, pursuant to the order adopting the joint proposal in Cases 16-G-0058 and 16-G-0059.[29] During the current plan, as discussed by the KEDNY/KEDLI Shared Services Panel, the Commission's orders adopting a statewide framework for the implementation of utility low income assistance programs also became effective, leading to the replacement by the Companies of their former low income discount programs with their new EAPs, which provide tiered discounts

[29] See: *Order Adopting Terms Of Joint Proposal and Establishing Gas Rate Plans*, Cases 16-G-0058, 16-G-0059 at 20. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={6E189404-3533-4B23-8292-687DC884CA88}.

based on participants' income and energy burdens. (Shared Services Panel Testimony at 68).

A fundamental objective of the orders in Case 14-M-0565 as they relate to KEDNY and KEDLI was to provide comprehensive participation of eligible residential customers through automatic enrollment. KEDNY made substantial progress toward this goal during the current rate plan by implementing a file sharing mechanism in late summer/early fall 2017 that permits New York City's Human Resource Administration ("HRA") to identify assistance program-eligible customers in KEDNY's service territory and the Rockaways portion of KEDLI's service territory. (Shared Services Panel Testimony at 70). The result was that enrollment in KEDNY's EAP jumped from an average of 58,000 to 60,000 participants just before implementation to 138,000 to 140,000 immediately after – an increase of about 80,000 participants or 133%.[30] The most recent quarterly report on KEDNY's EAP program report (March, 2019) shows 158,889 residential customer participants[31], and the Company projects enrollment for the Rate Year to be 159,737 (Heating - 67,424; Non-Heating - 92,313). (Exhibit ___(SSP-9) at 1).

KEDLI's progress toward comprehensive enrollment of eligible residential customers in its EAP has, to date, not been as successful as that of KEDNY. There is currently no equivalent file matching program for Nassau and Suffolk counties. In response to I/R PULP-96, KEDLI indicated that the New York State Office of Temporary and Disability Assistance (OTDA) is providing a file for customers in Nassau and Suffolk counties who receive HEAP, including HEAP recipients that receive Supplemental Nutrition Assistance Program ("SNAP") and Temporary Assistance ("TA"). The Company also indicated that it has had conversations with OTDA regarding expanding the HHS file to include customers in Nassau and Suffolk counties who are in receipt of other assistance programs, which would allow more comprehensive enrollment of eligible customers such as that

[30] See: *The Brooklyn Union Gas Company d/b/a National Grid NY Low Income Discount Rate Program Report (2017)*, Case 16-G-0059, Exhibit A. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C14079EF-FFD6-4A29-9EAB-B34830617846}.

[31] See: *Quarterly Low-Income Report, KEDNY – March 31, 2019*, Case 14-M-0565. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={0D7163A2-D8BF-48C2-BB8C-660B79ABEDCB}.

achieved by KEDNY through its HRA matching process. (Exhibit ___(WDY-02) REDACTED at 6-8).

Q. What difference has the lack of inclusion in KEDLI's matching program of assistance programs other than HEAP made in terms of the Companies' ability to achieve comprehensive enrollment of eligible low-income customers in its EAP?

A. KEDLI's objective of increasing enrollment in its EAP has not been met. Based on my estimates of the number of each Companies' low-income customers with severe Housing Cost burdens, only 20 - 30% of potentially eligible KEDLI households are enrolled, compared to 70 – 90% for KEDNY. (Exhibit ___(WDY-5) at 8).

Q. Do you support the Companies' proposal to add additional employees that they deem necessary to implement the EAPs and Energy Affordability Engagement Initiatives?

A. Yes. I believe the Companies' proposal addresses a critical need, given the magnitude of the potential rate increases proposed by the Companies. More than 20% of KEDNY and KEDLI residential customers already confront significant affordability problems, and the Companies' difficulty in enrolling customers through means other than file matching (particularly KEDLI) justify this investment in EAP effectiveness. In my opinion it would appropriate for this resource to be a full time equivalent (FTE), rather than the one-half FTE proposed by the Companies. If the added one-half FTE could be dedicated to increasing KEDLI participation rates, and if resources could be made available that would not create an excessive burden on ratepayers or result in additional administrative costs exceeding those contemplated by the Commission in Case 14-M-0465. (Shared Services Panel Testimony at 78-79), the EAP enrollment increase would more than justify the added head count.

Q. Do you have other recommendations for how enrollment could be increased in the Companies' EAPs?

A. Yes. As I discuss in the part of my testimony dealing with residential customer service and collections practices, the Companies have an opportunity to increase the number of affordable deferred payment agreements (DPAs) provided to residential customers having difficulty paying their utility bills. When tailored to customers' individual financial circumstances, such DPAs offer the chance to identify customers eligible to be enrolled in the Companies' EAPs.

The Companies Should Accelerate Efforts To Provide Energy Efficiency Assistance To High Usage Residential Customers Who Are EAP Participants. Any Associated Earnings Incentive Mechanisms Should Set Targets For Incremental Efficiency Savings Based On Actual Customer Outcomes.

Q. Are the Companies including proposals in their filings to benefit LMI Customers by providing them with access to cleaner, more cost-efficient heating options?

A. Yes. Both companies propose to replace their existing low-income gas conversion rebate programs with new LMI Gas Conversion Programs that would also include moderate income customers seeking to obtain access high-efficiency gas heating and hot water systems and other energy savings products. (Future of Heat Testimony at 59-61) Additionally, KEDLI also proposes to continue its EmPower Replacement Program (known as "HEAT"), which was created in Case 16-G-0058 and which provides furnace replacement services to EAP customers, to include moderate income customers. The Company also proposes to include the program in base rates with an increased budget of $2.5 million. (Future of Heat Testimony at 29-30). I note here that given the moratoria in effect in the Companies' service territories, it is uncertain how these proposals would be carried out.

Q. Wouldn't homeowners be more likely to be able to take advantage of these initiatives and, if so, are there a sufficient number of LMI homeowners in the Companies' service areas for KEDNY and KEDLI's programs to make a difference in achieving overall LMI customer energy affordability?

A. Yes. It is certainly the case that homeowners have more control over the ability to install energy efficiency measures than do tenants in rental properties. It is also the case that there are a sizeable number of LMI homeowners in the KEDNY and KEDLI service areas. Based on the same analysis I prepared in estimating the total number of LMI customers in the Companies' service areas, filtered for homeowners only, I estimate that there are between

95,000 and 130,000 LMI homeowners in the Companies service areas who suffer a severe Housing Cost Burden — 60,000 to 90,000 of whom are low income homeowners. (Exhibit ___(WDY-05) - Corrected at 10) These are customers who could definitely benefit from the Companies' LMI Gas Conversion Programs and HEAT programs to improve their energy affordability and lower their utility bills, provided there was sufficient gas available to meet the expanded need.

Q. Do you support these initiatives?

A. Yes. If there would be sufficient gas supply and capacity, I would also support the creation of an equivalent to KEDLI's HEAT program in the KEDNY service area. PULP has worked with low income customers in KEDNY's service area, particularly on Staten Island, whose gas furnaces failed and who had difficulty obtaining HEAP furnace replacement grants through New York City HRA. One customer in particular spent over two months from mid-November 2018 to mid-January 2019 attempting to obtain a replacement grant, and even when the customer did receive the grant, it was only for one-half the purchase cost.

As noted above however, despite the Companies' proposals, due to the hard moratoriums in both KEDNY/KEDLI's service territories on "new" and — in some cases — "re-connections" for gas service, PULP questions the ability of the Companies to proceed with their LMI Gas Conversion and HEAT programs. The Companies have announced they will not allow expansion of natural gas connections for the foreseeable future – absent the completion of the Williams pipeline (a/k/a NESE project) – so to the extent these project involve expansion of the use of natural gas in their service territories, they seem unlikely to occur. Consequently, while supporting these initiatives in principal as a logical way to lower costs, raise reliability and act as a transition to the "future of heat", PULP is unable to endorse the inclusion of any ratepayer funds associated with them in the revenue requirements in these proceedings.

Q. Do you agree with the Company "Affordability Metric for Low Income Customers" as proposed?

A. No. The Companies propose an outcome-oriented energy efficiency metric measuring the annual percentage reduction in EAP customer bills, but the "outcome" they propose would not necessarily be reflective of efforts KEDNY and KEDLI should be taking to reduce *individual* EAP customer bills, such as those just discussed. Instead, the proposed outcome is simply a year-over-year reduction in the weather-normalized *average* monthly customer bill for EAP customers. Based only upon such a reduction, the Companies propose that they be awarded one basis point for each 0.2 percent reduction in the average EAP customer bill achieved within their respective service territories, up to a total award of 10 basis points for the incentive. (Future of Heat Testimony at 106-7) This would result in up to $3.3 million and $2.1 million in added revenue for KEDNY and KEDLI, respectively, derived from an EAM that I believe is ineffective and inappropriate, as I explain below.

Q. Why are reduced average monthly customer bills not an appropriate outcome to use for measuring the effectiveness of such a metric?

A. Using this outcome is problematic for at least two reasons, namely:

- If a significant number of higher usage EAP customers had their service terminated in any given year, that would tend to reduce average monthly bills but not be reflective of improved affordability for continuing EAP customers. The opposite could also be true for any year in which terminated high usage EAP customers had their service reconnected; and
- Various mixes of enrollments and dis-enrollments could impact average EAP customer monthly bills and trigger a potential award of added revenue, but not be reflective of improved affordability for continuing EAP customers.

Q. What do you suggest instead?

A. Incentives should embody "stretch" goals that go above-and-beyond the performance expected of the Companies. Such targets are readily discernible from the cost-benefit analyses KEDNY and KEDLI provided to support their proposals for the LMI Gas Conversion Programs and HEAT programs. With that in mind, I propose targets for the proposed affordability metric be Participant Energy Cost Reductions in excess of

$8,421,139.87 for KEDNY and $6,075,243.86 for KEDLI that achieving at least the same SCT Ratios — (Participant Energy Cost Reductions + Avoided CO2 Emissions) / Program Administration Costs — 1.73 for KEDNY; 1.11 for KEDLI. (Exhibit ___ (FOH-2), Schedules 5 and 6).

I do not propose that the affordability metric be based on the HEAT programs however, since the KEDLI program already includes an incentive metric, and presumably any equivalent KEDNY program would include the same.

The Companies Should Accelerate The Return To Customers of Excess Unprotected Accumulated Deferred Federal Income Taxes Resulting From The 2017 Tax Cut And Jobs Act

Q. What is "Excess Unprotected Accumulated Deferred Federal Income Tax"?

A. Accumulated Deferred Federal Income Tax, or "ADFIT", is a balance sheet item representing the historic differences between federal income tax expense based on generally accepted accounting principles ("GAAP" or "Book" Basis) and federal income tax liability as calculated when preparing a federal income tax return (Tax Basis). GAAP Basis deferred taxes are usually net liabilities on the balance sheet; that is, they represent taxes to be paid in the future as timing differences between GAAP and Tax Basis accounting resolve to a zero balance.

Significant amounts of the Companies' accumulated deferred federal income tax (ADFIT) liabilities are the result of decades of capital investments in property for which accelerated depreciation has been available to be taken when determining Tax Basis income tax liability. Until 2017, GAAP Basis deferred corporate federal income taxes were accrued at the then applicable corporate rate of thirty five percent (35%). As part of the 2017 Tax Cut and Jobs Act (TCJA), however, the federal corporate tax rate was lowered to twenty-one percent (21%). For GAAP purposes, this reduction in the tax rate had the effect of requiring a substantial reduction of the Companies' ADFIT balances sheet since approximately forty percent (40%) of these liabilities would no longer need to be paid in the future.[32]

[32] 35% - 21% = 14%. 14% / 35% = 40%.

For most corporations, the effect of reducing ADFIT balances (creating "Excess ADFIT") was a windfall that could be returned to owners. The situation for "cost of service" regulated utilities was different however, in that utility rates have historically included an allowance for income tax expense on a GAAP Basis. (In effect, ratepayers have "prepaid" utilities' income taxes through the rates they have paid over time in their monthly utility bills.) In light of this "prepayment" aspect of setting utility rates in New York State, the Public Service Commission ruled in Case 17-M-0815, that reductions of utility ADFIT balances should be preserved for the net benefit to ratepayers, rather than allowing a windfall for utility shareholders. With regard to KEDNY and KEDLI's "Excess ADFIT", the Commission decided that the method and timing of returning excess ADFIT to ratepayers should be determined in the Companies' next rate cases.[33]

Excess ADFIT has two components: "Protected" and "Unprotected" balances. Protected Excess ADFIT represents those balances related to accelerated depreciation taken on capital investment in property; whereas Unprotected ADFIT represents — in the case of the Companies — represents the differences between the book and tax basis of deductions taken for property (plant) repairs, contributions in aid of construction, and other temporary differences such as the current tax deduction for cost of removal spending. (Revenue Requirements Panel Testimony at 97). Protected Excess ADFIT is subject to special IRS "normalization" rules that generally do not permit the return of excess balances faster than the GAAP amortization of the underlying assets. However, Unprotected Excess ADFIT – balances related to repairs, etc. – is not subject to IRS normalization rules and, in the case of KEDNY and KEDLI, may be returned to ratepayers without restriction as to timing. In other words, KEDNY and KEDLI could return these funds to ratepayers immediately, which would act to moderate the effect of the Companies' proposed rate increases.

Q. What timing have the Companies proposed for returning Unprotected Excess ADFIT balances for the net benefit of ratepayers?

[33] See: *Order Determining Rate Treatment of Tax Changes*, Case 17-M-0815 at 45-46. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={26E713D4-DB52-4A26-BF4F-7FD7B9E5C1AC}.

A. KEDNY and KEDLI have proposed that their respective Unprotected Excess ADFIT be returned over the average remaining book life of the net book value of plant assets. (KEDNY Revenue Requirements Panel at 97-98; KEDLI Revenue Requirements Panel at 95-96).

Q. Do you agree with the Companies' proposals?

A. No. The KEDNY and KEDLI Unprotected Excess ADFIT balances are $157.1 million and $62.5 million, respectively. The average remaining book life of the net book value of plant assets is 44 years for KEDNY and 47 years for KEDLI. (KEDNY, KEDLI Exhibits __ (RRP-11), Workpapers to Exhibit ___ (RRP-6), Workpaper 2, Page 1). The Companies are proposing to return the benefit of these assets (which represent excess taxes prepaid by ratepayers) over amortization periods that bear no relationship to IRS requirements for such balances. In fact, these ratepayer funds could and should be returned to the ratepayers immediately. Instead, the Companies propose to extend the amortization period of these balances to almost half a century while at the same time proposing large rate increases which, as I explained previously, cannot be afforded by 221,000 to 305,000 (30% to 40%) of KEDLI/KEDNY low income customers. (Exhibit ___(WDY-5) at 1).

Q. Do you have an alternative proposal?

A. Yes. The entirety of Unprotected Excess ADFIT balances should be used during the rate period determined in these proceedings to offset the bill impacts of the Companies' large proposed rate increases. These funds belong to customers and should be made available now to mitigate any such increases, rather than retained on the Companies' balance sheets. Many of KEDNY and KEDLI's residential customers have prepaid these excess amounts for decades through their utility bills. Many if not most of those customers will likely not be alive for another 44 – 47 years to realize the benefit of the return of their excessive prepaid rates, as proposed by the Companies. This is the customers' money – it should be returned to them during the rate plan to offset rate increases, and seniors and other ratepayers should receive the benefits of their pre-payments, rather than being subjected to increases that are many times greater than increases in social security.

Q. How much rate mitigation would using the entire balance of Excess Unprotected ADFIT during the four-year rate period contemplated by the Companies in their filings provide to residential customers?

A. I estimate the mitigation that would be provided monthly to the typical (average usage) KEDNY residential customer would be $2.12 for heating customers and $0.90 for non-heating customers. For the equivalent KEDLI customer, I estimate the savings would be approximately $1.06 for heating and $0.66 for non-heating. (Exhibit ___(WDY-5) at 9).

<u>It is worth noting that, for the typical KEDNY residential heating customer, the mitigation from added tax savings would more than offset the Companies' proposed $1.85 increase in the monthly basic service charge.</u> For the typical KEDLI heating customer, the equivalent savings would offset 57% of the proposed basic service charge increase. (Exhibit __ (RDP-4CU), Schedule 4, Pages 1-2).

The Companies Should Also Improve Affordability For Their Residential Customers Through Better Customer Service, And By Improving Access To Affordable Deferred Payment Agreements (DPAs)

Q. Are there opportunities for the Companies to improve affordability for their residential customers through better customer service, including more access to affordable DPAs?

A. Yes. I address this subject in the next section of my testimony, *Residential Customer Service and Collections Practices*.

Residential Customer Service and Collections Practices

Lack of Access to Affordable Deferred Payment Agreements (DPAs)

Q. How do KEDNY/KEDLI collections procedures add to the affordability problems faced by the Companies' LMI customers?

A. KEDNY's collection procedures do not ensure that residential customers having difficulty paying their bills are offered affordable deferred payment agreements (DPAs) meeting the statutory requirements set forth by the Home Energy Fair Practices Act (HEFPA).

This situation results in a significant number of complaints to the DPS Office of Consumer Services by residential customers about unaffordable payment terms being required, late payment charges being levied, termination notices being issued, terminations being performed, and other onerous collections actions being taken by the Company.

Q. What is the magnitude of complaints about DPAs?

A. DPA problems were the subject of the highest percentage of residential complaints for both KEDNY (28.6%, or 927 of 3,236 complaints) and KEDLI (16.6%, or 171 of 1,033 complaints) to DPS from January 1, 2016 through September 30, 2018. A complete listing of all KEDNY and KEDLI complaints coded by DPS as related to "Deferred Payment Agreements", with applicable citations to each complaint's details in Exhibit ___(WDY-09) CONFIDENTIAL and Exhibit ___(WDY-10) CONFIDENTIAL can be found at Exhibit ___(WDY-13), 20-25 and 26-27.

Tables 1 and 2 show the top ten reasons for KEDNY and KEDLI customer complaints, respectively:

Table 1 - Top 10 Reasons Why KEDNY Residential Customer Complained to OCS (January 1, 2016 - September 30, 2018)

Complaint Reason	% of Complaints
Deferred Payment Agreement	28.6%
Threat of Service Suspension/Termination/Block	25.3%
Service Terminated / Limited	12.5%
Delayed Service - New Service	8.5%
Financial Statement Form	7.1%
Threat of Termination within 72 hrs.	7.1%
Property Restoration / Debris Removal	7.1%
High Bill	6.4%
Application Denied	5.1%
Delayed Repair	5.0%

Note: Each complaint may include more than one reason for complaining.

Exhibit ___(WDY-07)

Table 2 - Top 10 Reasons Why KEDLI Residential Customer Complained to OCS (January 1, 2016 - September 30, 2018)

Complaint Reason	% of Complaints
Deferred Payment Agreement	16.6%
Threat of Service Suspension/Termination/Block	15.7%
Service Terminated / Limited	11.7%
High Bill	11.5%
Delayed Service - New Service	8.9%
Inaccurate Bill	7.6%
Wants Breakdown Of Bill	6.9%
Financial Statement Form	5.3%
Estimated Bill	4.8%
Threat of Termination within 72 hrs.	4.8%

Note: Each complaint may include more than one reason for complaining.

Exhibit ___(WDY-08)

Tables 1 and 2 also show that problems with financial statement forms were also among the top 10 reasons for residential customer complaints for each company.

Q. What is a financial statement form and why is it important?

A. A financial statement form (FSF) is a form that a utility may require an eligible residential customer to complete who is requesting more lenient terms than the Company's "standard offer", which typically requires a 15% down payment of past due arrears, with the remaining balance to be paid over a 10-month period. FSF disclosures include a customer's assets, income and expenses. The utility may require reasonable substantiation of the information on that form, provided that all such information shall be treated as confidential. (16 NYCRR § 11.10(a)(1)(ii)).

FSFs are important because they provide an objective view of a customer's individual financial circumstances: in particular, whether they have "positive cash flow" and therefore can afford to make payments toward his or her utility arrears; or have "negative cash flow" and therefore already spend more than he or she receives and may only be able to make nominal repayments. Basing the terms of a DPA on the results of a completed FSF is one way that a utility can ensure that it has negotiated DPA terms tailored to the customer's financial circumstances, as required by NYCRR § 11.10.

For these reasons, residential customer complaints about DPAs often include the problem that such customers were not able to obtain DPA terms based on a determination of their individual financial circumstances as reflected by a completed FSF. A complete listing of all KEDNY and KEDLI complaints coded by DPS as related to "Deferred Payment Agreements", with applicable citations to each complaint's details in Exhibit ___(WDY-09) CONFIDENTIAL and Exhibit ___(WDY-10) CONFIDENTIAL can be found at Exhibit ___(WDY-13), 28-29 and 30.

Q. Please provide an example of how KEDNY collections procedures do not ensure that residential customers having difficulty paying their bills are offered affordable DPAs meeting the statutory requirements set forth by HEFPA.

A. KEDNY collection procedures require that customers who need DPAs with terms addressing their individual financial circumstances apply in-person at walk-in customer service centers. This non-HEFPA requirement unnecessarily impedes access to affordable DPAs for customers unable to make such appearances for various reasons, including but not limited to the fact that they:

- Are elderly, blind or disabled (EBD Customers);
- Cannot take time off from work, or;
- Cannot afford the expense of traveling to a customer service center.

Additionally, KEDNY's "CRIS" information system is pre-configured to offer only two types of DPAs to eligible customers: one that allows customers to voluntarily offer a down payment of more than 15%, with the remaining balance paid over 10 months, and the "standard offer" requiring a down payment of 15% of the balance, with the remaining balance paid over a 10-month period; and another. (Exhibit ___(WDY-02) CONFIDENTIAL at 204).

The Company's collections procedures require that any customers whose individual financial circumstances make them unable to afford either of the two alternatives described above appear in-person at a customer service center to document their need for more affordable DPA terms:

> "*Note: If the residential customer claims a hardship, the customer can go into one of our District Offices to complete a 3596 form to see if they qualify for a minimum $10 a month DPA. This cannot be completed over the telephone by a call center representative.*"
>
> (Exhibit ___(WDY-02) CONFIDENTIAL at 204, 586)

> "*The terms that can be offered to the customer appear in this screen. If the customer wants terms that are easier to pay then the terms displayed in this screen, they must be referred to a Customer Office to complete a Financial Statement (Form DSS3596)*"
>
> (Exhibit ___(WDY-02) CONFIDENTIAL at 206, 588)

KEDNY's procedures also require that customers who wish to renegotiate their DPAs due to a change in financial circumstances pursuant to 16 NYCRR § 11.10(e)(1)(ii) be referred to a customer service center to provide evidence of their financial change in person:

> "*If the customer is eligible for a renegotiated DPA, refer the customer into a Customer Office and advise the customer that they must provide* [sic] *of the financial change.*"
>
> (Exhibit ___(WDY-02) CONFIDENTIAL at 208, 500)

Q. What happens to eligible customers who cannot afford either of the pre-configured set of terms generated by the CRIS information system, and who are unable to appear in-person at a KEDNY customer service center in order to obtain a DPA that addresses their individual financial circumstances?

A. According to KEDNY's collections procedures, eligible customers will be mailed a final termination notice (if they have not already received one) and a written offer for a DPA requiring a down payment of 15% of the balance, with the remaining balance paid over a

10-month period (KEDNY's "standard" offer). (Exhibit ___(WDY-02) REDACTED at 643).

Q. Do you think it is reasonable for KEDNY to require eligible residential customers to either appear in-person at a KEDNY customer service center in order to obtain a DPA that addresses their individual financial circumstances; or otherwise be mailed an offer for a DPA requiring a down payment of 15% of the balance, with the remaining balance is paid over a 10-month period?

A. No. HEFPA requires that utilities make:

> "…reasonable efforts to contact eligible customers or applicants by phone, mail or in person for the purpose of offering a deferred payment agreement and negotiating terms tailored to the customer's financial circumstances, prior to making the written offer of a deferred payment agreement…"
>
> (16 NYCRR § 11.10)

In situations called for by KEDNY's collections procedures, the Company does not negotiate "terms tailored to the customer's financial circumstances, prior to making the written offer of a deferred payment agreement" as required by HEFPA. Instead, it relies upon pre-configured (default) DPA terms set by its CRIS system that can only be overridden for customers who comply with the Company's unreasonable requirement of physically appearing at a service center so as to prove their need for more affordable terms.

Q. Did you find evidence that this requirement harms vulnerable customers who are unable to appear at a service center so as to prove their need for more affordable terms?

A. Yes. Exhibit ___(WDY-11) is a detail record of fourteen complaints by residential KEDNY customers with the DPS from January 1, 2014 through September 30, 2018, twelve of which include evidence that vulnerable customers have indicated that the Company's requirement has prevented them from obtaining an affordable DPA and, in some cases, subjected them to further collections measures including threats of service termination and actual service termination. The following are excerpts from these complaints reflecting this evidence:

Complaint ID 709, Zip Code: 11436 (Threat of Termination Within 72 Hours)

"*Consumer is looking to keep services on and set up DPA without coming in to office, as she is elderly and disabled.*"

Exhibit ___(WDY-11) REDACTED at 855

Complaint ID 722, Zip Code: 10309 (Threat of Service Termination / Suspension / Block)

"*I was contacted by national grid to come in fill out finance forms that may allow me to get an agreement for $10 a month. I called National Grid and asked if the forms can be mailed to me because, I lost my ID and had no ID I also explained that I am handicapped and I fractured my foot and I am on crutches, I was told I had to come in the office or they couldn't help me. I am thankful for the help but it is impossible for me to get into the office.*"

Exhibit ___(WDY-11) REDACTED at 871

Complaint ID: 733, Zip Code: 11213 (Threat of Service Termination / Suspension / Block)

"*Seeking the utility to help her retain service with an affordable DPA as she states she has not had one. Consumer states she is elderly and cannot get to the utility office because the heat causes her shortness of breath.*"

Exhibit ___(WDY-11) REDACTED at 884

Complaint ID 964, Zip Code: 11233 (Threat of Service Termination / Suspension / Block)

"*Resolution Sought:*

I need time to either work out pay to keep gas on or time to move.

Resolution Offered:

call 311

come into office, which I'm not able to due to working hours not conducive to Natl Grid business hours. I work outside of NYC"

Exhibit ___(WDY-11) REDACTED at 1177

Complaint ID 1174, Zip Code: 11230 (Threat of Service Termination / Suspension / Block)

"*Customer states she has gone to the local NG office and they will not allow her to fill FSF out cagged to Mr Hager at NG*"

Exhibit ___(WDY-11) REDACTED at 1437

Complaint ID 1540, Zip Code: 11434 (Threat of Service Termination / Suspension / Block)

"*Customer was told to go into the office and fill out the necessary paperwork for a deferred payment agreement to be granted. Customer was told that she could go early in the morning before 9am. Customer was satisfied with this arrangement because she works. Customer just started a new job and she was relieved that she would not need to take time off from work since she just started at this job.*

Customer states that when she arrived at the National Grid office as instructed, she was given a completely different story by the National Grid Employees who were there. Customer was disappointed because she had taken her time to go there."

…

National Grid has advised us that it has responded to your concerns. My review of the company records indicates that National Grid mailed *you a minimum deferred payment agreement application which you will need to complete and send back to National Grid.*"

Exhibit ___(WDY-11) REDACTED at 1898 - 1899

Complaint ID 1787, Zip Code: 11231 (Threat of Service Termination / Suspension / Block)

"*I am homebound disabled me cannot physically go down to 1 metro tech to complete a financial statement form for the $10 a month payment plan because I'm experiencing financial hardship. They were paid 2 heap grants and an hra one shot deal payment as a down payment for this new agreement I was reassured but I still can't get down to the office to complete this form. They said my gas will be shut off by tomorrow.*"

Exhibit ___(WDY-11) REDACTED at 2224

Complaint ID 1811, Zip Code: 11412 (Threat of Termination Within 72 Hours)

"*I was out of work on disability for 5 months. I could not work from 09-20-16 to 04-01-17. I had to keep waiting for delayed disability benefits. I asked for agreements and National Grid will not give me one. I was told to go to the office and fill out a Financial Statement. When I got there they would not let me. They keep telling me to pay $1000.00 I don't have. I was forced to write a check to keep my services on. Since I just been back to work I can't afford it. It returned. I keep getting calls all day. I am getting another turn off again forcing me to pay $1300.00. I work for NYC Transit Authority. They do not give one shot deals to us and we have to pay it back. I have lung injury and I use a respirator. I spoke to a Supervisor Miss Hydie and she asked to speak to my doctor about my respirator. She gave a 1 week extension call and contact my doctor. I never experienced this before. I can't believe this. I had less than half my income coming in.*"

Exhibit ___(WDY-11) REDACTED at 2256

Complaint ID 1966, Zip Code: 11210 (Budget)

> "____________ *stated that he is 74 year old and has difficulties getting around. He stated that his level billing plan is advised to be reset to $250 which includes a payment plan.* ____________ *stated that he was afford to pay $125 level billing + 10 towards arears of $828 but they stated he has to come to the office. He stated he is aware that he has to complete a financial statement form but he can provide it over the phone and submit the proof.*
>
> ____________ *doesn't understand why a 74 year old individual has to come to the office to complete a financial statement form. He stated he want National Grid to work with him to set up a budget billing which will include the installment for the arears that are affordable.*"

Exhibit ___(WDY-11) REDACTED at 2459

Complaint ID 2527, Zip Code: 11225 (Threat of Termination Within 72 Hours)

> "*The caller states her father lives alone an is elderly, blind and disabled. Has notified the utility of this. Caller states that there is no existing medical condition other than the EBD. Father is on dialysis.*
>
> *Caller states that she would like the utility to send her a DPA and will make payments on the account. She states that account holder is no longer able to manage his financial obligations. Caller states that the utility advised she has to come to office to complete paperwork and she states she works fulltime and has no free time to do this as she also helps tend to her father.*"

Exhibit ___(WDY-11) REDACTED at 3166 - 3167

Complaint ID 2906, Zip Code: 10314 (Threat of Service Termination / Suspension / Block)

"*All i wanted and asked the Marshall dept to make a new agreement and if it has to be in person that my husband like the last time can go there during his break at work and make a new agreement for me, he gets home too late to drive me there plus its hard for me to travel anywhere I am having issues with the veins in my legs among other things and have to keep my legs elevated.*

Resolution Offered:

The gas company said that i would have to speak with the Marshall dept which i did and this time they wont allow my husband to go to national grid and make a new agreement for me. I was told that i have to go regardless if im disabled and cant they said the rules have changed and my husband cant be the one to go there like the last time."

Exhibit ___(WDY-11) REDACTED at 3672

Complaint ID 3154, Zip Code: 10314 (Service Terminated / Limited)

"

Q. *Is service on or off?*
A. *off*

Q. *Have you had a deferred payment plan?*
A. *was mailed one but could not afford it*

Q. *Is the amount requested to catch up on a deferred payment plan?*
A. *no, no previous DPA*

Q. *When was the last time you filled out a financial statement form? What was the result?*
A. *not done, cannot get to National Grid offices, offered to complete one via mail.*

"

Exhibit ___(WDY-11) REDACTED at 4006

Q. Were you able to estimate the time and financial burden each of these customers would face if they were to attempt to travel to the nearest customer service center to obtain a more affordable DPA?

A. Yes. Although the complaint FOIL did not include customer addresses, it did provide customer zip codes. Therefore, it is possible, using Google Maps, to estimate the time and cost to customers of roundtrip travel to the KEDNY customer service center nearest to the center-point of the customer's zip code. Exhibit ___(WDY-12) documents the travel time and expense that would be required of customer filing the above complaints using such a methodology, assuming no traffic problems. The exhibit, which maps three possible methods of travel for each customer complaint: taxi, public transportation (bus and/or subway), and walking; shows that walking is generally not a feasible option, either because customers indicate they have a disability (seven customers), work outside of New York City (one customer), or live more than a one hour walk from a KEDNY customer service center (one customer). Thus, I estimate that only three customers — those filing Complaint IDs 1540, 1811 and 3154 — might reasonably be expected to make the journey to their nearest KEDNY customer service center by foot.

The remaining nine customers would in all likelihood need to incur unnecessary expense (in addition to time) to get to a service center. Even those who owned cars would need to pay for gas and likely parking, if such is available. Without access to an automobile, taxi, rideshare, or public transportation would be the only options. In this regard, Exhibit ___(WDY-12) also provides estimated costs for roundtrip taxi, bus and subway from the center-point of each customer's zip code. The exhibit shows taxi fares ranging from at least $10 to more than $50; and bus/subway fare of $5.50.

Q. Have other customers complained?

A. Yes. I found fifty-nine (59) complaints of customers who indicated they were unable to obtain affordable terms over the phone and were instead instructed to appear at a customer service center. A complete listing of these complaints, which includes those excerpted above, is presented on Page 1 of Exhibit ___(WDY-13).

Q. **Were there customers in this list who indicated that they went to the office but were not permitted to complete an FSF or were unsuccessful in some other way at obtaining an affordable DPA?**

A. Yes. Seven of the fifty-nine complaints involved customers who indicated they went to the office but were not permitted to complete an FSF or were otherwise unsuccessful in obtaining an affordable DPA. A complete listing of these complaints, which includes these is presented at Exhibit ___(WDY-13), 2.

Q. **Had any of those customers defaulted on prior DPAs?**

A. For some of these customers, there are indications of "defaults" on prior DPAs, however, in each of those cases the DPS determination indicates either that the customer in did not have a prior Minimum DPA and/or the customer did not complete an FSF, which raises the question of whether the prior DPAs "defaulted" upon met the criteria for DPAs required by 16 NYCRR § 11.10, or were "verbal" or otherwise non-compliant DPAs. I found that fifteen of the fifty-nine complaints listed at Exhibit ___(WDY-13), 1, raised this question. These complaints are listed at Exhibit ___(WDY-13), 3.

Q. **Did you find any situations in which customers who had submitted valid letter of medical necessity, had their account coded as such by KEDNY, but were still required to travel to a customer service center to complete a financial statement form for a DPA to protect their account for one year per HEFPA?**

A. Yes. The details of Complaint ID 878 provide evidence that the customer was required to appear in-person at a customer service center to complete an FSF and obtain a DPA. The DPS determination provides such evidence, stating:

> "*National Grid - Metro NY has advised us that it has responded to your concerns on October 10, 2016 and it has received a valid letter of medical necessity and has coded the account as such. Furthermore, the company has*

given a 30 day extension on the account, however, you need to go to the customer service office to fill out a financial statement form to verify you qualify for a low or minimum deferred payment agreement."

(Exhibit ___(WDY-11) at 1,071)

Q. What would this customer's transportation time and expense be to appear in-person at the nearest KEDNY customer service center?

A. Since this customer's zip code is 11413, the nearest KEDNY service center would be at 8967 162nd Street, Jamaica (Queens). If the customer lived at the center-point of her zip code, the quickest way for her to get to the KEDNY service center (assuming no traffic problems) would be by taxi, which would take twenty-eight (28) minutes each way for a total travel time of fifty-six (56) minutes. The fare for this trip (again assuming no traffic problems) would be $24. A second option would be public transportation (in this case, bus), which, at $5.50 for round trip fare, would be less expensive, but would require eighty-two (82) minutes of travel time (again assuming no traffic problems). A third option would be walking, which would involve no cost but involve a 112 minute walk (almost two hours). The customer in question would likely not be able to make such a walk, since she has medical problems that made her account eligible for medical necessity coding. (Exhibit ___(WDY-12) at 15).

Q. Please explain why KEDNY's requirement that residential customers physically appear at a service center so as to prove their need for more affordable DPA terms is unreasonable.

A. There are several reasons, including but not limited to:

- The Company's requirement that residential customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms is not required by HEFPA, which only states that:

  "*A utility may require that a customer or applicant complete a form showing assets, income and expenses, and provide reasonable*

> *substantiation of the information on that form, provided that all such information shall be treated as confidential.*"
>
> 16 NYCRR § 11.10(a)(1)(ii)

The Company acknowledged as much in its response to I/R PULP-75, which asked:

> "*Please provide a citation to any statute, regulation or other authoritative guidance that serves as the basis for requiring customers to go into one of the Company's District Offices to complete a 3596 form — instead of allowing such customers to provide some or all of the necessary Financial Statement information and documentation over the phone, online, or through the U.S. mail — to:*
>
> *I. See if they qualify for a minimum $10 a month DPA.*
>
> *II. Obtain more lenient terms than those offered by the Company for a DPA.*
>
> *III. Renegotiate their DPAs due to significant a change in their financial circumstances.*
>
> *Response:*
> *The Company cites the following sections of HEFPA as requiring a customer to "complete a form", "demonstrate" financial circumstances or "provide" information for the purposes of (a) determining eligibility for a minimum $10 a month DPA, (b) obtaining more lenient terms than those offered by the Company for a DPA, or (c) renegotiating a DPA due to a significant change in their financial circumstances:*
>
> *§11.10(a)(1)(ii)*
> *§11.10(a)(1)(iii)*
> *§11.10(a)(5)*
> *§11.10(a)(6)*
> *§11.10(d)(2)*
> *§11.10(d)(11)*

§11.10(e)(1)(ii)
§11.10(e)(2)(i)
§11.10(e)(2)(iii)

The Company has not identified language mandating the means by which such forms, demonstrations, or information shall be accepted."

Exhibit ___(WDY-02) REDACTED at 752-753 (***Emphasis Added***)

Indeed, HEFPA does not mandate a particular manner in which evidence of a customer's individual circumstances shall be accepted. KEDNY's requirement that residential customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms is unnecessary, as such evidence can be furnished over the phone, online, or through the U.S. mail, as is standard operating procedure at other New York utilities.

- KEDLI, for example, has no such requirement that its residential customers physically appear at a service center so as to provide evidence of their need for more affordable DPA.

KEDNY's sister utility KEDLI has chosen not to impede access to affordable DPAs in the KEDNY manner, as made clear by the Companies' collections procedures; and their response to I/R PULP-63, which asked:

"

a. Please provide a detailed explanation why KEDNY customers must complete a Financial Statement at KEDNY's walk-in office, but no equivalent requirement exists for KEDLI customers to complete their Financial Statements at a KEDLI walk-in office.

b. Please provide citations to any legal precedent, rule, regulation, Order or practice that provides authorization for the Company to compel its customers to come to a walk-in office in order to receive a Minimum DPA.

Response:

a. Prior to converting from the legacy KEDLI customer service system (known as CAS) to the current Customer Service System (known as CSS) in 2014, KEDLI customers were required to complete Financial Statements at one of KEDLI's walk-in offices. The CSS system has a built-in module that allows a customer service representative to enter the customer-provided data points necessary to calculate eligibility. Since the conversion to CSS, KEDLI customers can complete Financial Statements over the telephone. KEDLI customers may still opt to fill out the Financial Statement at a walk-in office.

Because KEDNY has not converted to CSS, the online Financial Statement module is not available*. KEDNY customers can complete a Financial Statement at any of the walk-in customer service offices. A customer may also submit a Financial Statement Form by fax when working with a member of KEDNY's PSC Complaints Team or a Consumer Advocate.*

b. Please see the Companies' response to PULP-75(a).

"

Exhibit ___(WDY-02) REDACTED at 754-755 (***Emphasis Added***)

The only basis cited by the Companies for the difference between KEDNY and KEDLI in the required means by which residential customers must furnish evidence of their need for more affordable DPAs is that "Because KEDNY has not converted to CSS, the online Financial Statement module is not available". However, this "constraint" should not be a constraint at all: KEDNY CSRs should be able to take customer financial information over the phone and/or through the mail and enter that information in the Company's CRIS system themselves. It is simply not necessary for customers to physically appear at a customer service center to provide such evidence of their need, and it is an unreasonable burden to EBD customers to require them to do so.

- The requirement that customers physically appear at a service center so as to provide evidence of their need for affordable DPA terms places an undue burden on all customers, and a disparate burden on elderly, blind and/or disabled customers; customers with serious medical conditions; and low income customers.

  According to the testimony of the Company's Shared Services Panel, there are only four walk-in customer services centers in KEDNY's service area where customers can make payments or seek assistance with service issues. There are two offices in Brooklyn (1535 Pitkin Avenue and 345 Jay Street), one on Staten Island, and one in Queens (8967 162nd Street). (Shared Services Panel Testimony at 56). These are the only locations in a service area with 1.2 million residential customers where such customers may appear to fulfill the Company's requirement to provide evidence of their need for more affordable DPAs. Even able-bodied persons could generally expect that a trip to one of KEDNY's service centers during business hours could consume a significant part of their weekday — time they may not have because of work or other commitments. And by definition, customers who need more affordable DPA terms cannot afford any costs of traveling to a customer service center that would be likely for most such customers, whether by taxi, rideshare or public transportation — given the limited number of service centers.

  Since the Company's requirement that customers appear in-person to provide evidence of their need for more affordable DPAs is unnecessary, the burden placed on such customers by the requirement is undue.

- Complaints filed by residential KEDNY customers with DPS provide evidence that the Company's requirement that customers required to appear in-person at customer service centers often do not succeed in their effort to obtain affordable DPAs even though they have complied with the Company's unnecessary requirement.

  As is made evident from Complaint IDs 1174, 1540 and 1181 above — together with other complaints for which citations are provided at (WDY-13), 2; customers who fulfill the requirement to appear at a customer service center to provide support for their need for more affordable DPA terms often do not succeed in their effort to obtain such DPAs. This situation provides evidence that the Company's requirement that customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms is frequently ineffective in generating affordable DPAs, which — given the fact that the requirement is not necessary and there are perfectly acceptable alternative means for providing support for customers' indication of financial need — is further evidence that the requirement is unreasonable.

- The Company's requirement that customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms also runs counter to the stated purpose of its proposal to implement "E-DPAs" as described by the testimony of the Shared Services Panel.

According to the testimony of the Shared Services Panel, the stated purpose of implementing E-DPAs would be to:

> "*... permit customers to enter a DPA via electronic means ("E-DPA"), while continuing to offer the conventional methods for entering DPAs already in place. Customers would be allowed to place a call to National Grid, negotiate the terms of a DPA over the phone with a representative, and subsequently have an electronic document prepared for the customer's review and electronic signature. The customer would* ***complete*** *the DPA using electronic signature protocols authorized under the Electronic Signature and Records Act, N.Y.S. Technology Law, §§ 301-309 ("ESRA").*"

(Shared Services Panel at 57-58, ***Emphasis Added***)

PULP supports that proposal, as it has with equivalent proposals in other rate cases. However, KEDNY's insistence upon its requirement that customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms undermines the rationale for moving toward E-DPAs. What purpose would such a requirement serve? Surely it would be unreasonable and inequitable to privilege one subset of customers – those with the technological resources and savvy to sign E-DPAs – with the ability to complete such DPAs without having to physically appear at a service center and provide evidence of their need for more affordable DPA terms; while subjecting ratepayers lacking broadband and/or computer proficiency to long and costly journeys to KEDNY customer service centers to complete their DPAs to receive an affordable DPA – which is a core requirement of HEFPA.

- Furthermore, the Company's I/R responses, together with the resolution of complaints by its residential customers to DPS, provide evidence that KEDNY makes exceptions to its requirement that customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms when such customers complain to either the Company or DPS.

As also indicated by the Company's response to I/R PULP-63, KEDNY makes exceptions to its requirement that customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms by permitting them to "submit a Financial Statement Form by fax when working with a member of KEDNY's PSC Complaints Team or a Consumer Advocate". (Exhibit ___(WDY-02) REDACTED at 755). The Company does not indicate what the basis for such leniency is, thus it would not be unreasonable to conclude that the primary reason is simply that a customer has complained. At best, this is added undue burden for those who have the time and information resources to complain; but for everyone else, it provides no opportunity for redress. Examples of exceptions related to specific complaints by residential KEDNY customers include Complaint IDs 1540 (Exhibit ___(WDY-09) REDACTED at 1,898), 2146 (Exhibit ___(WDY-09) REDACTED at 2,686) and 2470 (Exhibit ___(WDY-09) REDACTED at 3,097).

The only conclusion that can be drawn from the evidence obtained is that the apparent policy and noted instances of exceptions to KEDNY's requirement that customers physically appear at a service center so as to provide evidence of their need for more affordable DPA terms is that exceptions are determined based on whether customers complain. This is not a rational basis for such a requirement and provides more evidence that the requirement should be eliminated.

Proposals/Recommendations

KEDNY should abandon its requirement that residential customers physically must appear at customer service centers so as to provide evidence of their need for more affordable DPA terms.

Q. How do you propose that this problem be resolved?

A. KEDNY should abandon its requirement that residential customers physically must appear at customer service centers so as to provide evidence of their need for more affordable DPA terms. Instead, the Company should modify its residential payment arrangement and financial statement form (FSF) procedures to affirmatively instruct CSRs to negotiate DPAs with residential customers that meet the statutory requirements of HEFPA. Specific modifications should include:

- Instructing CSRs to negotiate such DPAs at the time residential customers first communicate difficulty payment on their KEDNY bills, including providing the KEDLI Residential Payment Terms Rights Disclosure Statement set to be implemented by KEDLI by the end of 2019 (Exhibit __(WDY-02) REDACTED at 665);
- Instructing CSRs to negotiate DPAs in a manner tailored to the individual financial circumstances of customers, in accordance with HEFPA; and
- Removing all restrictions currently imposed by the Company upon CSRs to solicit and obtain FSFs from residential customers as a means of objectively determining their individual financial circumstances and thereby serving as the basis for DPA terms;
- Evidencing the agreement of terms between the Company and its customers entering into DPAs with the signature of both parties. To the greatest extent possible, this should be accomplished using the Company's proposed E-DPA

capabilities. When not possible, the Company should require customers to return signed copies of their agreements to evidence the agreement of the parties; and

- Reporting on DMM the monthly number of:
  - Completed FSFs;
  - Completed E-DPAs, and;
  - Signed hardcopy DPAs completed, including the separate reporting of Minimum DPAs, other more lenient DPAs, and Standard DPAs completed.

Q. Did you find any other KEDNY customer service issues involving residential customers being required to appear in-person at a customer service center to accomplish their service needs?

A. Yes. I found fifteen (15) complaints of customers seeking to establish service who were required to present documentation. As was the case with customers seeking affordable DPAs, some of these customers were also not able to open accounts even when they did go to the office. The details of these complaints can be found in Exhibit ___(WDY-09) REDACTED and Exhibit ___(WDY-10) REDACTED as cited at Exhibit ___(WDY-13), 32.

Q. Do you support KEDNY's proposal to renew the Pitkin Avenue office lease and to renovate and remodel the premises?

A. Yes. As discussed in the testimony of the Shared Services Panel, KEDNY is proposing to renew the lease and perform renovations necessary to keep the Pitkin Avenue office open and serving customers. The Panel stresses that keeping the Pitkin Avenue office open and available to walk-in customers is particularly important given that it is located in one of the most economically challenged areas in KEDNY's service territory. (Shared Services Panel Testimony at 56 – 57).

Working Relationship between KEDNY and the New York City Human Resources Administration (HRA); and KEDLI and the Nassau/Suffolk Departments of Social Services (Nassau/Suffolk DSS).

Q. Please describe the working relationship between KEDNY and HRA; and KEDLI and Nassau/Suffolk DSS, in regard to the companies' residential customers.

A. There are four major areas requiring coordination between HRA/DSS and the Companies:

1. Social Services Law 131-s ("One-Shot") Recipients;
2. Utility Guarantee/Direct Vendor Customers;
3. HEAP Recipients, and;
4. EAP Eligibility.

Generally, HRA/DSS will provide eligible public assistance (PA) customers having difficulty paying their utility bills with grant or loan assistance that pays down up to four months of utility arrears pursuant to 131-s of the Social Services Law. These grants or loans (referred to colloquially as "one-shot deals") pay only for charges for utility service; not miscellaneous charges such as late payment charges; reconnect fees, Marshall's fees, deposits, no-access fees, on-bill financing charges, etc.[34] Depending on the customer's circumstances, 131-s assistance may result in guarantee payment of a PA customer's future KEDNY/KEDLI bills for up to six months (Utility Guarantee Customers, or UGC); or pay their bills outright until HRA/DSS informs the Companies otherwise (Direct Vendor Customers, or DVC). When the Companies receive confirmations of these actions from HRA/DSS, they generally remove all arrears older than four months from the applicable customers' bills and holds them as "abeyances". The "abeyance" amounts will be returned to the customers' bills when they are no longer being covered under the UGC or DVC programs. During benefit periods, these customers incur no late payment charges on amounts in "abeyance"; nor are they subject to other collections measures associated with "abeyance" amounts, such as the issuance of final termination notices, actual terminations of service, and credit agency reporting. Once PA benefit periods end, "abeyances" return

[34] See, Office of Temporary and Disability Assistance, Temporary Assistance Energy Manual (2016) at 20, available at: https://otda.ny.gov/programs/temporary-assistance/TAEM.pdf.

to customer bills and are subject to normal collections measures.[35] (Exhibit ___(WDY-02) REDACTED at 649-664).

Q. How are HEAP grants coordinated between KEDNY/KEDLI and HRA/DSS for the benefit of the companies' customers?

A. The Home Energy Assistance Program (HEAP) provides assistance to help income eligible households pay energy bills. The program opens in November each year. HEAP grant amounts vary and are based upon information provided by the applicant's annual energy costs and annual income. For 2018-19, renters with heat included in their rent can obtain grants of up to $50.00. Households with utility-supplied gas or deliverable fuel are eligible to receive between $350 and $585. Households facing utility shut off for non-payment can, if eligible, receive an emergency grant of up to $275. (Exhibit ___(WDY-02) CONFIDENTIAL at 355).

KEDLI has an agreement with the PSC whereby notification of a HEAP benefit will either reinstate a DPA or result in a new minimum payment agreement being negotiated once all HEAP benefits have been exhausted. In order for customers to qualify, they must call within thirty (30) days from the date the last HEAP pledge was entered on the account. (Exhibit ___(WDY-02) CONFIDENTIAL at 20). KEDNY has a similar policy, whereby the Company will consider any regular and/or emergency HEAP payment as entitling the customer to an affordable and reasonable deferred payment agreement, regardless of any previous DPA defaults. KEDNY will reinstate a defaulted payment agreement when the grant is sufficient to cover the missed payments. If the grant amount is not sufficient for reinstatement, the Company will activate a new deferred payment agreement. The remaining balance is then rolled into a new deferred payment agreement with the same terms and an extension of the installment period. (Exhibit ___(WDY-02) CONFIDENTIAL at 355).

Both KEDNY and KEDLI waive the requirement for customers to complete an FSF in order to obtain a Minimum DPA if they were promised an Emergency HEAP grant within

[35] SSL § 131-s(6)

the past thirty (30) days, as long as such customers return a signed copy of the DPA contract by the due date. (Exhibit ___(WDY-02) CONFIDENTIAL at 69, KEDNY 489).

KEDNY's collections procedures indicate that many customers are given payment agreements which make them ineligible for the Emergency HEAP grant. Therefore, CSRs are cautioned that before setting up a DPA they should check to see if a customer meets the HEAP income eligibility guidelines and, if so, and they have a shut off notice, to refer them to HRA. (Exhibit ___(WDY-02) CONFIDENTIAL at 637).

Q. Are there ever any problems in the operation of One-Shot grants, UG/DV promises/payments, and HEAP grants between KEDNY/KEDLI and HRA/DSS that affect the Companies' customers negatively?

A. Yes. In my review of KEDNY and KEDLI residential complaints to DPS, I found problems with the fulfillment of HRA/DSS transactions to the Companies (for the benefit of their customers) falling into several categories, including but not limited to:

- HRA/DSS Case Closings

  When HRA/DSS stop guaranteeing/paying UGC/DVC customer bills, the respective agencies notify the Companies, which then hold the affected customers responsible for their own bills and return any balances that had been held in abeyance to their accounts. Often, this transition comes as a big surprise to the affected customers. (Indeed, abeyances can remain off customer bills for years; in some cases well beyond what should be collectible pursuant to applicable statutes of limitations and Commission practice.)

- Promised Payments Not Made, or Payments Made Then Rescinded by HRA/DSS

  KEDNY and KEDLI hold One-Shot, UGC/DVC, and HEAP customers responsible for HRA/DSS payments promised but not made; and/or HRA/DSS payments made but then rescinded. "Abeyance" amounts associated with One-Shot grants and UGC/DVC periods then return to the customer's bill on top of the deficient HRA/DSS payments, frequently with little or no explanation for such charges.

- 131-s and/or HEAP Funds not Received by Expiration of Final Termination Notices

  Residential customers of the Companies whose applications for One-Shot and/or HEAP assistance through HRA/DSS take longer to process and be paid to their KEDNY/KEDLI accounts than the time available before final termination notice (FTN) expiration are at risk of service termination. Customers who wind up complaining about this situation to DPS often indicate they had applied for assistance before filing their complaints. In many cases, their complaints simply request additional time beyond the initial extensions provided by the Companies to allow assistance for which they had already applied, and in some cases been approved, to be remitted to KEDNY or KEDLI.

In my review of residential customer complaints to DPS, I noted at least 108 KEDNY complaints and 5 KEDLI complaints dealing with promised but unreceived HRA/DSS assistance, which had a negative impact on the Companies' customers. Exhibit ___(WDY-13) at 12 and 18 provide a list of these complaints, with applicable citations to the actual complaint details in Exhibit ___(WDY-9) CONFIDENTIAL and Exhibit ___(WDY-10) CONFIDENTIAL.

Proposals/Recommendations

The Companies should prepare customers who will experience the return of abeyance amounts to their monthly bill and/or who have discrepancies between their KEDNY/KEDLI and HRA/DSS records. Six years of detailed billing data should be made available to e-Billing to residential customers as soon as they enroll in e-Billing.

Q. What is your proposal to deal with these problems?

A. Much more needs to be done to prepare customers who will experience the return of abeyance amounts to their monthly bill and/or have discrepancies between their KEDNY/KEDLI and HRA/DSS records. My recommendations are for the Companies to:

- Provide access to six years of detailed billing data through the Company's e-Billing portal. This data should be made available to residential customers as soon as they enroll in e-Billing, thus reducing the confusion and disputes that might otherwise lead to customers filing complaints with DPS. If "abeyance" amounts are more than six years old or the DVC period has lasted more than six years, billing history extending back to three months prior to the earlier of: the removal of arrears constituting abeyance amounts from customer bills; or the beginning of DVC periods should be provided.

- Pursue, as part of updating and improving their IT systems, and in partnership with New York City HRA and Nassau/Suffolk DSS, the development of an application that tracks the public assistance status of PA customers and reports such status to PA customers in "real-time" through their e-Billing portals (in the case of electronic billing customers) and through the mail anytime there is an update/change for non-electronic billing customers. An application of this sort would be beneficial to both the Companies and to customers, who each could monitor § 131-s, UGC/DVC and HEAP status in a manner that would allow much more timely action to prevent situations that could lead to unnecessary complaints and collections actions.

- Provide to PA customers complete, detailed reconciliations of all transactions between HRA/DSS and KEDNY/KEDLI pertaining to their One-Shot grants, UGC/DVC assistance and HEAP grants, and "abeyances," identifying any contemporary or historic reconciling transactions that require follow up by the customer and/or the Company so as to ensure the accuracy of amounts owed by the customer, including:

    - Payments that were due to the Companies but not paid by HRA/DSS,
    - Payments by HRA/DSS to the Companies that were later rescinded, and
    - Adjustments to the original "abeyance" amounts during the UGC/DVC period.

- Conduct telephone outreach to UGC/DVC customers with abeyance amounts at least annually to review their assistance status, including their abeyance amounts.

This outreach should also include a reminder that once UGC/DVC status ends, customers are responsible for their own bills and the resolution of their abeyances. Summaries of discussions between CSRs and customers on these calls should be transmitted to each customer, who should be requested to return an acknowledgement of their agreement about the CSR summary, indicating any differences in their understandings of such phone conversations.

- Grant automatic thirty-day extensions for customers whose UGC/DVC status ends, during which time these customers should be provided the opportunity to complete an FSF and to negotiate a DPA with the Company that meets the statutory requirements set forth under HEFPA. During the extension period, all collections actions against these customers should be suspended.
- Include regular messages on bills that reference communications between the Companies and customers regarding any pending HRA/DSS status changes, together with references to e-Billing portal resources described above helping to explain such transactions.
- Provide an extension period of ninety days to those customers shown to have reconciling transactions between the Companies and HRA/DSS — such as UGC/DVC payments that HRA/DSS was supposed to make to the Companies but did not, or payments made by HRA/DSS that were later rescinded/reversed — during which all collections actions would be suspended while the affected customers attempt to resolve the reconciling transactions (up to and including a "fair hearing"), complete an FSF and negotiate a HEFPA DPA.
- Extensions should commence as of the date any bill including added amounts related to HRA/DSS is mailed. During extension periods, affected customers should be given the opportunity to engage with specially designated Company personnel to dispute bill additions customers contend are erroneous and to seek resolution of such disputes. During the extension period, these customers should also be provided the opportunity to complete an FSF and to negotiate a DPA with

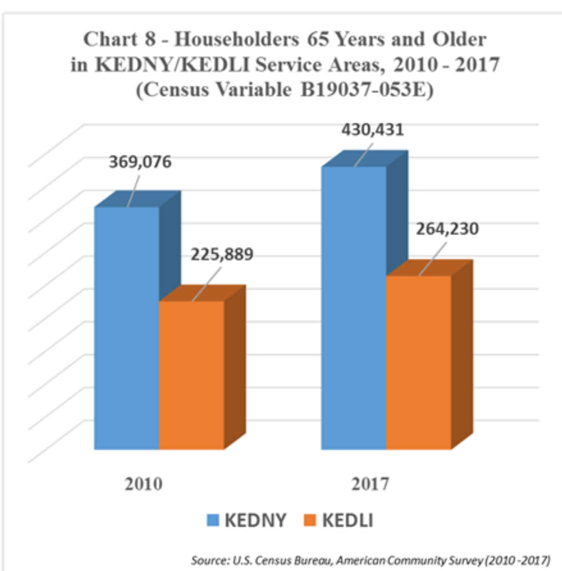
the Company that meets the statutory requirements set forth under HEFPA; and all collections actions against related to disputed amounts should be suspended.

Most of the above recommendations can and should be incorporated into the Companies' proposal in these proceedings to upgrade or replace their CRIS and CSS systems. It is vitally important that the new systems include upgrades or other plans to integrate KEDNY/KEDLI and HRA/DSS transactions in such a way as to provide transparency to customers, and an expedited and logical process for resolution of these types of collection disputes. The Companies will have the opportunity if their proposal is accepted to use this investment in information technology ($113.4 million and $52.6 million) to improve data collection and integration processes for the benefit of their most vulnerable customers. This opportunity should not be missed. (Shared Services Testimony at 49).

Medical Emergency, Life Support Equipment; & Elderly, Blind or Disability Customers

Q. What did you find in your review of the Companies' collections practices with regards to elderly, blind or disability (EBD) customers?

A. In the KEDNY/KEDLI service areas, demographic trends reflected by the U.S. Census Bureau's *American Community Survey* (ACS) from 2010 through 2017 show a steady increase in householders age 65 or older and persons with disabilities. Charts 8 and 9 reflect these trends:



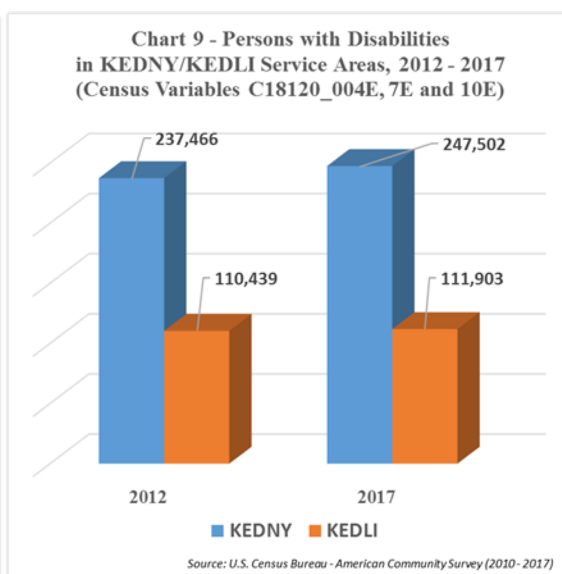


Exhibit ___(WDY-04) at 17

As can be seen in Charts 8 - 9, the number of householders age 65 and older in the KEDNY and KEDLI service areas increased 17% between 2010 and 2017, to 430,431 and 264,230 households, respectively. The number of persons with disabilities in the KEDNY service area rose 4%, to 247,502; while the number of persons with disabilities in the KEDLI service area rose 1%, to 111,903 from 2012 to 2017.

Special procedures are required by HEFPA before a utility may terminate service to a residential customer whose household is comprised of persons who are all either elderly, blind or disabled.[36] For KEDNY/KEDLI customers, the most important issue faced by customers with EBD household members is understanding the HEFPA requirements for such protections and getting their accounts coded accordingly. Given the trends identified in Charts 8-9, it is therefore not surprising that 415 KEDNY customers and 108 KEDLI customers indicated in their complaints from 2016 to 2018 that at least one member of the customer's household is elderly, blind or disabled. (Exhibit ___(WDY-13) at 5-8, 14-15) The Companies' procedures for coding residential customers accounts for "protected" under HEFPA can be found at Exhibit ___(WDY-02) REDACTED, 670 - 679.

Q. What did you find in your review of the Companies' collections practices with regards to customers with medical emergencies?

A. KEDNY and KEDLI's procedures with regard to special protections for residential customers with medical emergencies can be found at Exhibit ___(WDY-02) REDACTED, 680 – 731. As was the case with the Companies' EBD customers, I found in my review of residential complaints from 2016 – 2018 that the principal challenge for KEDNY/KEDLI customers with serious medical conditions was understanding the requirements HEFPA set forth in order to protect their accounts from service termination and getting their accounts coded accordingly.[37] DPS representatives either coded complaints as "Medical Emergency" and/or provided education and assistance to these customers about the provisions for special protections under HEFPA regarding the termination, disconnection

[36] NYCRR § 11.5(b)(1)
[37] NYCRR § 11.5(a).

or suspension and restoration of utility service in cases involving medical emergencies for 213 KEDNY and 44 KEDLI complaints, respectively during this period. (Exhibit ___(WDY-13) at 9 – 11, 16-17).

Proposals/Recommendations

Secure web-based portals should be created for customers to track the progress of their applications for EBD and/or medical emergency account coding. Automatic thirty-day extensions for all customers seeking either EBD and/or medical emergency coding should be granted to allow for necessary documentation to be provided to the Companies.

Q. What is your recommendation for solving the problem of customers who meet the criteria for special protections under HEFPA because they are elderly, blind or disabled and/or have medical emergencies; but have not had their accounts coded as such and therefore are not known to the Companies as being eligible for protection against service termination?

A. Somewhat similar to my recommendation for integrating HRA/DSS transactions for PA customers, I recommend that in connection with the Companies' plans to upgrade their CSS and CRIS systems, a secure web-based portal (if applicable, the e-Billing portal) be created to track the progress of applications for customers who want their accounts coded for EBD and/or medical emergency status. The portal should also be designed to manage the ongoing status of certification and re-certification. Customers, their authorized representatives and healthcare providers, DPS and the Companies would each have role-based user-id and password access to the portal. Using electronic signatures, providers could submit certification letters directly to the portal. DPS would be able to determine the status of any applications, certifications and renewals in real time through the portal, likely reducing the amount of repetitive work that needs to be done each time a complaint is filed in regards to elderly, blind or disabled; or medical emergency customers.

Additionally, automatic thirty-day extensions for customers seeking either EBD and/or medical emergency coding should be granted to allow for necessary documentation to be provided to the Companies. During the extension period, these customers should also be provided the opportunity to complete an FSF and to negotiate a DPA with the Company that meets the statutory requirements set forth under HEFPA; and all collections actions against these customers should be suspended.

Balance Transfers

Q. What did you find in your review of the Companies' collections practices with regards to residential customer balance transfers?

A. The Companies' procedures were provided in response to I/R PULP-25 and can be found at Exhibit ___(WDY-02) REDACTED, 734. These procedures require that KEDNY and KEDLI CSRs refrain from transferring amounts owed to active customer accounts in situations where their closed ("finaled") accounts are past the applicable statute of limitations (six years). Despite this instruction, however, three KEDNY residential complaints to DPS from 2013 through 2018, provided by the Companies in response to I/R PULP-26, were found to involve transfers of balances older than six years and therefore the resolution of these complaints required reversing the transfers. In addition, six other incorrect KEDNY transfers had to be reversed in resolution of customer complaints. (Exhibit ___(WDY-02) REDACTED at 747 -750).

A complete listing of complaints filed by residential KEDNY/KEDNY customers involving balance transfers from 2016 through 2018 (obtained by PULP through FOIL), with applicable citations to each complaint's details in Exhibits ___(WDY-09) CONFIDENTIAL and Exhibits ___(WDY-10) CONFIDENTIAL, can be found at Exhibit ___(WDY-13), 13 and 19.

Proposals/Recommendations

The Companies should engage in outreach to customers whose accounts will be subject to balance transfers in advance of such actions, and provide affected customers with an opportunity for dispute resolution

Q. What is your recommendation for preventing incorrect balance transfers to the accounts of residential KEDNY and KEDLI customers?

A. Prior to the recording of any balance transfers on residential customer accounts, the Companies should engage in outreach to such customers to notify them of the Companies' intention to make such transfers. Summaries of telephone discussions between CSRs and customers on these calls should be transmitted to applicable customers, who should be requested to return acknowledgements of their agreement with CSR summaries, and/or any differences in their understandings of such phone conversations.

Additionally, automatic thirty-day extensions should be granted to residential customers who have balances transferred to their accounts. Extensions should be commenced as of the date any bill including such a transfer is mailed. During extension periods, affected customers should be given the opportunity to engage with specially designated Company personnel to dispute transfers customers contend are erroneous and to seek resolution of such disputes. During the extension period, these customers should also be provided the opportunity to complete an FSF and to negotiate a DPA with the Company that meets the statutory requirements set forth under HEFPA; and all collections actions against related to disputed amounts should be suspended.

Conclusion

Q. **Does this conclude your testimony?**

A. Yes.