



**Case No. 14 -M-0565— Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers
Case No. 20-M-0266—Proceeding on Motion of the Commission Regarding the Effects of COVID19 on Utility Service.**

**ENERGY EFFICIENCY FOR ALL NEW YORK
COMMENTS ON NEW YORK STATE’S ENERGY AFFORDABILITY
POLICY STAFF REPORT**

April 19, 2021

Introduction

The Energy Efficiency for All New York coalition (“EEFA NY”)¹ appreciates the opportunity to present these comments (“Comments”) to the New York Public Service Commission (“Commission”) Staff (“Staff” or “Department”) Report filed on February 4, 2021 (“Staff Report”) on New York State’s Energy Affordability Policy.² This NYS policy, which aims to limit household energy costs for low-income New Yorkers to 6% of household income,

¹ Energy Efficiency for All (EEFA) New York includes the Association for Energy Affordability, Community Preservation Corporation, Enterprise Community Partners, Green & Healthy Homes Initiative, Natural Resources Defense Council, Pace Energy and Climate Center, and WEACT for Environmental Justice. EEFA is a national initiative headed by Elevate Energy, the Energy Foundation, National Housing Trust, and Natural Resources Defense Council to support state-based coalitions, including EEFA NY, and to bring together the energy, affordable housing, and health communities to tap the benefits of energy efficiency and other holistic building measures for millions of low-income families.

² Case No. 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers and 20-M-0266, Proceeding on Motion of the Commission Regarding the Effects of COVID-19 on Utility Service, *Staff Report on New York State’s Energy Affordability Policy* (February 4, 2021).

was approved by the Commission in 2016 as a part of a larger statewide goal of fighting climate change, increasing access to clean energy among low-income New Yorkers, and delivering affordable energy across the state. Currently, many New York households experience a high energy burden, paying more than 6% of their income on energy costs, which limits their ability to pay for other basic necessities such as housing, food, and healthcare and forces harmful trade-offs. A high household energy burden can be a function of several factors including household income, energy usage, and housing conditions. Therefore, as is the case when the Affordability Policy was first announced, these households need a comprehensive strategy for lowering energy bills that include direct bill assistance and energy efficiency.

Furthermore, the pandemic has disproportionately impacted marginalized and vulnerable communities presenting additional and unprecedented affordability challenges. As of December 2020, statewide unpaid utility charges exceeding 60 days old totaled more than \$1 billion which is up more than 58% since December 2019.³ Additionally, the number of residential accounts in arrears has risen 28 percent since February 2020, with approximately 1.4 million accounts in arrears as of December 2020.⁴ Given the economic hardship faced by millions of New Yorkers, EEFA NY appreciates the opportunity to present these comments in response to Staff's Report on New York State's Energy Affordability policy.

EEFA NY's comments are organized into 5 categories: 1) Identifying Low-Income Customers, 2) Bill Discount Methodology and Budget Cap, 3) Submetering and Renters, 4) DPA's, Late Payment Fees, and Arrears Management, and 5) Energy Efficiency and Clean

³ Case 14-M-0565, *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low income Utility Customers*, Staff Report on New York State's Energy Affordability Policy at 64 (Feb. 4, 2021).

⁴ Public Utility Law Project of New York, Inc., *Monthly Residential Electric and Gas Utility Customer Arrears Report* (Nov. 2020).

Energy. By and large, our comments reflect our desire to see a comprehensive and holistic approach to energy affordability that includes providing maximum energy bill assistance to all income-eligible customers (including renters), delivering relief to all New Yorkers that are experiencing difficulty in paying their utility bills and may have mounting arrears, and targeting energy efficiency and clean energy programs at low-income customers to achieve long-term energy affordability.

New York State's Energy Affordability Policy is a critical resource, but is only one part of the larger ecosystem of programs that aim to provide affordable and reliable energy for New Yorkers. The Commission should consider the full ecosystem of programs when making refinements to the EAP so as to promote coordination and maximize benefits to New Yorkers in need.

In addition to HEAP, there are several programs administered by the New York State Energy and Research Development Authority (NYSERDA), NYS Homes and Community Renewal (NYSHCR) and New York's Utility companies that provide resources to improve household energy efficiency, which has shown to be helpful in reducing energy usage and energy bills, for low-income households. These programs include the federally-funded Weatherization Assistance Program and the ratepayer-funded Empower program. Together, NYSEDA and the Utilities direct over \$100 million to energy efficiency programs for LMI households, yet these programs have only reached about 12% of eligible households over the past 12 years. Additional refinements to these programs are being explored through the Energy Efficiency Proceeding to reach additional income-eligible New Yorkers and improve service delivery.⁵

It is also important to note that in the midst of this comment period on the EAP, there are

⁵ Case No. 18-M-0084. In the Matter of a Comprehensive Energy Efficiency Initiative.

discussions happening as a result of the Climate Leadership and Community Protection Act, which set ambitious and achievable goals of reducing greenhouse gas emissions 85% by 2050, decarbonizing the electric grid by 2040, and generating at least 70% of New York's power through renewable energy sources. The CLCPA also established a mandate that at least 40% of the benefits of spending on clean energy and energy efficiency programs as well as projects or investments in the areas of housing, workforce development, pollution reduction, low-income energy assistance, energy, transportation, and economic development accrue in disadvantaged communities. Therefore, it is important that any refinements made to the EAP occur in a manner that supports achieving the goals articulated in the CLCPA.

EEFA Comments on DPS Staff White Paper

1. Identifying Low-Income Customers

NYS's Energy Affordability Policy is a significant resource that has the potential to provide relief to millions of New Yorkers with a high energy burden. To maximize its impact, it is important that the EAP's enrollment mechanisms maximize the identification of eligible households to enable as much participation as possible in the EAP. Furthermore, EEFA NY supports comments made by other parties, including PULP, that other modifications to the Office of Temporary Disability Assistance (OTDA) file match include 1) verifying the applicant's utility account number prior to verification of Home Energy Assistance Program (HEAP) benefits, 2) making the necessary modifications that would enable the OTDA file match to include receipt of other income-eligible benefits, and 3) initiating the file match more frequently to capture changes in household eligibility. We believe that these modifications will result in the largest possible pool of EAP eligible customers.

To date, the Utilities have relied on OTDA, which administers the federally-funded

HEAP for low-income customers, to help identify low-income customers eligible for the EAP. More specifically, other than in NYC, OTDA sends a file with HEAP participant data to the Utilities, who match the information with their current customers. This mechanism limits participation in the EAP to only HEAP benefit recipients, which neglects income eligible customers that were not eligible to receive HEAP because of the heating fuel source or were not served by HEAP due to insufficient program funds. As such, EEFA NY appreciates Staff's efforts to refine enrollment mechanisms, including the recommendation to include all utility account numbers on all OTDA public assistance program applications as a standard variable to match as a means to identify income eligible customers.

Additionally, EEFA NY strongly supports Staff's recommendation for OTDA to conduct an analysis determining the modifications it would need to undertake in order to incorporate other public assistance programs into the OTDA file match system to extend benefits of affordability programs to a greater number of the state's low income population. The other assistance programs include Temporary Assistance for Needy Families, Safety Net Assistance-Public Assistance, Supplemental Security Income, Medicaid, Supplemental Nutrition Assistance Program, Veteran's Disability Pension, Veteran's Surviving Spouse Pension, Child Health Plus and housing-related programs such as Section 8 rental assistance. Including such programs would standardize the process of receiving rate relief, thereby enabling vulnerable New Yorkers to receive necessary assistance they would not otherwise qualify for and ensuring equitable access across the entire state, as opposed to select service territories.

Another important component to identifying EAP eligible customers is the self-identification process. Given that low-income households often experience bundled hardships, EEFA NY believes that the process for self-identification should be as straightforward as possible. Therefore, we recommend that eligibility be determined based on income or receipt of

other income-eligible programs that often are the basis of utility low-income rate discounts, such as Medicaid, SNAP, WIC, SSI, TANF, among others. We also recommend that the Commission explore the development of a portal that would enable EAP eligible customers to upload relevant eligibility documentation and be approved digitally. This process could help to alleviate some administrative burden associated with income qualification.

EEFA NY also supports the notion of stratifying low-income customers into usage groups to determine average bills for those respective benefit groups. We believe that stratifying by usage could help to further refine EAP benefit levels and could help prioritize participant referral into NYS energy efficiency and clean energy programs, which we believe is a critical strategy in ultimately achieving a universal energy burden level of 6% or less for all New Yorkers. Additionally in doing so, we recommend that the highest usage groups be targeted for applicable state and utility energy efficiency and weatherization incentives to provide increased energy affordability and safer homes to the low-income customers in the greatest need.

2. Bill Discount Methodology and Budget Cap

The Low-Income Affordability program (“Affordability Program”) created by the Public Service Commission (“PSC” or “Commission”) in case 14-M-0565 was designed to create affordable energy utility bills by lowering consumer bills to not greater than 6% of the consumers’ income.⁶ However, according to the City of New York’s petition, the current EAP structure has not achieved the goal of reducing low-income participants’ NEBs to 6% of their household income. The City noted in the petition that the current bill discount methodology,

⁶ Case 14-M-0565, Order Adopting Low Income Program Modifications and Directing Utility Filings, p.3 (issued May 20, 2016).

which assumes that all customers have an income at the upper limit of their respective EAP benefit tiers, is not representative of actual income levels for qualifying participants. Assuming that all customers have an income at the upper limit of their respective EAP benefit tiers results in a benefit level for all customers within that tier that only achieves an 6% energy burden for those customers that do have an income at the upper limit. Given these concerns, EEFA NY supports staff's recommendations to use the median income level within each benefit tier rather than the upper limit, which would result in 1) an increased benefit level for all customers within that tier and 2) more households within each tier reaching a 6% energy burden level.

However, the increased benefits stemming from Staff's recommendations, paired with the ongoing economic crisis, will likely necessitate additional utility investments beyond the 2% cap. As such, EEFA NY strongly recommends waiving the 2% budget cap, instead of increasing the energy burdens of LMI customers on a service territory basis contrary to NYS policy.

In an attempt to balance the EAP for low-income customers with the overall burden on all ratepayers, the Commission set a program budget at two percent of the utility revenues. The Commission specifically decided on a 2% cap to "balance achievement of policy goals with the costs."⁷ However, because of the economic harms felt by millions of New Yorkers, the 2% cap now serves as a barrier to New York's affordability policy. Staff's recommendations result in a \$75,220,961 increase in the statewide program budget, representing a 48.8% and 10.5% increase for electric and gas, respectively.⁸ As such, the adjusted EAP budget for each utility will also be

⁷ Case No. 14-M-0565, *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low income Utility Customers*, Order Adopting Low Income Program Modifications and Directing Utility Filings at 28 (May 20, 2016).

⁸ Case 14-M-0565, *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low income Utility Customers*, Staff Report on New York State's Energy Affordability Policy at 7 (Feb. 4, 2021).

increased closer to the 2% cap. Demonstrably, KEDNY and NFG would both exceed the two percent budget cap due to the adjusted income levels, requiring an increased energy burden above the six percent goal for those service territories only.

Additionally, EEFA NY expects that more NYS households will be eligible for utility bill assistance through HEAP and the EAP given the short- and long-term health and economic impacts of the COVID-19 crisis. Alarming, New York's unemployment rate continues to rise, increasing from 8.8% in January 2021 to 8.9% in February 2021 (the second highest unemployment rate in the country).⁹ As of February 12, 2021, employment rates decreased by 10.9% compared to January 2020.¹⁰ Notably, employment rates among workers in the bottom wage quartile (earning less than 27,000 annually) decreased by 33.6% when compared to rates in January 2020, highlighting how the pandemic continues to disproportionately impact low-to-moderate income customers who already spend a larger portion of their income on energy costs.¹¹ EEFA NY expects these factors taken together will likely drive up utility investments in the EAP program, exceeding the two percent cap for additional utilities.

While Staff recommends discounts not be reduced for a period of two years, this recommendation presents only a short-term solution and fails to consider long-term energy affordability. Furthermore, the Commission instituted the affordability proceeding “to identify measures to provide uniformity of the programs statewide, streamline regulatory processes, and ensure consistency.”¹² Adjusting NEB targets on a piecemeal basis is not only contrary to this directive, but also to New York state policy as it provides a framework in which certain low-

⁹ NY Dep't of Labor, *Labor Data Overview* (last visited Apr. 14, 2021), <https://dol.ny.gov/labor-data>.

¹⁰ *Percent Change in Employment: New York*, Opportunity Insights, <https://tracktherecovery.org>.

¹¹ *Id.*

¹² Case 14-M-0565, *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low income Utility Customers*, Order Instituting Proceeding (issued January 9, 2015).

income customers will have higher energy burdens solely based on service territory. Given these concerns, EEFA NY recommends the Commission remove the cap, or at least raise the cap such that all New Yorkers can achieve a 6% energy burden.

3. Submetering and Renters

The Staff White Paper acknowledges difficulty in ensuring low-income renters receive HEAP and/or EAP benefits that they are eligible to receive. For example, some multifamily building owners submeter electricity to their residents, which is helpful in promoting conservation behavior but also requires the owner to be master metered by the electric utility. Under this model, the owner is responsible for managing the utility account for the building, measuring the energy usage of each individual tenant using PSC-approved submeters, and charging the tenants for their usage. In a submetered building, tenants are no longer required to have an account with the utility and therefore, the utility is unable to determine if the tenant qualifies for energy assistance. To overcome this barrier, EEFA NY recommends that the Commission explore, in partnership with NYS Housing and Community Renewal and OTDA, the creation of a rental registry that tracks and manages information on rental properties across the state. Data stored in the registry would include rental property location, building owner and manager, the number of total units (including the number of regulated and unregulated units), whether the building is master metered, the type of fuel type, and energy usage by month. It would also be helpful if tenant income could also be stored in the registry so that energy burden and the determination of income-eligibility could be calculated more granularly. However, we recognize that there are likely challenges associated with developing this type of registry, including the potential need for legislation to move this idea forward.

Maryland has a rental registry that is managed by the Maryland Department of

Environment.¹³ The registry was established legislatively and requires all rental property owners to register all of their rental units annually. To register, property owners must complete the required documentation, which includes a lead-free or lead-safe certification that certifies that the property does not contain hazards that cause lead poisoning, and pay \$30 per unit. While there is no required information on the occupant or utilities in the Maryland model, we think it could be helpful to explore these aspects in New York.

4. DPA's, Late Payment Fees, and Arrears Forgiveness

Many NYS households are facing health and economic hardship related to the COVID-19 pandemic that is impacting their ability to maintain their housing and utility bill payments. Therefore, in alignment with comments by other parties, including NRDC¹⁴ and PULP¹⁵, EEFA NY believes that the Commission should direct the Utilities to develop deferred payment agreements (DPAs) and arrearage management programs (AMP) that provide relief to households that are falling behind on utility bills. The DPAs and AMPs should include significant debt and arrearage forgiveness per participating customer similar to the California Public Utilities Commission resolution that included an AMP providing up to \$8,000 in debt forgiveness per participating customer that make timely monthly payments over a twelve month period and the Illinois Utilities' AMPs that provide arrears forgiveness between \$300 and \$500. Specifically, EEFA NY believes that the Utilities' AMP's should be funded at over 20% of the incremental arrearage balances over a two year period. Effort to address utility debt and arrears should exist in tandem with the increase or elimination of the EAP budget cap to provide New

¹³ <https://mde.maryland.gov/programs/Land/LeadPoisoningPrevention/Pages/LeadRegistration.aspx#:~:text=The%20Maryland%20Department%20of%20the%20Environment%27s%20Lead%20Rental,in%20compliance%20with%20the%20Maryland%20State%20Lead%20Laws.%EF%BF%BD>

¹⁴ Case No. 20-M-0266. NRDC Comments in Proceeding Regarding the Effects of COVID-19 on Utility Service. Filed on July 7, 2020.

¹⁵ Case No. 20-M-0266. Pulp Reply Comments. Filed on August 28, 2020.

Yorkers with as much relief and assistance as is needed.

Furthermore, EEFA NY believes that energy efficiency and clean energy programs should be a component of Utilities' AMPs. Energy efficiency investments directed at payment-troubled, low-income households can yield avoided costs such as reduced arrears, reduced working capital, reduced credit and collection expenses, and reduced uncollectibles. In addition, energy efficiency presents an opportunity for Utilities to experience cost savings in working capital and potential bad debt by reducing customer energy usage, thereby lowering the customer energy bill and enabling the asked-to-pay amount for a budget billing agreement or a DPA to be lowered as well. Lowering these payment amounts may increase the likelihood that payment-troubled customers make payments on their arrears and debt.

In a 2007 memo prepared for the National Consumer Law Center, Mr. Roger Colton found that low-income energy and weatherization services in Wisconsin and Washington State reduced arrearages for low-income customers and could lower administrative collection costs and uncollected debts of utilities.¹⁶ In the same memo, Mr. Colton mentions a 1988 pilot program implemented by Wisconsin Gas Company (WGC) to assess the impact of WGC's weatherization program on low-income customer arrears. WGC's findings include a reduction in energy consumption, an increase in arrears savings, a reduction in the number of members who would have had arrears of \$100, and a reduction in the number of households with any arrears. Ultimately, Wisconsin Gas found that it achieved a 20% return on its weatherization investment in the first year of the program from reduced nonpayment and calculated before considering traditional avoided costs. These findings highlight the opportunity for energy efficiency to play a role in providing lasting relief to struggling New Yorkers, while achieving cost savings for the

¹⁶ The Duty of a Public Utility to Mitigate "Damages" From Nonpayment Through the Offer of Conservation Programs, Colton and Smith (May 26,2007). (Appendix A).

Utilities.

EEFA NY believes the Commission and the Utilities should consider a program similar to Michigan utility DTE's Troubled Payment Pilot, which will target utility bill assistance and energy efficiency upgrades to customers with arrears and in danger of having their power shut off.¹⁷ The pilot builds on DTE's existing Low-Income Self Sufficiency Program (LSP), which enables customers with less than \$3,000 in arrears to make utility payments as a percentage of their income with the remaining portion of the bill paid monthly to the utility via energy assistance funds, and the Shutoff Protection Plan (SPP), which allows customers to pay their overdue balance by dividing it into equal portions and adding to future DTE energy bills. Both LSP and SPP are managed by the DTE Revenue Management and Protection (RM&P) group, who will distribute a weekly list of LSP and SPP participants to DTE's Energy Waste Reduction Group, who manages the energy efficiency and weatherization programs., as well as specific community partner organizations. Then the EWR group and community partner organizations contact payment-troubled customers to qualify them¹⁸ for the pilot and schedule an initial energy audit. Through this pilot, payment-troubled customers of both single- and multi-family housing can receive weatherization services that include insulation, air sealing, window repair and/or replacement, among other measures. This pilot could serve as a model for how NY Utilities provide both short- and long-term relief to payment-troubled New Yorkers.

5. Energy Efficiency and Clean Energy

As expressed previously, EEFA NY believes energy efficiency to be a significant tool in

¹⁷ MPSC Case Number: U-20363, DTE Energy Waste Reduction Plan settlement agreement (issued February 14, 2020) <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t0000009iSM3AAM>

¹⁸ Eligibility criteria includes household income less than or equal to 150% FPL, energy consumption that is up to 25% over initial intake levels, receipt of benefits through the State Emergency Relief Program, and less than \$3000 in arrears.

the effort to achieve energy affordability over the long-term. Energy efficiency technology can decrease customers' energy burden by 35%, and in New York, can result in a 31% reduction in annual electricity demand for the affordable multifamily housing sector.¹⁹ Low -income households will not only benefit directly from cost savings resulting from the installation of energy efficiency measures, but also increased deployment will alleviate the disproportionate health impacts of covid-19 on vulnerable communities by providing non-energy and public health benefits such as reducing incidences of respiratory diseases by decreasing indoor air pollution associated with the combustion of inefficient fuels.

Therefore, we support Staff recommendations 1) for the Utilities to leverage customer data to identify high usage, low-income customers and target Utility and NYSERDA energy efficiency services to these households and 2) to prevent the use of EAP discounts for energy efficiency services. We believe EAP discounts should be reserved for energy bill payment assistance, but that there should be coordination with the Commission's Accelerated Efficiency Order. Many of our previously mentioned recommendations, such as stratifying low-income customers tiers by energy usage and establishing an AMP that funnels payment-troubled customers into energy efficiency programs, can help facilitate that coordination.

6. Conclusion

EEFA NY appreciates the opportunity to submit these comments in response to the Staff Report. We hope to see changes adopted that will enable a holistic approach to energy burden reduction in New York and maximize benefits to New Yorkers in need.

¹⁹ Ariel Drehobl & Lauren Ross, *Lifting the High Energy Burden in America's Largest Cities*, American Council for an Energy-Efficient Economy, (2016), p. 19, available at http://energyefficiencyforall.org/sites/default/files/Lifting%20the%20High%20Energy%20Burden_0.pdf; Optimal Energy, *Potential for Energy Savings in Affordable Multifamily Housing* (2015), p. 9, tbl. 4, available at <http://www.energyefficiencyforall.org/sites/default/files/EEFA%20Potential%20Study.pdf>.