STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

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

Case 20-M-0266 - Proceeding on Motion of the Commission Regarding the Effects of COVID-19 on Utility Service.

STAFF REPORT ON NEW YORK STATE'S ENERGY AFFORDIBILIY POLICY

Dated: February 4, 2021
State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York

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SUMMARY

On January 8, 2015, the New York State Public Service Commission (Commission) established a proceeding examining energy affordability for low-income customers. The purpose of that proceeding was to review the low-income discount programs that were offered by major electric and gas utilities and to identify measures to provide uniformity of the programs statewide, streamline regulatory processes, and ensure consistency with the Commission's statutory and policy objectives.[1] The Department of Public Service Staff (Staff), in consultation with interested parties, was directed to investigate current programs, identify best practices and develop recommendations to better achieve these goals. Staff filed a report on June 1, 2015 which included a Straw Proposal for a statewide approach to low-income energy affordability programs including recommendations regarding eligibility criteria, enrollment process, benefit structure, rate bill discount levels, budgets, treatment of arrears, and reconnection fees (Staff Report). On May 20, 2016, the Commission issued an order (May 2016 Order) adopting an Energy Affordability Policy (EAP) which provided "an energy burden at or below 6% of household income shall be the target level for all 2.3 million low income households in New York."[2] The Commission directed initial implementation plans to be filed by New York's major utilities[3] and, subsequently, adopted two orders on February 17, 2017

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[1] 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) (Instituting Order).

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

[3] The major utilities are comprised of: Central Hudson Gas and Electric Corporation (CH); Consolidated Edison Company of New York, Inc. (Con Edison); National Fuel Gas Corporation (NFG); The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), KeySpan Gas East Corporation d/b/a National Grid (KEDLI) and Niagara Mohawk Power Corporation d/b/a National Grid (NMPC)(together National Grid); New York State Electric and Gas Corporation (NYSEG) and Rochester Electric and Gas Corporation (RG&E); and, Orange & Rockland Utilities, Inc. (O&R).

regarding the implementation of utility low-income energy affordability programs.[4] Key directives set out by the EAP include the standardization of utility energy affordability programs statewide to reflect best practices where appropriate, streamlining of rate cases, and greater consistency with the Commission's statutory and policy objectives.

In the May 2016 order, the Commission also acknowledged that in order to reach the target six percent energy burden for low-income New Yorkers, it would be necessary to coordinate and leverage all available resources at the State's disposal, including multiple sources of financial assistance to lower the bill amount, energy efficiency measures to reduce usage, and access to clean energy sources in order to lower the cost of the energy itself. The low-income utility discount is an integral piece of the overall affordability strategy to reach the six percent energy burden goal, but the discount program alone cannot reach the Commission's overall goals. In addition to the utility discounts in this proceeding, programs such as the Home Energy Assistance Program (HEAP), the EmPower New York Program, and the Weatherization Assistance Program (WAP) have been used to manage the energy burden of low-income New Yorkers, and state-wide efforts continue to look for new ways to reach the six percent energy burden for a greater portion of the low-income population through financial assistance, energy efficiency, and other services.

In January 2020 session, Staff was charged to revisit the EAP to determine if there were opportunities to make improvements to the 2016 Order. Staff was to consider potential modifications and improvements based on the operation of the programs and experience of various stakeholders. Shortly thereafter the City of New York (the City) filed a Petition[5] (City Petition) in part, to address concerns that had been noted since the EAP program's implementation.

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4 Case 14-M-0565, Order Approving Implementation Plans with Modifications (issued February 17, 2017) (February 2017 Implementation Order); Order Granting in Part and Denying in Part Requests for Reconsideration and Petitions for Rehearing (issued February 17, 2017) (February 2017 Rehearing Order) (together with the May 2016 Order, the Low-Income Orders).

5 Case 14-M-0565, Petition of the City of New York to Re-examine Statewide Utility Low Income Program Discounts (filed January 31, 2020).

In March of 2020, the COVID-19 pandemic significantly affected the public health and subsequently caused significant economic turmoil for many New Yorkers. In response, Governor Cuomo declared a Disaster Emergency and called on State and local agencies to do their utmost to protect the public health and welfare of the people of the State. In response to the COVID-19 pandemic, on May 14, 2020, the Public Utility Law Project of New York, Inc. (PULP) submitted a petition[6] seeking immediate relief for low-income households. On June 11, 2020, the Commission commenced a proceeding to identify and address the economic effects of the COVID-19 pandemic on the State's utilities, other entities over which the Commission has oversight, and utility ratepayers.[7] Some of the issues addressed through comments received in that proceeding overlap with ratepayer assistance measures that Staff is considering in here.

Since the utilities' low-income energy affordability programs have been implemented, utilities, low-income advocates and Staff have had the opportunity to observe program components and garner feedback from various stakeholders. When the Commission established EAP budgets in its May 2016 Order, there were approximately 771,000 low-income customers receiving a utility low-income discount.[8] Improvements to the program's file matching processes and stakeholders efforts to identify and enroll additional low-income customers into the utilities' energy affordability programs has increased the number of benefit recipients to approximately 923,000 low-income customers (See Tables 2 and 3 below – the sum of electric participants plus KEDNY, KEDLI and NFG's participants). Staff now has additional data, hindsight, and has done further analysis of the utility's implementation of these programs to better understand changes needed to the low-income program to further expand the EAPs' reach and further improve the discount calculation methodologies as described herein.

With the re-examination direction precipitating the launch of the second phase of this proceeding, Staff examined the assumptions behind the calculations to develop the low-

6 Case 14-0565, Petition of the Public Utility Law Project of New York for Expedited Relief for Low-Income Households in Response to the COVID-19 Economic and Public Health Crisis (filed May 14, 2020).

7 Case 20-M-0266, COVID-19 Proceeding, Order Commencing Proceeding (issued June 11, 2020) (June Order).

8 Based on the responses to information requests in 2016.

income bill discounts by reviewing the low-income workbooks of each utility as well as data provided by the City asserting that the discounts were not accurate. Staff also examined the progress of the automatic file match from the New York State Office of Temporary Disability Assistance (OTDA) to the utilities, the options for enrollment outside of the automatic file match, and the procedures each utility had in place to verify eligibility beyond enrollment in HEAP.

Based on a rigorous review, analysis, and consideration of the comments received from various stakeholders, Staff recommends the Commission make modifications to the utilities' low-income energy affordability programs, acknowledging that the Commission has a parallel and concurrent generic case to address the COVID-19 pandemic,[9] which calls for effective coordination and alignment between the two proceedings. The generic case to address the COVID-19 pandemic focuses on short term relief for customers. Here, Staff focused on permanent changes in order to better align the utility low-income discount toward achieving the six percent energy burden goal using OTDA's 2019-2020 HEAP program variables. Staff acknowledges that OTDA updated the HEAP program regarding the income and benefit levels, effective November 3, 2020. Staff will update the analysis for the OTDA changes as well as any other appropriate updates.

Staff recommends a series of concrete adjustments to the methodologies for calculating benefit levels, so as to better match the effect of these methodologies with the intended purposes of achieving the six percent energy burden goal. Specifically, Staff recommends that : (1) the assumed income level for tiers one, two, and three be lowered to the calculated midpoint of the income levels under current discount methodology and the assumed income level for tier four be lowered by the same dollar amount recommended for tier one; (2) the renter HEAP benefit be used to adjust the net energy burden (NEB) for tier one non-heat customers; and, (3) a hybrid average bill be calculated and used that considers forecast changes to delivery rates. Staff's analysis of the proposed modifications to the income level, HEAP discount level and average bills shows increased estimated benefits to low-income New Yorkers of $64.0 million (48.8%) for electric and $11.2 million (10.5%) for gas. The resulting increase in the statewide program budget is $75,220,961 statewide, from $237,677,105 to $312,898,066.

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[9] Case 20-M-0266, Proceeding on Motion of the Commission Regarding the Effects of COVID-19 on Utility Service.

Table 1

Business	Current Aggregate EAP Budget	Proposed Aggregate EAP Budget	$ Difference	% Difference
Electric	$131,067,134	$195,070,137	$64,003,003	48.8%
Gas	$106,609,971	$117,827,929	$11,217,958	10.5%
Total	**$237,677,105**	**$312,898,066**	**$75,220,961**	**31.6%**

The following two tables show Staff's proposed changes by electric and gas utilities. Of note, KEDNY's budget has been adjusted because Staff's proposed adjustments resulted in an EAP budget that exceeds its two percent budget cap.

Table 2

Energy Affordability Program – Electric Impacts of Staff Recommended Modifications to the Commission's Current Discount Calculation Methodology

Utility	Historic Budget Cap - 2% of Total Revenues 2019	Current EAP Budget	Current EAP Budget as a % of Total Revenue 2019	# of Low Income Participants	Current Budget Plus Income Adjustment (Based on 2019-2020 HEAP levels	Current Budget Plus Income and HEAP Adjustments	Current Budget Plus Income, HEAP and Average Bill Adjustments	Adjusted EAP Budget as a % of Total Revenues 2019
					Revise EAP Budget	Revise EAP Budget	Revise EAP Budget	
Central Hudson	$12,405,603	$2,422,158	0.39%	10,877	$3,356,084	$4,165,791	$6,723,524	1.08%
Con Edison	$186,798,028	$70,162,668	0.75%	427,878	$70,939,910	$80,652,646	$119,181,022	1.28%
NMPC	$51,899,669	$29,579,981	1.14%	143,156	$20,591,748	$20,591,748	$28,117,885	1.08%
NYSEG	$29,691,274	$5,830,978	0.39%	39,631	$8,457,550	$8,609,937	$7,819,095	0.53%
O&R	$11,701,890	$5,290,662	0.90%	6,780	$5,934,692	$6,097,232	$6,395,552	1.09%
RG&E	$14,641,145	$8,761,943	1.20%	36,409	$11,505,083	$12,384,445	$6,206,489	0.85%
PSEG	$69,775,850	$9,018,744	0.26%	22,415	$9,975,303	$12,798,010	$20,626,570	0.59%
Total		**$131,067,134**		**687,146**			**$195,070,137**	

Table 3

Energy Affordability Program – Gas Impacts of Staff Recommended Modifications to the Commission's Current Discount Calculation Methodology								
Utility	**Historic Budget Cap - 2% of Total Revenues 2019**	**Current EAP Budget**	**Current EAP Budget as a % of Total Revenue 2019**	**# of Low Income Participants**	**Current Budget Plus Income Adjustment (Based on 2019-2020 HEAP levels**	**Current Budget Plus Income and HEAP Adjustments**	**Current Budget Plus Income, HEAP and Average Bill Adjustments**	**Adjusted EAP Budget as a % of Total Revenues 2019**
					Revise EAP Budget	Revise EAP Budget	Revise EAP Budget	
Central Hudson	$3,580,844	$1,796,597	1.00%	4,418	$2,192,071	$2,192,071	$3,247,124	1.81%
Con Edison	$45,102,237	$24,648,554	1.09%	131,921	$24,106,701	$24,106,701	$28,443,138	1.26%
NMPC	$15,961,837	$8,585,856	1.08%	56,426	$9,619,856	$9,619,856	$11,551,903	1.45%
NYSEG	$8,379,675	$3,970,703	0.95%	26,954	$5,949,205	$5,949,205	$7,031,324	1.68%
O&R	$5,358,845	$3,141,972	1.17%	5,879	$3,504,257	$3,504,257	$3,683,724	1.37%
RG&E	$8,274,675	$4,671,861	1.13%	31,106	$6,814,552	$6,814,552	$4,606,814	1.11%
KEDLI	$24,490,480	$6,681,211	0.55%	11,621	$7,738,068	$7,738,068	$7,446,125	0.61%
KEDNY	$39,688,236	$38,387,689	1.93%	155,987	$51,087,405	$51,087,405	$39,558,878	1.99%
NFG	$12,972,922	$14,725,530	2.27%	68,356	$15,291,353	$15,291,353	$12,258,899	1.89%
Total		**$106,609,973**		**496,668**			**$117,827,929**	

In order to assess affordability of the proposed EAP changes, Staff analyzed the residential bill impacts of the recommended adjusted budgets. Across utilities, the residential bill impacts in no case exceed one percent, and in the case of four utilities show a slightly negative bill impact. The above budgets are based on adjustments to the Commission's current methodology adopted in the initial phase of this proceeding. Some utility specific notes: for NMPC, the Company had previously eliminated from its historic average bill data, the polar vortex period that caused steep discount decreases and ultimately, implemented the "glide path" rule to lessen the impact discount decreases; for RG&E and NFG, the utilities hybrid bill amounts were lower than the average bills currently used for its discount calculation due the periods in which each were calculated; for PSEG, current discounts are based on 2016 average bills. These points are discussed in more detail below.

Table 4

Utility	Percent Bill Impact on Residential Customers - Electric	Percent Bill Impact on Residential Customers - Gas
Central Hudson	0.86%	0.82%
Con Edison	0.67%	0.42%
NMPC	-0.07%	0.42%
NYSEG	0.17%	0.91%
O&R	0.22%	0.24%
RG&E	-0.37%	-0.02%
KEDLI		0.07%
KEDNY		0.06%
NFG		-0.42%
PSEG	0.43%	

Beyond the proposed modifications to the utilities' EAP budget development methodologies, Staff also recommends continued work to better realize statewide standardization of these utility programs to the maximum extent feasible, including: continued automatic enrollment of low-income participants into each utility's levelized budget billing programs; inclusion of all ratepayers that receive any of the herein described financial assistance programs (and not just HEAP recipients), akin to the file matching process that is conducted by Con Edison and KEDNY with New York City's Human Resources Administration (HRA) that identifies low-income customers through multiple public assistance programs for automatic enrollment into the respective utility's low-income energy affordability programs; and a uniform annual filing date of October 1st for utilities to submit updates to their energy affordability programs and tariff amendments, including budget changes and related workpapers. The following is a summary of Staff's 24 recommendations to the Commission's EAP, which also incorporates specific related comments received in the COVID-19 Proceeding in Case 20-M-0266:

Identifying Low-Income Customers

1. **Staff recommends the inclusion of 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. (Page 40)**

2. **Staff recommends working directly with OTDA to effectuate more frequent file matches to capture changes in participants. The utilities should report annually on how many of the participants in the file were not able to be matched, as well as the estimated number of total HEAP recipients served by the OTDA in their respective service territories. (Page 40)**
3. **Staff recommends that all future requests for submetering that include affordable housing component should require the building owner to file an application to OTDA for coordinated benefits to low-income customers. (Page 41)**
4. **Staff recommends the utilities that receive the OTDA file match develop a uniform statewide approach for customer self-identification. The utilities and Staff should collectively work with OTDA to develop a verification process in their next file match to ensure the self-identified customer was indeed program eligible by OTDA. (Page 44)**

<u>Improving the Discount Calculation Methodology</u>

5. **Initially, in the absence of more granular income data sharing from OTDA, Staff recommends utilizing the midpoint of each income tier to set income assumptions. (which represents the least administratively burdensome modification to actual income data provided from OTDA.) (Page 47)**
6. **Staff recommends the Commission use the regular HEAP renter benefit to develop the low-income energy affordability program discounts for Tier 1 electric and gas non-heat customers. Staff recommends the major utilities conduct an analysis to determine if a more refined calculation has a significant impact to the Tier 1 discount using the actual renter benefits. (Page 48)**
7. **Staff recommends the major utilities conduct an analysis to determine if developing distinct tiers for the vulnerable person HEAP add-ons would provide more targeted assistance for their respective low-income customers. (Page 48)**
8. **Staff recommends the utilities use a simple three-year average when calculating the average usage for each low-income customer group (electric heat, electric non-heat, gas heat and gas non-heat). Staff recommends continuing the current practice of adjusting the calculated average bill by utility upward by 10 percent to recognize that some low-income customers' usage is above the average, as the Commission originally reasoned in the May 2016 Order. (Page 50)**

9. **Staff recommends that the utilities analyze the potential for stratifying low-income customers into usage groups to determine average bills for those respective groups determine if further refinements to the discount levels are feasible. (Page 50)**
10. **Staff recommends that if the Commission adopts its EAP recommendations, low-income discounts should not be decreased for the next two years (2021-2022 and 2022-2023 program years). (Page 57)**
11. **Staff recommends the grandfathering clauses be phased out. (Page 58)**
12. **Staff recommends that the Commission reiterate that further adjustments will not be considered in individual rate cases, but on a generic basis in this proceeding going forward. (Page 58)**
13. **Staff recommends that each utility's two percent total revenue program budget caps be adjusted to factor in scheduled delivery rate increases. (Page 59)**

Standardizing Practices and Administration Across Utilities

14. **Staff recommends that October 1st be the uniform annual filing date established for all utilities and that the updated discounts become effective November 1st to coincide with the beginning of the heating season. (Page 60)**
15. **Staff recommend the low-income discounts be moved to tariff statements, which may facilitate faster and more streamlined implementation after the utilities submit their annual EAP filing. (Page 60)**
16. **Staff recommends that the utility's energy affordability discounts also be updated for the recommendations herein at the same time as the utility's tariff compliance filing for its new rate plan. (Page 61)**

Further Recommedations

17. **Staff recommends continuation of automatic enrollment of low-income energy affordability participants in utility levelized budget billing programs. (Page 62)**
18. **Staff recommends commercial customers be able to self-certify a change in financial circumstance due to the COVID-19 pandemic. Impacted commercial customers should be allowed to enter into DPAs with no down payments, have existing DPAs renegotiated due to changes in the commercial customers' financial circumstances, and late payment charges be waived. (Page 65)**

19. **Staff recommends residential and commercial late payment fees should continue to be waived for the two-year time period starting on the expiration of the moratorium. (Page 65)**
20. **Staff recommends that deferred payment arrangements should not accrue interest on customer residential and commercial arrearages for the two-year time period after the conclusion of the moratorium. (Page 65)**
21. **Based on a review and analysis of the arrears due to the COVID-19 impacts to date, Staff recommends the Commission adopt an arrears management plan at each major utility. (Pages 65-66)**
22. **Longer-term, Staff recommends that if there is room within a utility's low-income energy affordability program budget, the utility should explore developing a cost-effective arrears forgiveness program. (Page 68)**
23. **Staff recommends the utilities leverage their customer data to identify the highest usage low-income customers and target delivery of services to these customers through NYSERDA and utility-administered EE programs to not only achieve the State's goals, but to provide meaningful and lasting energy relief to low-income customers. (Pages 70-71)**
24. **Staff recommends not allowing the use of low-income energy affordability program discounts for energy efficiency purposes, but rather to be reserved for direct utility bill discounts. (Page 71)**

Moreover, Staff recommends that the following longer term issues be addressed during a subsequent phase of this proceeding: the expansion of low-income energy affordability programs to enroll eligible low-income customers who participate in other public assistance programs; further improvements and modifications to the data sharing processes between utilities and OTDA; and, establishment of a standardized statewide file matching system that can capture critical information for purposes of not only matching electric and gas low-income customers, but also other low-income utility customers so that the Commission can consider future program enhancements. Further, it should be noted that because neither Staff nor the utilities have access to program participant specific individual, or even anonymized, income levels, we are unable to directly measure progress toward meeting the 6% energy burden goal. To develop an effective measure of the utilities' programs progress toward meeting the 6% household NEB, Staff will work with OTDA and other interested parties as part of our continuing efforts to enable Staff access to, at a minimum, anonymized income data by income tier by utility service area.

Staff requests that the utilities and interested parties include in their comments any potential short-term solutions to address each of the above recommendations, including how additional customers can be identified and enrolled immediately without creating undue administrative burdens. Each utility should develop estimated impacts of the recommendations contained herein for Commission consideration and provide with its comments. Staff also proposes many longer-term goals which require coordination from stakeholders and should be acted on by the Low-Income Energy Task Force.

PROCEDURAL BACKGROUND

In the May 2016 Order, the Commission discussed the evolution of providing targeted financial assistance to low-income customers in pursuit of achieving a six percent household energy burden goal. At the time of that order, it was expected that financial assistance in the form of utility discounts would serve as a first step in the overall process, and later phases of the proceeding would continue to refine this bill assistance program and incorporate other methods of assistance as necessary to realize the six percent energy burden goal for New York's low-income utility customers. The herein proposed EAP bill discounts modifications balance a finite amount of funding with the needs of low-income New Yorkers and cannot alone fill the energy affordability gap. Additional efforts to reduce the energy consumption of low-income households through more efficient energy usage are a necessary element for achieving our energy affordability goals.

To that end, the Commission instituted a proceeding to further energy efficiency (EE) targets and policy efforts across the State, with specific provisions to assist low-income customers.[10] In that proceeding, the Commission issued The Order Adopting Accelerated Energy Efficiency Targets which, among other things, discussed a low- and moderate-income

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[10] Case 18-M-0084, In the Matter of a Comprehensive Energy Initiative, Notice of New Case Number and Announcing Stakeholder Forum (issued February 8, 2018).

(LMI) portfolio approach for energy efficiency programs.[11] The Commission also noted that, while current programs such as WAP and other NYSERDA operated programs exist to assist income eligible households, and over $100 million per year is directed at LMI energy efficiency in New York, only 12% of eligible households had been reached over the past 12 years.[12] As such, the December 2018 Order adopted a recommendation from Staff[13] that at least 20% of additional levels of energy efficiency investment should be dedicated to services for LMI households[14] and encouraged improved coordination of LMI program administration between NYSERDA and the utilities. To do this, NYSERDA would continue to administer the programs while the utilities would work to expand the reach and coordination of energy efficiency services to low-income customers.

In January 2020, the Commission issued an order that authorized energy efficiency portfolios for the next five years, in part to address the needs of LMI customers through the LMI Statewide Portfolio.[15] In accordance with the Commission goal to reach the six percent household energy burden by using every resource available, the utilities stated they had collaborated with NYSERDA in order to refine the LMI Statewide Portfolio. The improvements were to include bill payment assistance though utility discounts, outreach and education campaigns to increase energy literacy, initiatives to develop new solutions to increase access to improvements across the LMI market segment, coordination across the customer funded LMI Portfolio and other programs, and continued efforts to optimize the LMI portfolio by tracking results.[16]

The City subsequently filed the City Petition on January 31, 2020, providing research and findings that the energy affordability programs, as structured, were not achieving

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[11] Case 18-M-0084, supra, Order Adopting Accelerated Energy Efficiency Targets (issued December 13, 2018) (Accelerated Efficiency Order).

[12] December 2018 Order, pp. 50-52.

[13] Case 18-M-0084, supra, New Efficiency: New York (filed April 26, 2018).

[14] The 20% figure represents the current percentage of ratepayer funds statewide allocated to designated LMI programs as a percent of total statewide ratepayer energy efficiency funds.

[15] Case 18-M-0084, supra, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025 (issued January 16, 2020) (January 2020 Order).

[16] Id.

the six percent energy burden for low-income New Yorkers and requesting a re-examination of the current bill discount calculation methodology used to develop bill discounts for low-income utility customers.

On March 5th, 2020, Staff sponsored a stakeholder meeting (March 5th Stakeholder Meeting) to solicit input from relevant parties regarding the reexamination of aspects of the statewide EAP, including modifications to the utility low-income energy affordability programs.[17] During the March 5th Stakeholder Meeting, the utilities provided an update on their respective energy affordability programs; OTDA gave a presentation on the HEAP program and other low income assistance programs; the City provided a presentation on its proposed low-income energy affordability bill discount methodology; representatives from the Low-Income Energy Task Force[18] gave an update on its efforts; and, Staff provided an overview of the objectives of the Commission's Order regarding the Comprehensive Energy Efficiency Initiative and Statewide LMI Portfolio.[19] At the conclusion of the March 5th Stakeholder Meeting, stakeholders were invited to submit informal comments and proposed recommendations regarding potential changes to the current statewide EAP and its affiliated programs. Staff asked the parties to identify both recommendations which could be considered under Phase Two of this proceeding, as well as additional longer-term recommendations appropriate for consideration at a future time.

On May 14, 2020, PULP submitted a petition[20] seeking immediate relief for low and formally moderate-income households due to the COVID-19 pandemic and its economic impacts on New Yorkers. PULP asserts that faulty assumptions in the current bill discount methodology compromise the accuracy of the discounts that are calculated and applied to low-

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[17] Case 14-M-0565, Notice of Stakeholder Meeting (issued January 22, 2020).

[18] The Low-Income Energy Task Force consists of representatives from the New York Department of Public Service, OTDA, New York Energy Research and Development Authority (NYSERDA), New York State Homes and Community Renewal.

[19] Case 18-M-0084, supra, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025 (issued January 16, 2020) (Portfolios Order).

[20] Case 14-0565, Petition of the Public Utility Law Project of New York for Expedited Relief for Low-Income Households in Response to the COVID-19 Economic and Public Health Crisis. May 14, 2020.

income customer bills and recommends that the Commission direct the utilities to adopt the City's recommended methodology to determine bill discount levels. PULP also requested the Commission require the utilities to enroll all income-eligible customers that offer proof of receipt of any public benefits programs and waive the two percent budget cap for the EAP during this time of crisis.[21]

On June 11, 2020, the Commission issued the June Order that commenced a proceeding to identify and address the economic effects of the COVID-19 pandemic. The Commission solicited two rounds of comments from interested parties due on July 11 and August 28, 2020, respectively, on questions related to the pandemic's effects on collections and termination of service, Commission priorities in serving the public interest, and the rates and financial aspects of utility service.

On June 17, 2020, Governor Andrew M. Cuomo signed into law amendments to the PSL that ordered a moratorium on terminations and disconnections of residential electricity, gas, steam, telephone, and water customers during the COVID-19 state of emergency.[22] These amendments provide that residential customers, in certain circumstances, may be eligible for additional protections from terminations or disconnections if the residential customer had "a change in financial circumstances due to the COVID-19 state of emergency."[23]

August 11, 2020, the Department issued administrative guidance (Guidance Notice) to define a change in financial circumstance due to the COVID-19 state of emergency.[24] The Department stated that no terminations or disconnections for non-payment of an overdue charge may occur until the state of emergency is lifted. The Guidance Notice also stated that ratepayers may self-certify as experiencing a change in financial circumstances in order to enter

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[21] Temporary Assistance for Needy Families (Family Assistance), Safety Net Assistance - Public Assistance, Supplemental Security Income (SSI), Medicaid, SNAP (Food Stamps), Veteran's Disability Pension, Veteran's Surviving Spouse Pension, or Child Health Plus, or, proof of denial of HEAP for any reason other than income eligibility.

[22] Chapter 108 of Laws of 2020.

[23] Id.

[24] Matter 20-01676, COVID-19 State of Emergency, Notice of Department of Public Service Guidance Relating to the COVID-19 Utility Moratorium on Terminations and Disconnections (issued August 11, 2020).

into a new DPA and to avail themselves of the protections provided for by the PSL. On January 5, 2021, the Department issued a notice explaining that Executive Order 202.87 extended the COVID-19 state of emergency until January 29, 2021. Then, on January 29, 2021, the Department issued a notice explaining that Executive Order 202.92 extended the COVID-19 state of emergency until February 26, 2021.

On August 24, 2020, the Joint Utilities (JU)[25] submitted comments in response to PULP's petition for relief. The JU supported efforts to increase enrollment in low-income affordability programs, including allowing customers to self-identify with benefit documentation, but cautioned the qualifiers need to be clear and the process needs to be easily administered. The JU does not recommend the Commission change the budget cap or the income-level data as short-term relief but acknowledges that they could be discussed at a future time. The JU notes that the Commission could quickly adjust the low-income discount levels by adjusting the average bills for known rate year increases.

In addition to the Comprehensive Energy Initiative proceeding,[26] the Commission has recently adopted measures in other proceedings to continue the evolution of serving LMI households in New York to aid energy affordability. In May 2020, the Commission issued an order[27] in response to a petition submitted by NYSERDA[28] which requested, in part, $135 million in incremental funding for projects to benefit LMI customers, affordable housing, environmental justice communities, and disadvantage communities[29] that, when combined with

[25] The Joint Utilities are comprised of Con Edison, O&R, National Grid, Central Hudson, NFG, NYSEG, and RG&E.

[26] Case 18-M-0084, supra, Notice of New Case Number and Announcing Stakeholder Forum (issued February 8, 2018).

[27] Case 19-E-0735, Proceeding on Motion of New York State Energy Research and Development Authority Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025, Order Extending and Expanding Distributed Solar Incentives (issued May 14, 2020).

[28] Cases 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard and 14-M-0094 Proceeding on Motion of the Commission to Consider a Clean Energy Fund, Petition Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025 (filed November 25, 2019).

[29] The total request of the petition was $573 million of additional funding.

additional incentives, will dedicate approximately $34 million a year through the end of 2025, which "will increase funding dedicated to these market segments by twenty-fold as compared to previous commitments."[30] The Commission approved this funding, noting again that the inclusion of LMI customers in clean energy programs is necessary and appropriate and recognized that NYSERDA must enhance the program and its ability to reach LMI customers.

To date, NYSERDA has implemented multiple programs that serve LMI households in achieving access to clean energy, including Solar for All, an affordable housing adder, and an affordable solar residential adder. Looking forward, NYSERDA and National Grid for example have proposed a Community Solar Concept with automatic enrollment into community solar for all National Grid EAP customers to help remove barriers to participation in clean energy projects and to lower the overall bill to help achieve energy affordability. If the project is implemented, initial estimates are that participants will realize a $10 reduction to their utility bills. While these program ideas have not yet been implemented, they are likely to be important contributors in our efforts reach the goal of a six percent household energy burden for low-income customers.

COMMISSION'S EXISTING LOW-INCOME DISCOUNT METHODOLOGY

OTDA is the federal grantee of HEAP funds and the state supervisory agency over the local social services districts (SSDs). The SSDs administer HEAP programs and provide benefits to eligible recipients, in part, based on household income, which are grouped into income tiers to provide like benefits to all participants within that income tier. The income eligibility requirements of the Commission's EAP are also based on the same household income thresholds and tiers that were established by OTDA. New York's EAP is designed this way because the utilities do not have access to the individual participant's household income and as such it is not currently practicable to calculate a personalized discount for each individual low-

[30] Case 19-E-0735, Proceeding on Motion of New York State Energy Research and Development Authority Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025, Order Extending and Expanding Distributed Solar Incentives (issued May 14, 2020), p. 7.

income customer.[31] Instead, New York's EAP is designed to achieve an average six percent NEB for as many low-income customers as possible. As such, and as more fully described below, each utility's EAP budget is calculated to provide the financial assistance necessary to achieve a NEB of six percent on average for each energy affordability tier for participating low-income customers. The household income and energy burden assumptions used in the methodology are pivotal in determining the discount levels required to achieve the six percent NEB goal on average for each energy affordability program discount tier.[32]

Appendix B provides utility specific information regarding their respective energy affordability programs; including the total number of residential customers as of December 2019 as reported in the Collection Activity Reports under Case 91-M-0744, low-income enrollment count, discount levels by tier, and program budgets. The key components of the Commission's low-income EAP program methodology are described below.

Identifying Low-Income Customers

The May 2016 Order required the utilities to broaden the EAP eligibility criteria to all HEAP recipients, regardless of which entity received the HEAP benefit or the heating fuel type used. The Commission also noted that additional enrollment mechanisms would be needed to identify and capture all low-income utility customers in the State because HEAP benefits are provided to the fuel vendor. For example, in the case of a customer using propane or distillate oil to heat his/her home, the HEAP benefit is provided directly to the oil vendor and not to its electric utility.

To facilitate the program, most utilities receive a list of all HEAP recipients in their respective service territories from OTDA to identify participants, or file match, for

[31] New Jersey, for example, has a program for low-income customers called the Universal Service Fund that tailors a discount based on a low-income customer's income and actual utility bills. (q1-q4) https://www.nj.gov/dca/divisions/dhcr/faq/usf.html

[32] Achieving a NEB of six percent for every low-income customer would require a personalized calculation and discount based on individual income and cost for every customer. The City and Staff concur that this approach would be unduly burdensome and difficult to implement in practice.

automatic enrollment in their energy affordability programs.[33] These utilities rely on OTDA for the customer file matching based on receipt of HEAP benefits and therefore, as currently designed, are limited to only including HEAP recipients in their low-income energy affordability programs. The file match processes employed by the City of New York's HRA for Con Edison, KEDNY, and parts of KEDLI works differently as these companies provide a residential customer list to HRA and HRA codes the list either "yes" or "no" and returns the modified list to each utility for customer enrollment in their respective energy affordability programs.[34] The HRA customer file matching process enables other income based public assistance benefit programs to count toward automatic enrollment in Con Edison, KEDNY, and the NYC portion of KEDLI's respective low-income energy affordability programs.[35] That said, if a customer provides information confirming participation in other public assistance benefit programs, the utilities will generally enroll the customer in their low-income energy affordability programs. Appendix D provides an overview of the utilities' customer self-identification processes and levels of enrollment from 2018 to July 2020.

Income Level

The income levels used by OTDA to determine HEAP benefits are established through data updated and provided each January by the U.S. Department of Health and Human Services (HHS), which considers individuals whose household income levels that are at or below 60 percent of the state median income to be low-income.[36] For OTDA's 2019-2020 HEAP

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[33] The Temporary and Disability Statistics September 2019 Report, Table 25, provides data for the federal fiscal year October 1 through September 30. According to the report, the number of total HEAP benefits allocated was 1,625,687 totaling $303,084,212. Table 26 indicates that 1,476,769 participants received non-emergency HEAP heating benefits during the 2019 fiscal year. https://otda.ny.gov/resources/caseload/2019/2019-09-stats.pdf.

[34] The utility uses the HEAP benefit it receives from OTDA in order to code the low-income customer as Tier 1, 2, 3, or 4.

[35] Customers are eligible for enrollment in the Con Edison and KEDNY energy affordability programs if they are participants in HEAP, Medicaid, Safety Net Assistance, Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance to Needy Persons/Families (TANF), or a Direct Voucher or Utility Guarantee Program (DV/UG Program).

[36] https://aspe.hhs.gov/frequently-asked-questions-related-poverty-guidelines-and-poverty

program year, New York State's median monthly income level used to develop HEAP benefits was $5,437 and 60% of that monthly income, which defines a low-income household, was $3,262. Because the utilities do not have access to program participant specific individual, or even anonymized, income levels, the Commission similarly adopted an approach of tiered utility bill discounts based on the level of need as demonstrated by receipt of one or more HEAP add-on benefits.[37] In its May 2016 Order, the Commission recognized that the adopted methodology was an imperfect tool to establish an individual participant's level of need. Given the data limitations, the Commission determined that using OTDA's HEAP income criteria and associated benefit levels as a foundation for the methodology to calculate and administer monthly low-income discounts for EAP participants was a reasonable approach. Thus, for the purpose of administering the utility energy affordability programs, the Commission adopted a methodology, explained below, that took into account the regular HEAP benefit amounts for utility electric and gas heating service customers.

OTDA's HEAP benefit is meant to help qualifying low-income customers pay for costs to heat their residences. The HEAP benefit amounts vary based on, among other things, the type of fuel used to heat the participant's home (electric, gas, wood, propane, oil, etc.). The regular HEAP benefit amounts for utility heating customers established by OTDA for the 2019-2020 season were:

Table 5

2019-2020 HEAP Benefits for Electric and Gas Heating Customers	**Benefit Amount**
Regular HEAP Benefit	$350
Regular HEAP Benefit + Vulnerable Person add-on ($25)	$375
Regular HEAP Benefit + Income add-on ($26)	$376
Regular HEAP Benefit + Both add-ons ($51)	$401

The Commission's tiered discount structure and methodology generally follows the level of regular HEAP benefits provided to the household, *i.e.*, the regular HEAP benefit amounts directly correlate with the energy affordability tier discount levels, to develop the NEB for each utility EAP discount tier. The Commission's EAP methodology uses the regular HEAP

37 https://otda.ny.gov/programs/heap/

benefit amount in the Tier 1 discount calculation. Tier 2 uses the regular HEAP benefit plus one add-on.[38] Tier 3 uses the regular HEAP benefit plus two add-ons (Table 5 - $25 and $26). Tier 4 is reserved for the customers with the lowest household income on public assistance who receive direct voucher bill payment or utility guarantee from OTDA or local social services.[39] In the same fashion for calculating the NEB for Tiers 1, 2, and 3, Tier 4 uses the regular HEAP benefit plus two add-ons (Table 5 - $25 and $26), as well as a home energy allowance, which is set at the lowest level provided throughout the state (2019-2020 was $54 per month).[40]

Calculating the Net Energy Burden (NEB)

A NEB amount is calculated for each EAP tier by first establishing a monthly income level for each tier, which is structured from the income criteria used for the HEAP program. The below table provides the income levels established in 2019 that corresponds to the 2019-2020 HEAP season.

Table 6

EAP Tier	2019-2020 Monthly Income Level	Monthly Income Level Description
Tier 1	$3,262.00	Regular HEAP Benefit Income Criteria
Tier 2	$2,547.00	Median Calculation of Tier 1 and Tier 3
Tier 3	$1,832.00	Regular HEAP + Income add-on Criteria
Tier 4	$1,409.17	Federal Poverty Level

Each tier's monthly income level is multiplied by six percent. The applicable monthly regular HEAP benefit amount is then added to establish the NEB for each tier (NEB equals the monthly income times six percent plus monthly regular HEAP benefit). For simplicity, the Commission adopted the approach that gas (whether designated as heating or non-

[38] NFG has developed Tiers 2.1 and 2.2 to account for the $25 and $26 add-on amounts.

[39] Footnote 12 of the February 2017 Rehearing Order states, "Direct vouchered customers are those on whose behalf the utility bill is paid directly by OTDA or the local social services district. Utility guarantee customers are those receiving benefits under Social Service Law (SSL) §131-s. SSL §131-s is emergency assistance which pays up to four months of utility arrears in full. In addition, the next six months of bills are subject to a utility guarantee by the Department of Social Services (DSS)."

[40] New York State OTDA, Temporary Assistance Energy Manual (issued July 11, 2019), available at http://otda.ny.gov/programs/temporary-assistance/TAEM.pdf.

heating) and electric non-heat service would share equally in meeting the six percent total energy burden goal. This arrangement avoids the possibility that utilities that only provide gas service (e.g., NFG, KEDLI, and/or KEDNY) from having to, on their own, be responsible for meeting the 6 percent household energy burden by also considering the level of the electric utility bill discounts of the overlapping electric utility in the determination of household need. For electric heating customers, the electric bill is considered to be the total home energy burden. In addition, the Commission's methodology provides that a utility's electric heat discount cannot be less than the non-electric heat discount to account for instances where the average low-income electric heat bill was less than the aggregate average low-income bill for a combination electric and gas utility customer. Under this circumstance, the electric heating customer would receive a smaller discount than a non-electric heat customer in the same tier in order achieve the six percent energy burden goal. The Commission reasoned that although this may result in some cases a greater electric heat discount than needed to achieve the six percent burden level, for equity reasons and the fact that it is relatively small population, the increased electric heat discount was acceptable because these low-income customers also have higher electric bills.

Average Low-Income Bill

The average low-income bill is a necessary component to develop the appropriate discount levels to achieve the EAP tiers' six percent goal, on average.[41] On this point, the Commission in its February 2017 Implementation Order, directed utilities to recalculate discounts annually to account for, among other things, changes in average bills to account for changes in average consumption levels that may occur for a variety of factors, including effects of any energy efficiency improvements. The February 2017 Order also stated that utilities should "consider" calculating the average low-income bills on a non-weather normalized three-year historic average to account for any volatility in commodity costs and usage. The updated average bills were to be filed in the utilities' annual filings. In consideration of concerns raised in the initial phase of this proceeding that some customers would have higher bills than the average bill paired with using maximum HEAP income levels, the Commission's methodology increased the average low-income bill by ten percent to address the concern that low-income

[41] See Appendix B for the average bills by utility.

customers may consume more than the average usage, while also recognizing that it served to balance the concern of using the highest income in the tier.[42] The Commission also indicated that this concern and adjustment could be revisited in future phases if warranted.

Discount Calculation

The utility specific tiered EAP discounts are developed by taking the NEB and comparing it to the average customers' low-income bills for each utility (see Appendix B) and discount tier, which is calculated for the following applicable customer groups: electric heat; electric non-heat; gas heat; and gas non-heat. The difference between the average low-income bill and tier NEB amount is the discount amount needed to reduce the average low-income customer's total bill to the six percent energy burden level (three percent electric and three percent gas). For example, if the tier NEB amount is set at $100 for a Tier 1 gas heat customer and the average low-income gas heat bill is $125, the discount is set at $25 for all gas heat customers. The Commission also adopted a minimum discount of $3.00 in the event the difference between the average low-income bill and the NEB amount is less than $3.00, and, as previously discussed, established the criteria that electric heat discounts must at a minimum be set at the dollar discount level for non-electric heat discounts within the same tier level. The May 2016 Order also grandfathered the then current bill discount levels for Con Edison and KEDNY if the above noted methodology produced lower discounts, generally favoring the process that yielded larger bill discounts.

For ratemaking purposes, it should be noted that utility specific EAP budgets are derived from the calculated discount levels and the number of low-income participants. For example, if a Tier 1 electric heat discount is calculated to be $15 and the OTDA file match identifies 1,000 customers in that tier, the annual budget would be $180,000 for that tier (Tier Budget = $15 times 1,000 customers times 12 months). Similar calculations are performed for the remaining tiers and aggregated to develop the total EAP budget for the utility. In an effort to balance the need for energy affordability for low-income customers with the overall burden on all ratepayers, the Commission set a program budget cap at two percent of total utility

[42] February 2017 Rehearing Order.

revenues.[43] In the event a utility's EAP budget exceeds the two percent budget cap, the utility is directed to discontinue certain components of its individual affordability program in order to remain under the two percent cap.[44] If, after discontinuing those program components, a utility's budget still exceeds the two percent budget cap, the target six percent NEB shall be adjusted upwards until the program budget is not exceeded. However, if in seeking to remain within the two percent budget cap, a utility raises the target NEB to ten percent or higher, a revaluation of the two percent budget cap is required. KEDNY is currently the only utility to exceed the two percent cap. On this point, by order issued on October 18, 2019, the Commission authorized KEDNY to adjust its target NEB to 6.4 percent to remain in compliance with its two percent program budget cap and further enabled all utilities to adjust the methodology used to make annual changes to low-income discount amounts so as to limit any reduction in bill discounts to a maximum of 20 percent of the existing discount.[45] An overview of the utilities' current electric and gas low-income EAP budgets and percent of budget caps is shown below, which assumes 2019-2020 OTDA program variables. Appendix B provides further utility specific program details.

[43] Total revenue equates to sales to end use customers includes delivery revenues and commodity portion of utility or Energy Service Company revenue. May 2016 Order, p. 30.

[44] Utilities would first discontinue arrears forgiveness and reconnection fee waiver programs, and then withdraw the $3.00 minimum discount and apply only the discounts necessary to achieve the six percent energy burden.

[45] Case 19-M-0350, Petition of Niagara Mohawk Power Corporation d/b/a National Grid; The Brooklyn Union Gas Company d/b/a National Grid NY; and KeySpan Gas East Corp. d/b/a National Grid, Order Approving Petition (issued October 18, 2019).

Table 7

2019 – 2020 Electric and Gas Program Budgets and Associated Percent of Revenues				
Utility	**Annual Electric EAP Budget**	**Percent of Electric Revenues - 2019**	**Annual Gas EAP Budget**	**Percent of Gas Revenues - 2019**
Central Hudson	$2,422,158	0.39%	$1,796,597	1.00%
Con Edison	$70,162,668	0.75%	$24,648,554	1.09%
NMPC	$29,597,981	1.14%	$8,585,856	1.08%
NYSEG	$5,830,978	0.39%	$3,970,703	0.95%
O&R	$5,290,662	0.90%	$3,141,972	1.17%
RG&E	$8,761,943	1.20%	$4,671,861	1.13%
KEDLI			$6,681,211	0.55%
KEDNY			$38,387,689	1.93%
NFG			$14,725,530	2.27%
PSEG	$9,018,744	0.26%		
Total	$131,067,134		$106,609,971	

Budget Billing

The Home Energy Fair Practices Act (HEFPA) requires utilities to offer a budget, or levelized, billing payment option for all residential customers.[46] When the Commission initiated its EAP, it required low-income customers to be automatically enrolled in budget billing as another component of the utilities' low-income energy affordability programs to mitigate seasonal bill volatility and as a means to increase the effectiveness of the utility bill discounts on their overall household budgets. Low-income customers can opt out of budget billing at any time.

Arrears Forgiveness

Arrears forgiveness programs were established to evaluate a customer's financial circumstances in order to reach fair and equitable deferred payment agreements (DPAs) as required under HEFPA.[47] The utility arrears forgiveness programs were structured to provide additional financial assistance, using the same ratepayer EAP provided pool of funds, to encourage the customer in arrears to make timely payments over the course of a given period of time (generally structured using a sliding scale from 12 to 48 months, depending on the

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[46] 16 NYCRR §11.11.

[47] 16 NYCRR §11.10.

customer's ability to pay) and for doing so the utility would forgive a portion of the remaining arrears. Only if the customer makes the required DPA payments does the utility forgive all or a portion of the remaining arrears.

The 2015 Staff Report noted several considerations when establishing arrears forgiveness program funding, including the need to be more cost effective than traditional arrears management and collection tools. To do so, utilities would need to compare the likelihood of the expenses being written off as bad debt with the costs that the utilities would have spent to collect the same amount through traditional measures as compared to the arrears forgiveness program. In its May 2016 Order, the Commission determined that low-income arrears forgiveness programs could be continued if utilities found these programs to be of merit but, did not require utilities to maintain or implement them. The Commission also stated that funding for the arrears forgiveness programs be limited and were not to exceed ten percent of a utility's EAP budget, in part because practices for arrears forgiveness programs needed to be better understood before they should be required or funded at a higher rate. The Commission opined that arrears forgiveness programs should benefit both customers struggling to pay arrears balances and customers required to pay for uncollectible costs in delivery rates and that they ultimately should create cost savings and not add to utility costs.[48]

Only NYSEG and RG&E have continued to administer arrears forgiveness programs in their respective service territories. According to arrears forgiveness program spending data submitted by NYSEG and RG&E, NYSEG spent $926,763 and $683,983 and RG&E spent $255,897 and $140,295 in 2018 and 2019, respectively.

Reporting

The May 2016 Order directed the utilities to submit EAP reports on a quarterly basis, including low-income customer participation by tier, budgets and discount allocations, numbers of terminations and disconnections, budget billing enrollments, and amounts of customer arrearages. Appendix C provides the template used by the utilities for filing the quarterly reports. In its February 2017 Implementation Order, the Commission required that utilities submit annual low-income filings including updated calculations of average bill

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[48] May 2016 Order, p. 35.

amounts, discount levels, projected budgets and budget limits, and revised workpaper calculations.[49] If there are changes to the discounts, the utilities are required to file tariff revisions. By tracking and reporting the same information, these reports provide Staff and stakeholders the means to monitor and evaluate the low-income energy affordability programs and identify opportunities for improvement.

CITY OF NEW YORK'S PETITION

The City seeks a re-examination of the Commission's methodology used to calculate utility low-income energy affordability program discounts. The Association for Energy Affordability, Inc., Energy Efficiency for All New York[50] and Environmental Defense Fund submitted letters of support for the City's Petition. According to a study conducted by the City, the Commission's EAPs have not reached the goal of reducing low-income participants' NEBs to six percent of their household income.

The City's study relied on data accessible through the U.S. Census Bureau's 2017 Public Use Micro Sample data available in U.S. Census Bureau's American Community Survey.[51] The City explained that it used this data, which it claims is an industry recognized tool for measuring need to provide a statistically representative sample of housing costs, income levels, and energy costs for families in New York City. The City's study was conducted at the family level, rather than the household level, and used the 60 percent State Median Income (SMI) threshold as adopted by the Commission in the May 2016 Order. The energy cost burden used in the study was the total of: self-reported previous month's gas costs multiplied by 12; self-reported previous month's electricity costs multiplied by 12; and, other self-reported energy fuel costs, minus an estimated HEAP benefit, divided by annual pre-tax family income.[52]

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[49] February 2017 Implementation Order, p. 33.

[50] Membership includes Association for Energy Affordability, Inc., Enterprise Community Partners, Green and Healthy Homes Initiative, Natural Resources Defense Council, Pace Energy and Climate Center, WEACT for Environmental Justice and Working Families.

[51] United States Census Bureau, About the American Community Survey, https://www.census.gov/programs-surveys/acs/about.html.

[52] Monthly gas and electric costs are reported as the "previous" month in the ACS data. It is unclear which month is being referred to. Regardless, due to monthly changes in electric and gas usage largely driven by weather patterns, a single month's energy cost may not

According to the study, 484,375 low-income New York City families, or over 1 million individuals, are energy cost burdened beyond the six percent income threshold. The City contends that because the study is based on out-of-pocket energy expenses, it does not capture a significant number of families who pay for heat through rent to landlords rather than directly to a utility through their utility bills.[53] According to the City's study, 14 percent of the City's families remain energy burdened and thus the City recommends changes to the Commission's calculation methodology to be more aligned with the six percent income threshold.[54] More specifically, the City recommends the following program modifications to better realize a six percent NEB for EAP participants: (1) updating the discount calculation to reflect the median income of HEAP tiers rather than the upper limit of the tiers; (2) assuming the average regular HEAP benefit received rather than maximum regular HEAP benefit when adjusting low-income customers' energy costs; and, (3) using weather normalized forward average low-income bill estimates rather than average historical low-income bills to model energy costs. The City also recommends more frequent updates from the New York City HRA and Westchester DSS file matching programs, which are currently updated bi-annually. Consistent with the file matching program adopted in the recent Con Edison rate case,[55] the City suggests quarterly data updates.

Income Level

The City contends that the income levels used in calculating the NEB for each low-income EAP tier level is a misrepresentation of actual income levels for qualifying participants. The City states that using the upper income level threshold for a two-person

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accurately represent an annual extrapolation of usage and cost. ACS data reported income at the household level. Family income is a variable manually generated by the City using ACS household data and "relationship indicators in census data." City Petition, pp. 6-7.

[53] Staff notes that while NYC renters may in fact not pay for heat directly, to the extent they directly pay for either electric or gas utility services and otherwise qualify as low-income customers they currently receive utility EAP non-heat utility bill discount benefits and will continue to do so under the existing and the herein proposed program improvements.

[54] City Petition, p. 9.

[55] Cases 19-E-0065 and 19-G-0066, Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc., Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued January 16, 2020).

household established by OTDA, or 60 percent of the SMI, to establish the NEB for Tier 1 assumes those qualifying participants earn at that income level. Tier 1 low-income discounts, however, would only achieve the six percent energy burden level for customers earning at that maximum income level. In a similar fashion, to establish the NEB for Tier 3, the OTDA income criteria is set at 130 percent federal poverty level (FPL), which is the upper income criteria for HEAP eligible customers qualifying for the income-based add-on. The City states that in 2018, 60 percent of SMI was $36,368, however, the median income for families that qualify for Tier 1 is $28,062 and that similar situation occurs with using upper limit of 130 percent of the FPL for the Tier 3 participants. The City acknowledges that using individual income levels for qualifying participants would be impossible, but using a more accurate income assumption would further align the Commission policy with its six percent energy burden goal. The City acknowledges that establishing calculations for the energy burden threshold for the Tier 2 income level is difficult due to the inability to determine families with a vulnerable individual; and, supports the continuation of the combination of Tiers 1 and 3 to set a median income level for Tier 2.

The City recommends that the Tier 1 discounts should be based on median income calculations for families between 60 SMI and 130 FPL and the Tier 3 discounts would be based on median incomes calculations for families under 130 FPL. To do so, the City recommends that the utilities modify their low-income energy affordability workpapers to incorporate median income data rather than the maximum HEAP income level. The City further recommends that Staff or the utilities use the data available through the ACS in the calculation of median income. The City explains that the data can be filtered by utility service territory to sort families data by reported income, family size and composition to identify those that are in the range of less than 60 SMI and less than 130 FPL; and, to also sort families by those who pay out-of-pocket electricity or natural gas costs.

HEAP Benefit

The City expressed concern that the regular HEAP benefit used to calculate the NEB is not actually received by most New York City residents and is therefore a misrepresentation of the actual HEAP benefits received by low-income customers because most low-income customers residing in New York City do not pay directly for heat, the costs for which are likely passed onto tenants through their rent. To substantiate this claim, the City states that Con Edison and KEDNY use the maximum regular HEAP benefit of $350 in the calculation of their tiered bill EAP discounts, but the City points out that the average actual non-emergency HEAP benefit (heating and renters) received by low-income families for these utilities was $42.02.

To remedy this incorrect HEAP benefit assumption, the City suggests modifying the discount calculation methodology to more accurately reflect the actual HEAP benefits received. More specifically, the City recommends that the calculation of the NEB for gas and electric heat low-income EAP discounts should continue to assume a regular HEAP benefit. For gas and electric non-heat customers, however, the calculation methodology should assume a $35 HEAP renters benefit, and if an electric utility is unaware of the heating status of a low-income customer, the City recommends using OTDA's statistics, which for New York City, would result in a $42.02 non-emergency HEAP benefit.[56]

Average Low-Income Bill

The City states that the Commission directed utilities to calculate discounts using an affordability block, which is based on 110 percent of a 12-month levelized average bill for the respective electric and gas service and heat and non-heat customers. The City asserts that utilities in practice have used two or three-year historic average bills in calculating the discounts. The City contends that the use of this historical information for average bill calculation is a problem as it does not account for future rate increases which may reduce bill discounts.

The City recommends using weather normalized forward looking bill estimates to establish bill discounts and further recommends that utilities should be using the bill impact tables developed in individual rate cases to determine an estimated average bill. The City asserts this forward-looking average bill would not be impacted by weather anomalies and would properly account for future rates. The City opines that the use of weather normalized forward bill estimates would also eliminate the need for the current 10 percent upward average bill adjustment.

56 Temporary and Disability Assistance Statistics, September 2019, Table 26.

NEB Target Relationship to the EAP Budget Caps

The City recommends that when the two percent budget cap is reached, the utility should first increase the energy burden target to greater than six percent instead of discontinuing arrears forgiveness programs and/or reconnection fee waiver programs. The City further states that the ten percent threshold for reexamination of the energy burden is too high and requires reconsideration by the Commission. The City contends that the ten percent burden is unreasonable and recommends the threshold for the automatic reconsideration be lowered to eight percent.

The City notes that its analysis was limited to New York City and recommends the Commission direct the utilities to conduct a study in their respective service territories to assess if this is a comparable situation statewide. If similar situations do not exist outside of New York City, the City recommends that the Commission direct Con Edison and KEDNY to implement its proposed bill discount methodology. Finally, while the City states that the current reporting requirements established in the Low-Income Orders are transparent, it recommends the inclusion of an energy cost burden section to provide an indication of the NEB achieved, by discount tier, in order to understand the effectiveness of the EAP.

COMMENTS OF THE PARTIES

Following the March 5th Stakeholder Meeting, informal comments were filed by: the City; the JU; PULP; and, the New York State Department of State, Division of Consumer Protection, Utility Intervention Unit (UIU), with additional comments being filed by KEDLI, KEDNY, Niagara Mohawk (together, the Grid Companies) and NFG. Energy Efficiency for All of New York and the Association for Energy Affordability submitted letters in support of the City's Petition. A comprehensive summary of the comments received is included in Appendix A of this report.

PULP'S PETITION

PULP submitted a petition on May 14, 2020 seeking immediate relief for low and formally moderate-income households due to the COVID-19 pandemic.[57] Therein, PULP notes the extreme economic impact of the pandemic on New Yorkers and asserts that New Yorkers no longer have the ability to wait for relief through a standard proceeding process. PULP recommends that the Commission direct the utilities to expand enrollment to all income qualified New Yorkers that can offer proof of participation in a variety of public assistance programs,[58] to waive the two percent budget cap to allow the discounts to meet the greater need of New Yorkers at this time, and to adopt the City's recommended methodology to determine EAP bill discount levels and enact the new discounts thereafter.

STAFF'S FINDINGS AND RECOMMENDATIONS

This report identifies components of the EAP which Staff recommends be addressed now, as well as other components which require further examination. In addition, Staff acknowledges that there is overlap with this proceeding and the generic COVID proceeding and that OTDA has made updates to the HEAP for the 2020 – 2021 program year.[59] Herein, Staff is recommending EAP modifications irrespective of how the Commission handles relief for customers in the aftermath of the COVID pandemic. To the extent possible and where appropriate, Staff is holistically addressing both the City's and PULP's Petitions for immediate low-income customer relief due to the COVID-19 pandemic. The following sections address Staff's recommendations to improve the EAP moving forward.

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[57] Case 14-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers. Petition of the Public Utility Law Project of New York for Expedited Relief for Low-Income Households in Response to the COVID-19 Economic and Public Health Crisis. May 14, 2020.

[58] Temporary Assistance for Needy Families (Family Assistance), Safety Net Assistance - Public Assistance, Supplemental Security Income (SSI), Medicaid, SNAP (Food Stamps), Veteran's Disability Pension, Veteran's Surviving Spouse Pension, or Child Health Plus, or, proof of denial of HEAP for any reason other than income eligibility.

[59] https://otda.ny.gov/programs/heap/

Identifying Low-Income Customers

Central Hudson, NYSEG, NMPC, NFG, O&R, RG&E, and parts of KEDLI rely on OTDA to provide them a file identifying HEAP program participants within each of the utilities' service areas.[60] Each utility then matches its customer information to the OTDA file of customers that received HEAP benefits to identify and enroll low-income participants into the applicable EAP bill discount program tier based on the individual customer's household characteristics.

Con Edison, KEDNY, and the portion of KEDLI's service territory located in New York City, rely on the City HRA and the Westchester County Department of Social Services (Westchester DSS) to identify low-income customers. This matching process occurs four times per year. Con Edison shareholders support this file matching process by providing a total of $100,000 annually allocated to HRA and Westchester DSS. KEDNY and KEDLI similarly each provide $50,000 annually, funded by ratepayers, to the City HRA for the file match. The City file matching process identifies a greater proportion of local low-income residents than the other major utilities because it includes a more comprehensive list of income-based assistance programs and their participants.

In addition to these file matching efforts, customers may self-enroll in some of the utilities' low-income programs but, this process is not consistent across the utilities and has room for improvement.

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60 The OTDA file contains the following information: customer account number which is the current primary account holder's primary heating account number or last known utility account number; case number which is the current primary account holder's Social Service District case number; case name; last four digits of the current primary account holder's Social Security number; applicant payee last name, current primary account holder's legal last name; applicant payee first name, current primary account holder's legal first name; service/residence address where the utility service or fuel deliveries are provided, including the current primary account holder's house number, apartment number and street; service/residence of city where the current primary account holder resides; service/residence of the state where the current primary account holder resides; and, service/residence zip code for the current primary utility account holder's service address. In addition, OTDA creates a unique individual customer identifier which links to the primary account holder's information, so the participant's personal information is not shared with OTDA's vendors who participate in the HHS performance measures reports.

According to the utilities' low-income EAP reports, the major utilities are providing discounts to approximately 923,000 electric and gas only low-income customers (see Appendix B). There may be some natural gas only low-income customers served by the combination electric and gas companies, but for comparison purposes, Staff makes a simple assumption that those customers likely have electric service provided by another major utility. For the 2019-2020 program year, OTDA reported that 1,476,769 New York households received a non-emergency HEAP benefit.[61] Staff believes the gap between the two data points is likely caused by the following reasons: electric municipal customers are not included; some low-income customers may pay for electric service in rent; not all heating fuels are captured by the OTDA file matching process; and, the file matching process between OTDA and the utilities is otherwise imperfect.

Low-income customer participation levels vary from utility to utility as shown in Appendix B. Staff compared the number of low-income customers to the total residential customers served by the utility and found that EAP participation ranges by utility from a high of 14.6 percent for KEDNY to a low of 2.2 percent for KEDLI. To further explore the reason behind KEDLI's lower EAP participation rate, Staff reviewed the make-up of heating fuels in the utilities' service territories from NYSERDA's heating fuels report.[62] The table below compares the EAP participation rate for three natural gas only utilities and, by service territory, the percentage of households heating fuel type.

Table 8

Utility	EAP Participation	Heating with Natural Gas	Heating with Fuel Oil	Heating with Electricity
KEDNY	14.6%	60%	26%	9%
KEDLI	2.2%	44%	43%	9%
NFG	13.9%	82%	1%	13.3%

61 Table 26 indicates that 1,476,769 participants received non-emergency HEAP heating benefits during the 2019 fiscal year. https://otda.ny.gov/resources/caseload/2019/2019-09-stats.pdf.

62 2017 Evaluation Reports, New York State Low-to Moderate-Income Census Population Analysis Tool, https://www.nyserda.ny.gov/About/Publications/Program-Planning-Status-and-Evaluation-Reports/Evaluation-Contractor-Reports/2017-Reports/LMI-Census-Population-Tool.

Staff believes KEDLI's lower energy affordability participation rate is attributed to the fact that more households in its service territory heat their homes with fuel oil. KEDLI will therefore not be able to identify these households as low-income customers from the current OTDA file match process because they do not take natural gas service. That said, to the extent Staff's recommendations to improve the identification of customers that participate in any OTDA assistance program are adopted, Staff expects that low-income utility customers that heat their homes with energy sources other than those delivered by the local distribution utility will be identified and enrolled in EAP programs going forward.

Modification to the OTDA File Match to Align with the New York City HRA File Match Process and Exchange of Data

During the March 5th Stakeholder Meeting, utilities, OTDA, and other parties engaged in a discussion regarding the coordination of data exchanges and the account file matching process. PULP and UIU at the meeting, and in their filed comments, support OTDA's efforts to provide the utilities a file that identifies customers who were HEAP recipients served by heating fuel companies providing oil or propane or wood, thus potentially increasing the number of electric participants in the utilities' energy affordability programs. By doing so, PULP asserts, OTDA will have the ability to capture 100 percent of HEAP recipients using heating sources other than utility delivered fuels in the electric utilities' energy affordability programs.

PULP supports OTDA's comments made during the March 5^{th} Stakeholder Meeting where OTDA indicated that it would prospectively identify renter benefit customers, as it does for regular HEAP benefits for heating customers, to facilitate the automatic enrollment of customers outside of New York City. PULP notes that utilities will be required to undertake modifications to their customer information systems to distinguish accounts with renter HEAP benefits. UIU recommends that OTDA conduct the file match twice a year, in May and in November, to identify eligible customers in advance of peak cooling and heating usage seasons.

PULP further proposes that OTDA institute a real-time procedure in which all HEAP applicant utility account numbers are matched with utility customer records prior to approval of HEAP grants. PULP states that doing so would reduce the unmatched exceptions during the file matching with utilities and mitigate issues with minor differences such as abbreviations, non-abbreviations, and misspellings of customer information. According to

PULP, the inclusion of account numbers on all OTDA public assistance program applications would provide for better matches and increase the pool of eligible customers for enrollment in utilities low-income energy affordability programs.

The OTDA file matching program, conducted as part of its federal HHS performance measures, does not provide a complete reconciliation of all utility customers and HEAP recipients. This may be due to different information exchange procedures used by OTDA and the utilities to input data which result in validation errors and excludes customer participation in energy affordability programs. The HHS performance measures provide a venue for data collection that can be used for the identification of HEAP recipients through matched utility account numbers. According to PULP, the information OTDA submits to HHS has a 15 percent completion rate to identify HEAP recipients in New York State in comparison to the 40 percent completion rate nationwide. PULP contends that there are 60 to 65 percent HEAP recipients that have not been matched with their utility accounts for enrollment eligibility in EAPs. PULP recommends that an analysis be conducted to identify the reasons for the incomplete or omitted information to HHS, including the number of customer accounts the utilities could not match.

Inclusion of Other Public Assistance Programs in the File Match System

During the March 5th Stakeholder Meeting, several parties suggested that the eligibility criteria for enrollment in utility energy affordability programs be expanded to other public assistance programs beyond HEAP. PULP suggests that current utility-income energy affordability programs be expanded to include the additional public assistance programs to increase customer participation through a higher rate of matching of customer utility accounts. UIU recommends that the eligibility criteria used in the federal telephone Lifeline program be considered as it also uses similar low-income programs to increase customer enrollment.[63] The OTDA file match would require modifications to accommodate the inclusion of other programs beyond HEAP.

[63] Lifeline provides support to low-income households who receive federal assistance through SNAP, Medicaid, SSI Federal Public Housing Assistance, Veterans Pension and Survivors Benefit, and various Tribal Programs.

Submetering

Each year the Commission approves requests from owners of multifamily buildings to submeter electricity to their residents. The Commission supports submetering because the conservation impact is substantial when the resident receives an electric bill based on their actual consumption rather than pay for electricity as a flat fee in rent. After the Commission approves a building owner's request to submeter, the owner is master metered by the electric utility and the owner redistributes electricity to its residents and measures each resident's actual usage using Commission approved submeters. The electric utility bills the owner at its tariff master metered rate.[64] The electricity cost savings to the building owner usually drives the decision to submeter. In accordance with Commission regulation, the building owner cannot charge greater than what the electric utility would have charged the tenants if they were direct metered.[65] However, the utility no longer serves the tenants and cannot decern if they are low-income customers. The regulations only require the building owner to become a HEAP vendor when the building is electric heat and at least 25 residents receive income-based housing assistance.[66]

Staff Recommendations

Staff believes the most efficient means to enroll low-income customers in the utility EAP is the file matching process with either the OTDA or the City HRA administers income-based programs. The current OTDA file match with the utilities verifies the participant's address, social security number, utility or fuel company, income, and identity. This process is efficient and also provides the best protection for customer related personal data.

That said, while the success rate of matching low-income participants has improved, Staff believes that are several opportunities to improve the file matching process that can lead to further significant increases in EAP enrollments, such as adding additional programs which should be coordinated by the Low-Income Energy Task Force. For example, there are instances where the shared data doesn't match the utility records, which lead to eligible customers not being matched in the utilities' systems for enrollment in the EAP. While a utility

[64] The EAP programs are included in the cost of service.

[65] 16 NYCRR §96.6(c).

[66] 16 NYCRR §96.5(l)(5).

account number leaves little room for variations in abbreviations or spelling as other matching data may, the OTDA form only collects the utility account number for the company that receives the HEAP payment. Thus, in the cases where that company is not the utility, this matching field is not available to the utility. Further, it is Staff's understanding that if HEAP closes because funds have been exhausted, an income eligible customer that would have otherwise received assistance is not be enrolled in the HEAP program and, therefore, would not be on the OTDA file for the utility to match, in spite of their income-eligible status. On this point, **Staff recommends the inclusion of 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 that were denied HEAP benefits due to program funding limitations.** While these changes would likely improve the utility qualified customer identification process and likely increase EAP enrollments, Staff recognizes they will require system and process changes by OTDA which may not be immediately feasible. If the additional account information becomes available to the utilities for the purpose of matching participants, protection and security of such information should be a top priority for the utilities.

A more frequent OTDA file match would capture changes in low-income participants, either coming onto the program or being removed from the program. Consideration should also be given to expand the file match in utility service territories to at least twice a year. By doing so, additional eligible customers could be enrolled in utility low-income energy affordability programs with greater frequency instead of one opportunity on an annual basis. To track the effectiveness of the file matching process, **Staff recommends the utilities report annually on how many of the low-income participants in the file were not able to be matched, as well as the estimated number of total HEAP recipients served by the OTDA in their respective service territories.** The utilities will have to coordinate with OTDA in their annual updates and should identify any assumptions. This information would be important for all stakeholders to understand of how the programs are operating.

The inclusion of other public assistance programs into the OTDA file match system may extend the benefits of affordability programs to a greater number of the state's low-income population. OTDA would need to conduct an analysis to determine the modifications it would have to undertake to accommodate the additional programs with an assessment of the transition and future operational costs and impact on administrative resources. The expansion of

OTDA's file match system will require coordination with other agencies and utilities which should be addressed by the Low-Income Energy Task Force as envisioned by the Commission in Phase One of this proceeding. The Low-Income Energy Task Force was established to address low-income energy affordability policies and programs, improve coordination between government and private agencies, and streamline and eliminate duplication of services and programs to increase effectiveness and reduce costs.

In a subsequent phase of this proceeding an assessment should be undertaken to review the OTDA file matching process to streamline the exchange of information in order to increase the completion of the HEAP recipient information to facilitate increased low-income energy affordability program enrollment.[67] OTDA's file match should also be examined to consider the development of a process, such as a code to automatically identify customers as HEAP income eligible but denied a benefit due to lack of federal funding, for enrollment in the utilities' low-income energy affordability programs. In the interim, low-income customers can share such denial notices for lack of funding as verification of income eligibility for enrollment in the utilities' low-income energy affordability programs until a specific code can be included in the OTDA file match.

The Commission should consider requiring all master metered buildings to become HEAP vendors with OTDA, regardless if they are an electric heat property. At a minimum, **Staff recommends that all future requests for submetering that include affordable housing component should require coordination with OTDA for potential benefits to low-income customers.** This longer-term goal will require coordination and should be advanced by the Low-Income Energy Task Force.

Customer Self-Identification Enrollment

Low-income customers have an opportunity to identify themselves as eligible to participate in utility low-income energy affordability programs if they provide documentation that they are beneficiaries in other public assistance programs. Customers can fax, telephone, email, or regular first-class mail documentation to the utilities. While there is not a statewide process for customer self-identification for low-income energy affordability programs, the

[67] Some work to improve low-income customer identification is already underway. See, https://otda.ny.gov/policy/gis/2019/19DC033.pdf

utilities will enroll customers who participate in various public assistance programs after the documentation, such as an award letter, is verified. Appendix D provides an overview of the utilities' customer self-identification processes and levels of enrollment from 2018 to July 2020.

Central Hudson allows its electric customers that heat their homes with fuels other than electric or natural gas and customers who receive the renter benefit on their SNAP benefit cards to fax, email, or regular mail their HEAP Notice of Eligibility Decision as documentation for enrollment into its low-income energy affordability program. Once the information is submitted to Central Hudson, the low-income bill discount is applied to the customer's account in the following month.

Con Edison allows for customers to self-identify to determine eligibility if they provide award or budget letters confirming participation in one of its qualifying public assistance programs. Con Edison's customer service representatives (CSRs) work with customers to self-identify and coordinate documentation to verify qualifications for enrollment. Con Edison's customer information system will input a low-income rate code to go into effect in the next billing cycle and an enrollment postcard is mailed to the customers. If the customer's documentation is not acceptable, Con Edison will forward a letter with information on the correct documentation needed to qualify for the low-income energy affordability program. In addition, information on how customers may self-identify is available at Con Edison's website.

KEDNY and KEDLI will accept the following proof of eligibility for verification for customer self-identification for the following public assistance programs in their low-income energy affordability programs: HEAP; Medicaid; Child Health Plus; Veterans Disability Pension and Veterans Surviving Spouse Pension; SNAP; SSI; Food Stamps; and, Temporary Assistance for Needy Families. Upon receipt of a low-income energy affordability program application, including the necessary documentation, the utilities will verify the information and enroll the customers in the customer low-income rate. If an account is not found to be eligible, a rejection letter will be forwarded to the customer.

NFG includes customer accounts in its low-income energy affordability program when it receives OTDA data for households which have HEAP payments made to non-utility fuel vendors or receives Direct Voucher and guaranteed payments from county offices of social services. In addition, NFG's CSRs will advise customers about the low-income energy affordability program if they are identified as public assistance, Supplemental Security Income, or electric HEAP recipients, and provide documentation for enrollment. NFG includes a Special Protections Application Form in its annual HEFPA consumer rights and responsibilities notice which is used to review customer accounts to determine eligibility in the low-income energy affordability program. This information is also provided on NFG's website. NFG does not have a reporting mechanism to track customer self-identification accounts.

National Grid will enroll customers through self-identification if they provide a HEAP award letter or bills from non-utility fuel vendors with a HEAP payment from the current year posted to verify eligibility. National Grid's CSRs will verify the low-income customers' eligibility for enrollment in the low-income energy affordability program and change the accounts to the low-income rate. If the account is determined to be ineligible for enrollment, CSRs will call the customers and advise them.

NYSEG and RG&E will accept the following documentation from a customer to initiate self-identification for enrollment in their low-income energy affordability programs: a HEAP award letter stating that a grant has been provided to an alternate fuel supplier; a vendor bill statement which shows a HEAP benefit has been applied to the customer account; or, a note from the alternate fuel supplier on its letterhead which states that the customer received a HEAP benefit. The Companies will also accept a statement from a county DSS to confirm that a customer has been approved for or has received a HEAP benefit. After the Companies verify the customer's HEAP status, the account will be enrolled in their low-income energy affordability programs.

O&R will allow customers to self-identify for enrollment into its low-income energy affordability program if the customers provide an award letter to document that they receive HEAP benefits for non-utility fuel vendors or a renter benefit on their SNAP cards. The Company's Customer Service Department manually enrolls the customers.

Because many of the issues with identifying low-income customers are related to the OTDA systems, a customer self-identification process can be a stop gap approach to increase customer enrollment into the low-income energy affordability programs. Under this interim approach, customers who are recipients of other public assistance programs would provide documentation of their participation in one of those programs to qualify for enrollment in utility energy affordability programs. UIU recommended this approach to increase the pool of low-income customer participants. The JU expressed support for a customer self-identification process enrollment process if it was transparent and simple to implement. Additionally, as explained above, several utilities currently provide an opportunity for customer self-identification for enrollment in energy affordability programs if the customer heats with a non-utility fuel source and their alternative fuel provider receives a HEAP payment on their behalf.

Broadening access to the low-income energy affordability programs to include the additional public assistance programs would facilitate increased enrollment to more potentially eligible low-income customers. However, a procedural mechanism would need to be developed to coordinate a larger number of file matches between ODTA and the utilities.

Staff Recommendation

Staff considers customer self-identification a useful stop gap tool to further increase enrollment in the utilities' low-income energy affordability programs while OTDA continues to enhance its file match processes and systems. However, the long-term approach should be to steer low-income customers to OTDA or local SSD offices so that each low-income customer receives the maximum benefits in one location.

With respect to establishing a customer self-identification process for qualifying customers to participate in utility energy affordability programs, **Staff recommends the utilities develop a uniform statewide approach for customer self-identification.** The utilities should collectively work with OTDA to develop a verification process in their next file match to ensure the self-identified customer was income eligible for public assistance programs by OTDA.[68] Such a proposal should not result in undue administrative burdens or budget constraints as directed in the Low-Income Orders, where the Commission stated that the expansion of low-income energy affordability program eligibility criteria be considered in future phases of this proceeding and that a statewide file matching process between the utilities and ODTA be addressed by the Low-Income Energy Task Force.[69]

Income Level

The Commission's methodology to establish the low-income discounts uses fixed income levels structured around the HEAP program administered by OTDA. For example, the

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[68] NYSERDA does income eligibility screening for some of its programs and may also be able to identify customers that do not receive HEAP.

[69] May 2016 Order, p. 16.

low-income energy affordability program's Tier 1 income level is equivalent to the maximum income level for a two-person household to be eligible for the $350 regular HEAP benefit in the 2019-2020 program year. The City argues that using the upper limit of income for the low-income energy affordability program tiers to calculate the related bill discounts is counterproductive to the Commission's goal of achieving a six percent NEB goal. The City asserts that discounts based on the upper income level thresholds for a particular tier group only ensure a sufficient discount for those customers at that maximum income level. Low-income customers earning below that maximum income level would still have an energy burden above the six percent goal. According to the City, the assumption is that many, if not most, customers within a given tier are not at the upper limit of the tier, and will receive discounts that are insufficient to achieve six percent NEB. This problem can be seen in a simple hypothetical example comparing a potential low-income customer earning at the maximum income to a potential low-income customer earning less than the maximum income:

Table 9

Customer	**Tier**	**2019 Monthly Income**	**Monthly Low-Income Bill Adjusted for HEAP Benefit and Low-Income Discount**	**Resulting Energy Burden**
Customer 1	1	$3,262	$196	6.0%
Customer 2	1	$3,000	$196	6.5%

The City proposed closing this gap by using the median income of each tier to develop the low-income discounts. The utilities, however, do not receive actual customer income information from OTDA. Rather, on an annual basis, the utilities obtain updated HEAP income criteria to be used in calculating the NEB and, ultimately, each tier discount. The City Petition suggested the use of Public Use Microdata Sample (PUMS) files from the American Community Survey (ACS) to estimate median incomes and monthly energy costs. The ACS is an annual ongoing survey conducted by the U.S. Census Bureau. Survey respondents provide self-reported information regarding their age, race, sex, household composition, income, and other variables.

In its Petition, the City clarified that at this time, it is "not requesting that the Commission make any changes to the tiered low-income program structure or the overarching methodology used to arrive at low income discounts,"[70] a point which is important to facilitate a quicker adjustment to discounts necessary to help New Yorkers afford their energy at this time. However, the City's recommendation for calculating the income assumptions does include further manipulation of the ACS data by either Staff or the utilities in order to assume the utility service territory based on a geographical location indicator, such as the Public Use Microdata Area (PUMA),[71] an optional location filtered dataset of the PUMS. However, according to the American Community Service Office, PUMS "tend to be more complicated to use" than Census aggregate data, require downloading large datasets, and need specific statistical software to analyze the data. In addition, PUMS geographical data is limited after the state level. Although the PUMAs the City recommends are the most detailed level of the PUMS, they are separated as geographical areas of the state with a standard population set, meaning the use of PUMAs to establish utility service territories across the state would require still more data manipulation by Staff or the utilities.[72] The JU commented that it was concerned with potential significant changes to the existing bill discount methodology and the impact to operational costs and administrative burdens.

Staff Recommendation

While Staff understands the use of ACS data for the City's study, Staff is concerned that it would be difficult to use the ACS data to establish income levels for each utility. The inclusion of ACS data in the bill discount methodology would require additional time and resources, and potential modifications to utility customer information systems because the information does not necessarily align with utility service territories. In addition, because OTDA's income data is defined by household size rather than family as ACS data is, the current framework of the income tiers in the low-income energy affordability program is consistent with

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[70] City Petition, p. 10.

[71] City Petition, p. 13.

[72] American Community Survey Office U.S. Census Bureau. American Community Survey 2018 ACS 1-Year PUMS Files. ReadMe. November 14, 2019. p. 4. https://www2.census.gov/programs-surveys/acs/data/pums/2018/1-Year/

eligibility of the HEAP discounts, allowing for appropriate comparison. Staff believes improved data-sharing between OTDA and the utilities would provide for more accurate and precise discount calculations to allow low-income energy affordability programs to achieve the six percent NEB for more low-income customers. The sharing of aggregate income data, however, is not yet available between OTDA and the utilities.

Because information-sharing between OTDA and the utilities is not yet possible, Staff suggests using the midpoint of each income tier to set income assumptions for the purpose of the NEB and discount calculations. The City acknowledged in its comments that this approach "yields a similar result and is more easily calculated" than manipulating ACS data to estimate median incomes.[73] The City also stated that the midpoint of the HEAP income tiers lay within five percent of the median incomes derived using ACS data in the City's study. Thus, using the midpoint of each income tier, rather than median income, accomplishes much of the same effect. **Staff recommends that, in the absence of more granular data sharing from OTDA, utilizing the midpoint of each income tier to set income assumptions represents the most appropriate modification to the current low-income bill discount methodology.**

HEAP Benefits

Renter Benefits

The HEAP benefit amount is input into the discount formula to determine each tier's NEB level. As explained above, the City argues that the majority of Con Edison's low-income energy affordability program participants do not receive the 2019-2020 $350 regular HEAP benefit, which is provided to utility heating customers. Rather, the City claims that most Con Edison low-income customers are presumed to pay for heat through their rent and thus receive a significantly lower HEAP benefit amount in form of what is known as the renter benefit. The 2019-2020 renter benefit amounts are $30 and $35 based on set income criteria.[74] In its Petition, the City alleges that the average non-emergency HEAP benefit received by the utility's tier one low-income participants is $42.02. It is Staff's understanding that customers who receive the renter benefit are automatically enrolled to the Tier 1 discount level.

73 City Comments, p. 4.

74 https://otda.ny.gov/programs/heap/

Staff reviewed the number of renter benefits each utility received in comparison to the number of tier one participants, as shown in Appendix E, and found that O&R and RG&E also have many of their respective Tier 1 participants receiving a renter benefit as opposed to the utility heating regular HEAP benefit. Con Edison was not able to discern from its system how many actual customers receive the renter benefit. Staff, however, believes based on the City's analysis, that the majority of its Tier 1 customers do indeed receive the renter benefit.

To develop the low-income energy affordability program discount for Tier 1 electric and gas non-heat customers, Staff recommends the Commission use the regular HEAP renter benefit of $35.00. Staff recommends the major utilities conduct an analysis to determine if a more refined calculation has a significant impact to the Tier 1 discount using the actual renter benefits.

HEAP Add-Ons

In the May 2016 Order, the Commission provided that better methods of identifying and targeting discounts could be achieved if OTDA set different amounts for each of the HEAP "add-ons." A household would receive an add-on benefit, incremental to the $350 regular HEAP benefit, if: (1) there is a household member 60 or older, under six or permanently disabled (vulnerable individual add-on); (2) the income is at or below 130 percent of the federal poverty level (income add-on); or, (3) if both the previous conditions are met, the customer would receive both add-ons. At that time, the two add-ons were each established at $25, and were included in the customer's total HEAP benefit provided to the utilities. However, the utilities could not distinguish which add-on the customer received, only that the customer received one or both add-ons. Since the May 2016 Order, OTDA has established unique values for each HEAP add-on, where $25 is established for the vulnerable individual add-on, $26 is provided to the income add-on, or $51 if both conditions apply. The February 2017 Rehearing Order described the updated add-on amounts OTDA established for the 2016-2017 HEAP season and authorized utilities to refine discounts using the different add-ons in future implementations, as NFG has done. Staff believes this is a more accurate way to further stratify the data and develop more targeted discounts to low-income customers. **Staff recommends the utilities conduct an analysis to determine if developing distinct tiers for the HEAP add-on amounts (2019-2020 - $25 and $26) would provide more targeted assistance for their respective low-income customers.**

Average Bill

The average bill is used to compare the different possible discount amounts for a respective tier group. The low-income discounts that the average bill is being evaluated against are the amount necessary to achieve a six percent NEB level on average, with the consideration of the minimum $3.00 discount, and, if applicable, a grandfathered discount. The largest discount resulting from these three comparisons provides the applicable low-income discount for each tier group. The calculation of the discount level for each tier takes into account a comparison between electric heat and non-heat discount levels. If the above comparisons yield an electric heat discount that is lower than the calculated electric non-heat discount, the electric heat discount is raised to the level of the non-heat discount amount (e.g., an electric heat customer's discount cannot be any lower than an electric non-heat customer's discount within the same tier). The Commission reasoned that although this may result in some cases a discount greater than what would be needed to achieve the six percent burden level, for equity reasons, this was an acceptable trade-off. Additionally, the Commission recognized that electric heat customers may be most at risk for facing high bills and this impacts a relatively small population.

The Commission did not prescribe a certain method to determine the average bill. In the Low-Income Orders, the Commission stated that utilities should consider the application of a three-year historic average be used in the calculation given the volatility in usage and commodity costs. Concerns were raised in both the parties' comments and at the March 5th Stakeholder Meeting regarding a backwards looking average bill which does not account for known future delivery rate increases, and therefore, would produce discounts lower than what would be needed to achieve the six percent energy burden in the upcoming program year.

Staff Recommendation

Staff agrees that, while the intent of looking at a three-year average was to "normalize" the average bill, the approach actually suppresses average delivery bills when utilities are in rate plans with scheduled delivery increases. To address this concern, Staff considered an approach that calculates the average bill in two pieces: a historic average commodity cost combined with a forecasted delivery cost. Specifically, Staff requested from the utilities an average bill that uses: (1) a three-year historic weighted monthly average low-income commodity bill combined with; and, (2) a forecasted delivery bill based on the average low-income customer's usage developed using a three-year historic average adjusted upwards by 10 percent and multiplied by the expected rates for the upcoming program year. Additional considerations were given to weather normalizing historic usage, modifying the period of time used to develop the average bill, and using forecasted commodity costs. In the end, Staff believes the weather normalization process to estimate usage is more accurate, however it is also more complex and not necessarily consistent among the utilities. Staff will continue to explore developing a consistent weather normalization method for consideration in the future. **Staff, at this time, recommends the utilities use a simple three-year average when calculating the average usage for each low-income customer group (electric heat, electric non-heat, gas heat and gas non-heat). Staff recommends continuing to adjust the average bill upward by 10 percent to recognize that some low-income customers' usage is above the average, as the Commission originally reasoned in the May 2016 Order.**

Moreover, as comprehensive low-income energy efficiency programs continue to be deployed in each utility service territory, a weakness of the current methodology is that the average bill calculation doesn't reflect usage reductions for low-income customers that receive energy efficiency services. These low-income customers' bills should otherwise be lower than the average low-income bill and therefore likely achieving a NEB of lower than six percent. Because the Commission's methodology uses one aggregate average low-income bill, the statewide approach may not be utilizing the energy affordability budget resources in the most efficient manner. If low-income customers could be stratified into usage tiers, low-income discounts may be further tailored for the low-income customers in the greatest need. **Staff, therefore, recommends that the utilities analyze the potential for stratifying low-income customers into usage groups to determine average bills for those respective groups determine if further refinements to the discount levels are feasible.** If utilities are able to further stratify the low-income customers into usage groups, the 10 percent adder applied to the average bill may not be necessary. In addition, with more stratified data, the Commission's policy that a utility's electric heat discount cannot be less than the electric non-heat discount may also be revisited.

Impact of Staff's Recommendations to Modify the Discount Methodology

The Commission adopted a methodology to calculate low-income energy affordability discounts, which uses HEAP income criteria and HEAP benefit levels to determine each tier's respective NEB. Although the discount formula is structured to achieve a six percent energy burden for low-income program participants on average, certain inputs within the formula should be adjusted to more accurately calculate an appropriate discount. Areas raised by the parties for re-examination include the following and are considered in this Staff Report: income level; the HEAP benefit amount; and, the average bill calculation methodology. The remainder of this section discusses adjustments to these three areas and provides budget information when the adjustments are inputted sequentially into the Commission's current methodology and without adjustments to discount levels where an adjustment yields a program budget that exceeds the two percent budget cap or consideration of limiting bill reductions to 20 percent per year. Specific discounts associated to each adjustment are provided in Appendix F.

Income Level

Monthly income levels used are largely based on the maximum HEAP income criteria for a two-person household. Two income level criteria are used in the administration of HEAP benefits. First, in New York State, household income criteria for HEAP is generally set at 60 percent of the State Median Income.[75] As discussed earlier, a household would receive a HEAP add-on ($26 for the 2019-2020 HEAP season) if the household income is at or below 130 percent of the Federal Poverty Level. For the purposes of the utility low-income energy affordability programs, additional income levels were determined to establish more refined tiered discounts based on need. Tier 1 and Tier 3 used the income levels based on the two-person household HEAP income criteria above, respectively. Tier 2 income level is calculated as the median, or midpoint, between Tier 1 and Tier 3. Tier 4 income level is set at federal poverty level. The utilities' current programs discount levels are set using the following monthly income levels:

Table 10

Tier	2019-2020 Maximum Income Level
Tier 1	$3,262.00
Tier 2	$2,547.00
Tier 3	$1,832.00
Tier 4	$1,409.17

[75] For two-person household in 2019, 60 percent of State Median Income corresponds to approximately 230 percent of Federal Poverty Level.

For Tiers 1 and 3, this represents the maximum income level for a two-person household under the HEAP criteria and, as the parties contend, is not a fair representation when considering actual household incomes for program participants.

Staff recommends adjusting the aforementioned maximum income levels to the midpoint for each tier. For example, using the 2019-2020 program year, the midpoint between Tier 1 and Tier 2 would be calculated as follows (($3,262.00 + $2,547.00) / 2 = $2,904.50). Similar calculations should be completed for Tiers 2 and Tier 3. However, because a midpoint cannot be calculated for Tier 4, Staff reduced the Tier 4 income level by the difference between the current Tier 1 level and the adjusted Tier 1 level ($3,262.00 - $2,904.50 = $357.50). The below table provides the 2019-2020 income levels and the adjusted income levels that Staff proposes for calculating each respective tier's NEB.

Table 11

Tier	**2019-2020 Monthly Income Levels**	**Proposed Monthly Income Levels**
Tier 1	$3,262.00	$2,904.50
Tier 2	$2,547.00	$2,189.50
Tier 3	$1,832.00	$1,620.58
Tier 4	$1,409.17	$1,051.67

Of note, NFG stratifies Tier 2 into Tier 2.1 and 2.2, which establishes separate discount depending on the HEAP add-on. For Tier 2.2, NFG assumes the income level is at 130 percent of the FPL, which is the equivalent of the income level for Tier 3 under the Commission's adopted methodology as shown in Table 11. For this report, Staff maintained this structure for NFG and proposed the following adjustments to the 2019-2020 income levels.

Table 12

NFG's Tiers	**NFG's 2019-2020 Monthly Income Levels**	**Staff's Proposed Monthly Income Levels**
Tier 1	$3,262	$2,904.50
Tier 2.1	$2,547	$2,189.50
Tier 2.2	$1,832	$1,832.00
Tier 3	$1,433	$1,620.58
Tier 4	$1,034	$1,051.67

Using the adjusted income levels, the following table provides the resulting budget level information and associated percent of revenues. KEDNY and NFG would exceed the two percent budget cap with this adjustment and would require an increased energy burden above the six percent goal.

Table 13

Revised Electric and Gas EAP Budgets with Proposed Income Level Adjustment				
Utility	**Annual Electric EAP Budget**	**Percent of Electric Revenues**	**Annual Gas EAP Budget**	**Percent of Gas Revenues**
Central Hudson	$3,356,084	0.54%	$2,192,071	1.22%
Con Edison	$70,939,910	0.76%	$24,106,701	1.07%
NMPC	$20,591,748	0.79%	$9,619,856	1.21%
NYSEG	$8,457,550	0.57%	$5,949,205	1.42%
O&R	$5,934,692	1.01%	$3,504,257	1.31%
RG&E	$11,505,083	1.57%	$6,814,552	1.65%
KEDLI			$7,738,068	0.63%
KEDNY			$51,087,405	2.57%
NFG			$15,291,353	2.36%
PSEG	$9,975,303	0.29%		
Total	**$130,760,370**		**$126,303,467**	

The below table provides a comparison of the current total aggregate utility budgets and the revised total aggregate budgets resulting from the change to the 2019-2020 income levels. Of note, the adjusted budgets considered in this section are a result of a reset of discounts under the Commission's discount calculation based on updated information. Staff found that in some instances utilities' current discounts provided to participants were higher than what is needed to achieve the six percent energy burden. For example, NMPC's current discounts are calculated based on the Commission's recently established "glide rule," which provides that discounts cannot be reduced by more than 20 percent when conducting an annual recalculation in order to mitigate the impacts from otherwise required larger discount reductions, and hence the reason why the total aggregate budget shows a reduction of -0.2 percent.

Table 14

Business	Current Aggregate EAP Budget	Adjusted Aggregate EAP Budget	% Difference
Electric	$131,067,134	$130,760,370	-0.2%
Gas	$106,609,971	$126,303,467	18.5%
Total	$237,677,105	$257,063,837	8.2%

<u>HEAP Benefit</u>

Staff adjusted the 2019-2020 regular HEAP benefit for Con Edison's Tier 1 applicable to non-heating from $350.00 to $35.00, which resulted in an increase to Con Edison's Tier 1 electric non-heat discount from $13.00 to $15.00. As described above, Staff believes that the majority of Con Edison's low-income participants receive a significantly less HEAP benefit amount through a renter benefit than compared to the 2019-2020 $350.00 regular HEAP benefit that is provided to customers who heat with electric or gas service. In an attempt to calculate a discount that represents actual circumstances of the majority of participants and to make further progress toward the Commission's six percent energy burden goal, Staff recommends using the 2019-2020 regular HEAP renter benefit amount of $35.00 for each of the utilities, which is an adjustment that should be easily determined by the utilities, or with assistance from OTDA. The table below provides updated electric and gas budgets that result from this incremental adjustment to the discount calculation.

Table 15

Revised Electric and Gas Program Budgets with Proposed Income and HEAP Adjustments				
Utility	**Annual Electric EAP Budget**	**Percent of Electric Revenues**	**Annual Gas EAP Budget**	**Percent of Gas Revenues**
Central Hudson	$4,165,791	0.67%	$2,192,071	1.22%
Con Edison	$80,652,646	0.86%	$24,106,701	1.07%
Niagara Mohawk	$20,591,748	0.79%	$9,619,856	1.21%
NYSEG	$8,609,937	0.58%	$5,949,205	1.42%
O&R	$6,097,232	1.04%	$3,504,257	1.31%
RG&E	$12,384,445	1.69%	$6,814,552	1.65%
KEDLI			$7,738,068	0.63%
KEDNY			$51,087,405	2.57%
NFG			$15,291,353	2.36%
PSEG	$12,798,010	0.37%		
Total	**$145,299,809**		**$126,303,467**	

Average Bill

In Phase One of this proceeding, the Commission did not prescribe a specific methodology to calculate average bills. The Commission did, however, state that a three-year historic average bill should be consider when recalculating discounts to account for any volatility in usage and commodity costs. Although there is some benefit to allow flexibility to average bill calculation methodology, Staff believes using a consistent methodology allows the Commission, Staff, utilities, and other stakeholders to gauge and compare the effectiveness of the EAP on a statewide level.[76] Staff therefore explored a standard methodology, which takes into account historic commodity costs and forecast delivery costs, or hybrid bills. Staff reviewed the utilities' respective hybrid bills that used a three-year historic usage and the associated commodity cost and determined the delivery portion based on forecast rate for the upcoming year. The table below shows the result of this proposed average bill adjustment to the current methodology. KEDNY would still exceed the two percent budget cap with this adjustment and would require an increased energy burden above the six percent goal. NFG would fall below the two percent

[76] Staff acknowledges that the COVID pandemic may shift residential usage patterns, however revenue decoupling mechanisms should adjust residential revenues to approved levels.

budget cap. Of note, RG&E's current discounts are calculated based on one year of undiscounted average bills (2018) plus projected Rate Year 1 increases from its pending rate case. In comparison, the calculated hybrid bill yields a lower average bill, which reduced the budget below the two percent cap.

The calculation to derive a specific discount relies on three variables: the income level; the HEAP benefit amount; and, an average bill. Staff considered those three variables and made specific adjustments to each in the above recommendations in an attempt to provide low-income discounts that better reflect actual circumstances in order to achieve the Commission's six percent energy goal, while maintaining an approach that is not administratively burdensome. The table below shows the budgets for each utility that would result from Staff's proposed adjustments to the Commission's current methodology not considering the two percent budget cap.

Table 16

Revised Electric and Gas EAP Budgets with Proposed Income, HEAP and Average Bill Adjustments				
Utility	**Electric EAP Budget**	**Electric Percent of Revenues**	**Gas EAP Budget**	**Gas Percent of Revenue**
Central Hudson	$6,723,524	1.08%	$3,247,124	1.81%
Con Edison	$119,181,022	1.28%	$28,443,138	1.26%
NMPC	$28,117,885	1.08%	$11,551,903	1.45%
NYSEG	$7,819,095	0.53%	$7,031,324	1.68%
O&R	$6,395,552	1.09%	$3,683,724	1.37%
RG&E	$6,206,489	0.85%	$4,606,814	1.11%
KEDLI			$7,446,125	0.61%
KEDNY			$55,094,621	2.78%
NFG			$12,258,899	1.89%
PSEG	$20,626,570	0.59%		
Total	**$195,070,137**		**$133,363,672**	

As noted, the above tables consider adjustments to the discount calculation without regard to compliance with two percent cap, i.e., discounts would be set to achieve, on average, the six percent energy burden goal. The tables below provide adjustments to the utilities' budgets that exceed the two percent budget cap. The estimated residential bill impacts of Staff's proposals are shown in Appendix G.

Table 17

Revised Electric and Gas Budgets with Proposed Income, HEAP and Average Bill Adjustments and under the Two Percent Budget Cap				
Utility	**Electric EAP Budget**	**Electric Percent of Revenues**	**Gas EAP Budget**	**Gas Percent of Revenue**
Central Hudson	$6,723,524	1.08%	$3,247,124	1.81%
Con Edison	$119,181,022	1.28%	$28,443,138	1.26%
NMPC	$28,117,885	1.08%	$11,551,903	1.45%
NYSEG	$7,819,095	0.53%	$7,031,324	1.68%
O&R	$6,395,552	1.09%	$3,683,724	1.37%
RG&E	$6,206,489	0.85%	$4,606,814	1.11%
KEDLI			$7,446,125	0.61%
KEDNY			$39,558,878	1.99%
NFG			$12,258,899	1.89%
PSEG	$20,626,570	0.59%		
Total	**$195,070,137**		**$117,827,929**	

The below table provides a comparison of the current total aggregate utility budgets and the revised total aggregate budgets resulting from Staff's proposed adjustments to the income level, HEAP benefit, and average bill, as adjusted to stay within the two percent budget cap, the statewide EAP budget would increase by approximately $75.2 million.

Table 18

Business	Current Aggregate EAP Budget	Adjusted Aggregate EAP Budget	$ Difference	% Difference
Electric	$131,067,134	$195,070,137	$64,003,003	48.8%
Gas	$106,609,971	$117,827,929	$11,217,958	10.5%
Total	**$237,677,105**	**$312,898,066**	**$75,220,961**	**31.6%**

While Staff's proposed EAP modifications would in total increase the benefits to low-income customers, due to the further standardization of the calculation methodology, the outcome of the EAP case may produce near term reductions to the low-income discounts in the midst and aftermath of the COVID-19 pandemic. **Staff therefore recommends that if the Commission adopts its EAP recommendations, low-income discounts should not be decreased for the next two years (2021-2022 and 2022-2023 program years).** After the two-year period, however, if the low-income discounts are recalculated and should be adjusted downward, such adjustments shall follow the Commission's recently established "glide rule," which provides that discounts cannot be reduced by more than 20 percent when conducting an annual recalculation in order to mitigate the impacts from otherwise required larger discount reductions.[77]

The May 2016 Order provided a "grandfather" clause for Con Edison and KEDNY, which directed that their then current low-income discounts would be used if they produced a higher low-income discount than the then new methodology. The low-income discounts would not, however, be used if the Commission's adopted discount calculation methodology yields higher low-income discounts. The Commission reasoned that the unique geographically concentrated territory and customer population of the New York City metropolitan area posed challenges in identifying customers, as well as, estimating at that time the level of need. The Commission also stated that in future phases it may consider when grandfathered in discounts may be phased out. Because Con Edison and KEDNY's low-income discounts have been set for multiple years now, the City's HRA completes the file match and Staff's recommended enhancements herein, **Staff recommends the grandfathering clauses be phased out.**

In addition, Staff believes the Commission was very clear that one of the goals of a statewide EAP was to avoid program considerations in individual rate cases. Recent events have led to such considerations and resulted in utility specific program adjustments. This is a step backwards for two of the Commission's underlying goals to instituting this proceeding: 1) to standardize utility low-income programs; and, 2) streamline the regulatory process to conserve administrative resources. Therefore, **Staff recommends that the Commission reiterate that further adjustments will not be considered in individual rate cases, but on a generic basis in this proceeding going forward.**

Budget Cap

The Commission balanced the need for low-income bill discounts with the potential effects on all ratepayers, with a program budget cap set at two percent of total revenues (sales to end-use customers for commodity and delivery). The Commission explained that if a

[77] Case 19-M-0350, Petition of National Grid for Authorization to Adjust the Annual Calculation of Discount Amounts, Order Approving Petition, (issued October 18, 2019).

utility's budget exceeds the two percent budget cap, the utility is directed to first to discontinue certain components of their individual affordability program and then adjust the target energy burden upwards until the program budget is not exceeded.

PULP proposed the Commission grant immediate relief for low and formally moderate-income households due to the COVID-19 pandemic. PULP proposes that the Commission waive the two percent budget cap for the EAP during this time of crisis. The JU does not recommend the Commission change the budget cap.

Staff Recommendation

The Commission established a utility EAP budget cap of two percent of total revenues and stated that in seeking to remain within the two percent budget cap if a utility raised the target energy burden to ten percent or higher, a revaluation of the two percent budget cap would be required. Herein, Staff proposes modifications that resulted in O&R and KEDNY exceeding the six percent energy burden with total energy burdens at 6.72% and 7.08%,[78] respectively. Thus, because the ten percent threshold was not exceeded, Staff does not believe reconsideration of the two percent budget cap is required at this time.

Scheduled rate increases, however, may impact the calculated benefits for low-income customers and therefore factoring in scheduled rate increases into the total utility revenues seems appropriate. **Staff therefore recommends that the two percent total revenue budget cap be revised to factor in scheduled delivery rate increases.**

Reporting

Utilities are required to file low-income energy affordability program reports on a quarterly basis with a comprehensive annual update. The annual update filings include adjustments of bill discount levels, revised workpapers calculations, budget modifications, and status of program cost impact on the two percent budget cap. Currently, Con Edison and O&R

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[78] For KEDNY, its 3.0% gas portion of the total energy burden (6.0%) was increased to 4.08% for a combined energy burden of 7.08%.

file their annual updates by October 1st as established in their recent rate cases.[79] Specific filing dates for the other utilities have not been established.

While the Low-Income Orders provide for a mechanism for utilities to modify bill discounts with annual update filings, there is no specific timeframe established for such filings. Nor, is there a uniform filing date for utilities to submit updated workpapers for Staff review or access by other parties. Moreover, while the City states that the current reporting requirements established in the Low-Income Orders are transparent and do not require additional calculations, it recommends the inclusion of an energy cost burden section. It recommends that such a section would provide a utility's NEB targeted by the bill discount and used to calculate the discount level.

Staff Recommendation

Staff recommends that October 1st be the uniform annual filing date established for all utilities. Establishing this date for all utilities will also result in the low-income energy affordability program updates coinciding with the annual HEAP winter heating season funding cycle, which is updated annually by OTDA by October 1st, and provides current information to customers, public assistance providers, and other interested parties. **Staff recommends the updated discounts become effective November 1st to coincide with the beginning of the heating season.** The low-income energy affordability program updates should be accompanied by the utilities' revised workpapers and tariff changes to streamline the reporting process to be used by the utilities statewide. This should address the City's reporting concern. If the recalculated low-income discounts are calculated to decrease in the upcoming program year, the Commission's 20 percent limit established in Case 19-M-0350 should still apply.

The National Grid companies and NFG file their low-income bill discounts on tariff statements, while the other utilities include their low-income bill discounts on tariff leaves. Because the low-income bill discounts are ultimately reconciled, **Staff recommends the low-**

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79 See, Cases 19-E-0065 and 19-G-0066, supra; and, Cases 18-E-0067, et al., Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric and Gas Service, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued March 14, 2019).

income discounts be moved to tariff statements, which may facilitate faster and more streamlined implementation after the utilities submit their annual EAP filing.

Moreover, if the Commission issues an order changing rates for a utility, **Staff recommends that the utility's energy affordability discounts also be updated for the recommendations herein at the same time as the utility's tariff compliance filing for its new rate plan.**

Budget Billing

Utilities are required to offer levelized budget billing to customers under the HEFPA.[80] In the May 2016 Order, the Commission determined that the levelized budget billing enrollment requirement maximized the potential for the bill discounts to achieve low-income affordability and reduce the bill volatility with changes in seasonal consumption for low-income customers. The Commission also explained that absent a levelized bill, low-income discounts could result in a net credit bill, which is not the intent of the EAP. The Commission also clarified that budget billing is not required for receipt of HEAP. Participants in the utilities' low-income energy affordability programs are automatically enrolled in levelized budget billing programs, however participants have the capability to opt-out of a levelized budget billing program at any time.

The JU propose that the Commission discontinue the automatic enrollment of energy affordability participants in a levelized budget billing program as established in Phase One of this proceeding and allow the participants to opt-in as a matter of customer choice. According to the JU, the automatic enrollment contributes to confusion and lack of choice for customers as well as an administrative burden to utilities. The JU also note that reconciliations may take time and result in higher true-ups to some customer accounts.

UIU supported the continuation of the enrollment of energy affordability participants in the utilities' levelized budget billing programs to maintain financial security for these customers and to alleviate month-to-month bill swings through reconciliation. In addition, UIU stated that many customers may be engaged with high energy use technologies and not realize that they could experience higher bills as a result.

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80 16 NYCRR §11.11.

Staff conducted a statewide review of 21 Commission complaints filed by low-income energy affordability program participants who did not want to continue enrollment a utility's budget billing program between January 1, 2019 and January 10, 2020. The review found customers were confused about the intent of the levelized budget billing program or were not satisfied that they were automatically enrolled in the levelized bill program.

Utilities are required to include levelized budget billing program data, broken into the number of participating customers and associated dollars, including credit reconciliation for over collections and debit reconciliations for under collections with their quarterly low-income energy affordability reports. Staff has continued to monitor these reports and, to date, has not identified any anomalies to the levelized budget billing data which would warrant any modifications.

Staff Recommendation

Levelized budget billing has been used as a financial tool to provide stability for customers in making utility bill payments and alleviating significant monthly bill swings. In addition, many customers opt-in to levelized budget billing programs to reduce financial burdens as they enter into DPAs to mitigate arrearages.

Staff recommends continuation of automatic enrollment of low-income energy affordability participants in utility levelized budget billing programs. If the JU continues to believe that low-income customers should not be automatically enrolled into levelized budget billing programs, it should conduct an analysis with supporting documentation that demonstrates significant customer dissatisfaction or other negative financial impacts. Utilities should revisit communication venues to clarify or enhance messaging describing the purpose of levelized budget billing to mitigate potential customer confusion.

DPAs, Late Payment Fees, and Arrears Forgiveness

In its May 2016 Order, the Commission acknowledged the potential usefulness of arrears forgiveness programs but noted a lack of data on their effectiveness and best practices. The Commission provided the utilities the option to pursue arrears forgiveness programs and, if they did, limited the program cost to 10% of the low-income energy affordability program budget. Currently, NYSEG and RGE are the only utilities to have arrears forgiveness programs.

Comments filed in Case 20-M-0266 by PULP and the NRDC recommend that the Commission direct the utilities to establish arrears management programs (AMPs) to support households, including within the low-income customer segment, with significant arrears resulting from the financial consequences of COVID-19. Staff conducted research regarding actions taken by other states and found that, in response to the COVID-19 pandemic, the respective state public utility regulatory agencies from California, Illinois, and Massachusetts have established AMPs. The California Public Utilities Commission adopted a resolution that included an AMP providing up to $8,000 in debt forgiveness per participating customer for participants that make timely monthly payments over a twelve-month period.[81] The Illinois Commerce Commission adopted an order to allow Illinois' utilities to develop AMPs for HEAP recipients or eligible customers impacted by COVID-19.[82] The AMPs vary in terms and time periods but provide arrears forgiveness between $300 to $500. The Massachusetts Department of Public Utilities (MDPU) allows Massachusetts' utilities to offer residential AMPs with the following program elements: a term of up to 18 months; the ability for customers to re-apply and re-enroll in AMPs within four months of missed payments; and increases in the maximum number of past-due amounts forgiven.[83] In addition, the MDPU established a one-time arrears forgiveness payment for small commercial and industrial customers based on each customer's demonstration of financial need during the COVID-19 pandemic if the participating customer made consistent payments on its DPA.

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[81] Docket #: R.28-07-005, Phase 1 Decision Adopting Rules and Policy Changes to Reduce Residential Customer Disconnections for the Larger California-Jurisdictional Energy Utilities, Order Instituting Rulemaking to Consider New Approaches to Disconnections and Reconnections to Improve Energy Access and Contain Costs (issued June 16, 2020).

[82] Docket ICC 20-0309, Illinois Commerce Commission on Its Own Motion In the Matter of Moratorium on Disconnection of Utility Services During the Public Emergency Declared on March 9, 2020 Pursuant to Sections 4 and 7 of the Illinois Emergency Management Act, order issued June 10, 2020.

[83] DPU 20-58, Inquiry of the Department of Public Utilities into Establishing Policies and Practices for Electric and Gas Companies Regarding Customer Assistance and Ratemaking Measures in Connection to the State of Emergency Regarding the Novel Coronavirus (COVID-19) Pandemic, Order on the Customer Assistance Plan from the First Report of the Customer Assistance and Ratemaking Working Group, (issued July 31, 2020).

All utilities file monthly reports in Case 91-M-0744 that contain the number of residential and non-residential customers in arrears greater than sixty days and the associated arrearage dollars.[84] Staff aggregated the data filed in the monthly reports to develop the two tables below that depict the overall incremental change in arrearages in the State experienced since the COVID-19 pandemic began. The first table compares for all major electric and gas utilities: the average number of customers in arrears greater than sixty days for the period of December 2018 and 2019 to the actual number of customers in arrears greater than sixty days in December 2020. The second table applies the same comparison but in arrearage dollars.[85]

Table 19

Customers in Arrears Greater than 60 days	**Average December 2018 & 2019**	**December 2020**	**Change**	**Percent Change**
Residential	1,048,787	1,263,742	214,955	20%
Non-Residential	83,045	143,405	60,360	73%

Table 20

Arrearage Dollars Greater than 60 days	**Average December 2018 & 2019 ($M)**	**December 2020 ($M)**	**Change ($M)**	**Percent Change**
Residential	$788	$1,247	$459	58%
Non-Residential	$133	$458	$325	244%

Staff Recommendation

DPAs serve as a critical tool to keep customers connected to the system who would otherwise have their utility service terminated, while providing a plan to pay off arrearages and become current with their utility bills. Under the existing moratorium, utilities

[84] Case 91-M-0744, Gas and Electric Utilities - Uncollectibles, Order Instituting Proceeding (issued July 30, 1991).

[85] According to the filed monthly reports, in 2019 there were approximately 9.7 million residential and 1.4 million non-residential customers statewide accounting for approximately $12.8 billion and $12.1 billion in annual sales revenue, respectively.

have offered DPAs based on the customer's ability to pay, including waiver of down payments, renegotiated DPAs due to changes in customers' financial circumstances, customer self-certification of a change in financial circumstance due to the COVID-19 pandemic, and waiver of late payment charges.

Staff recommends that the utilities continue to provide flexible payment arrangements to residential customers, including no down payments, and adhere to HEFPA regarding the provision of DPAs at the conclusion of the moratorium. The application of flexible DPAs should enable customers to maintain monthly payments on current utility bills in a consistent manner while reducing account arrearages in the long term.

While the moratorium on terminations and disconnections was limited to residential customers, given the impact COVID-19 has had on commercial businesses in New York, Staff proposes the utilities expand commercial customer protections. The utilities have been proactive reaching out to its commercial customers to work out DPAs based on the customer's ability to pay. Staff expects this outreach and collaboration to continue. **Staff recommends commercial customers be able to self-certify a change in financial circumstance due to the COVID-19 pandemic. Impacted commercial customers should be allowed to enter into DPAs with no down payments, have existing DPAs renegotiated due to changes in the commercial customers' financial circumstances, and late payment charges be waived.**

Reasonable, flexible residential and commercial DPAs should mitigate the application of late payment charges for customers. However, in instances where the customer accounts are facing first time arrearages as a result of the COVID-19 pandemic, **Staff recommends that residential and commercial late payment fees should continue to be waived for the two-year time period starting on the expiration of the moratorium. Staff recommends that deferred payment arrangements should not accrue interest on customer residential and commercial arrearages for the two-year time period after the conclusion of the moratorium.**

The data shown in Tables 19 and 20 above reveal that the COVID-19 pandemic has significantly impacted customers statewide. Each utility, however, has been impacted differently. For example, Con Edison customers account for about half of the statewide residential arrearages and, in contrast, NYSEG's residential arrearages are marginally higher than the historic August 2018 and 2019 average. **To address these unique impacts, Staff recommends that each utility develop AMPs to mitigate the financial burdens of COVID-19 on New York households.**[86] With the increases in residential and nonresidential arrearage balances of over $784 million statewide, Staff recommends each utility's AMP be funded at 10% of its incremental arrearage balances over a two-year period, outside of the EAP budgets.[87] Using the information in the table above, the statewide aggregate AMPs would equate to $78.4 million, or $39.2 million per year, for the bill credit or forgiveness portion of the programs.

Revenue Decoupling Mechanisms (RDMs) were implemented to address delivery rate disincentives to utility implementation of energy efficiency programs. RDMs, however, capture all variances in revenue, including the repercussions of economic activity brought on by COVID-19. This is very different from the situation faced by businesses in competitive markets, which generally cannot raise their prices during such broad economic downturns. In fact, such price increases can provide an uneconomic drag on the pace of the recovery. With shareholders mostly insulated from the impacts of the COVID-19 pandemic due to RDMs, Staff strongly suggests the utilities consider a reasonable sharing of the AMP costs, such as equally between shareholders and customers.[88] If shareholders are willing to agree to such sharing, as Staff suggests, their share of the AMP cost would collectively be approximately $39.2 million statewide. AMPs with shareholder contributions incent good AMP design. AMPs help to retain the customer base, benefiting both shareholders and customers in the long term, allow the utility to lower terminations, which may facilitate positive revenue adjustments, and help the utility reestablish steady cash flow from funds that might otherwise need to be written off. As such, both shareholders and customers would benefit from the arrangement.

The utilities should propose an AMP structure that minimizes the administrative burden and maximizes the incentive for customers to make their scheduled utility payments.

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86 Staff recommends the following major utilities be required to develop AMPs: Central Hudson, Con Edison, National Fuel, NYSEG, National Grid, O&R, and RG&E.

87 To develop an AMP budget, Staff recommends each utility take the most recent arrears balance, subtract a "normal" level of arrears that represent pre-COVID-19, and multiply by 10 percent.

88 To put Staff's suggestion into perspective, collectively, ten pre-tax basis points for major electric, gas, and water companies is approximately $34.75 million.

Staff recommends the AMPs have the same foundational criteria statewide: (1) a two-year term starting from March 31, 2021, the expiration date of the moratorium on terminations; (2) availability to all low-income customers and residential customers impacted by COVID-19 as defined in the Guidance Notice; (3) eligibility of low-income residential customers to re-apply and re-enroll into the AMP after four months following a missed payment; and (4) structuring the program to provide a series of arrears forgiveness credits to customers that are maintaining their DPA with on time payments. In the event that the full arrears are repaid before the end of the two years, the customer would be removed from the program as soon as the arrears are paid in full.

Staff notes that a possible structure of arrears forgiveness credits could be designed as follows: (1) for DPAs of less than $40 per month, an arrears forgiveness credit of $30 every six months where a participant made consistent and on-time payments; (2) for DPAs between $40 and less than $75 per month, an arrears forgiveness credit of $50 every six months where a participant made consistent and on-time payments; and (3) for DPAs of greater than or equal to $75 per month, an arrears forgiveness credit of $100 every six months where a participant made consistent and on-time payments.

To facilitate residential customer participation, Staff recommends that the customer self-certification process in the Department's COVID-19 Guidance Notice be continued as a component of the utilities' AMPs. The self-certification process allows for the customer to attest to a change in financial circumstances due to the COVID-19 pandemic. The utilities would then make individual DPA arrangements and allow customers to participate in the AMPs.

Due to the significant arrearage balances for non-residential customers, Staff recommends that the utilities also develop small commercial AMPs using the following criteria statewide: (1) a one-year term starting from March 31, 2021; and (2) availability to small commercial customers impacted by the COVID-19 pandemic. Because the impact of the pandemic varies among the service territories, the utilities should analyze their arrearage data to stratify customers into groups to tailor meaningful incentive payments. Like the residential program, the small commercial AMP should be structured to minimize the administrative burden and maximize the incentive for these customers to become current on their utility bills. For example, one possible AMP structure is to develop three distinct one-time bill credit tiers developed based on small customers' arrearage balances and, at completion of the DPA where a participant made consistent and on-time payments, the applicable one-time arrears forgiveness credit would be applied.

Longer term, **Staff recommends that if there is room within a utility's low-income energy affordability program budget, the utility should explore developing a cost-effective arrears forgiveness program.** Such programs may provide motivation for customers to make regular payments and benefit customers by reducing total residential uncollectibles. The utilities should propose an arrears forgiveness program structure that minimizes the administrative burden and maximizes the incentive for customers to make their scheduled utility payments. Some foundational criteria the utilities should consider include: (1) availability to all low-income customers; (2) eligibility of low-income residential customers to re-apply and re-enroll into the arrears forgiveness program after a certain window following a missed payment; and, (3) structuring the program to provide a series of arrears forgiveness credits to customers that are maintaining their DPA with on time payments.

<u>Energy Efficiency/Clean Energy</u>

To address energy affordability holistically, the Commission directed utilities, in consultation with NYSERDA, to propose budgets and targets for their energy efficiency and heat pump programs through 2025 in its Accelerated Efficiency Order, which, among other things, requires that a minimum of 20 percent of the incremental energy efficiency funding to be allocated to LMI customer related programs, with 40 percent of the incremental funding targeted at serving the LMI multifamily housing sector.[89] On January 16, 2020, the Commission adopted an order which, combined with the Accelerated Efficiency Order, authorized a total of $308 million for dedicated LMI energy efficiency programs and required NYSERDA to allocate at least $30 million to dedicated LMI heat pump initiatives.[90] The Commission directed the utilities and NYSERDA to maximize the impact of resources and to leverage existing program infrastructure to maximize cost reduction potential where possible while improving delivery of services to the LMI sector. The Portfolios Order required the utilities and NYSERDA to establish an LMI Management Committee, with Staff serving in an oversight and consultative

89 <u>See</u>, Accelerated Efficiency Order.

90 <u>See</u>, Portfolios Order.

role, to coordinate targeted LMI energy efficiency programs, mitigate market barriers, eliminate redundancy, and streamline program offerings. The utilities and NYSERDA were further directed to jointly file a Statewide LMI Portfolio Implementation Plan, which was filed on July 27, 2020.

During the March 5th Stakeholder Meeting, there was a discussion on whether utility low-income bill discounts should be used to pay for energy efficiency. In their comments, the City, JU, and UIU stated that the current utility low-income energy affordability bill discounts should remain separate from EE programs and other clean energy programs targeted to the low-income customer segment. The City does not support the use of low-income program bill discounts to be used for purposes other than payment of traditional utility bills, particularly for EE projects. The City noted that many of its residents are renters and do not directly benefit from EE measures. Additionally, the City continues, given the transient nature of renters, they would not receive the benefits of EE if they relocated which is inconsistent with the intent of the low-income bill discount programs. According to the City, there would not be a guarantee that the cost savings from an EE project will be greater than applying the low-income discount directly to customer bills, resulting in the potential of customers paying more than they would have otherwise.

The City further contends that the use of utility low-income discounts with Community Distributed Generation (CDG) is unnecessary after the Commission's recent consolidated billing order implemented a net crediting model for consolidated CDG billing which negated the application of a separate bill discount pledge program in the CDG Order.[91] This Order states that the net crediting model of CDG consolidated billing makes it unnecessary to use energy affordability discounts, as the net crediting model ensures that CDG consolidated billing will result in a net savings and therefore no additional input of funds is needed. This allows low-income customers to continue to have their entire low-income discount applied to their bill rather than allocated toward a subscription. Through this model, low-income customers receive a low-income bill discount while also obtaining a further reduction through the CDG credits on one's bill. The City notes that existing CDG programs, such as NYSERDA's Solar for

[91] Case 19-M-0463, In the Matter of Consolidated Billing for Distributed Energy Resources, Order Regarding Consolidated Billing for Community Distributed Generation (issued December 12, 2019).

All, enable customer participation with little to no additional costs. The City also expresses privacy concerns on the treatment of low-income customer designation by third parties.

The JU recommends that the utility bill discounts established in the Energy Affordability Proceeding should continue to proceed on a separate track from EE projects. It noted the New Efficiency: New York initiative provides for dedicated funding for LMI clean energy programs. According to the JU, clean energy programs should not be funded through utility rates subject to the two percent of delivery revenue cap for low-income bill discount programs.

UIU opposes the use of EAP bill discount budgets toward EE programs and noted that the monthly bill discount would continue with customers if they moved, while EE benefits would not. UIU supports the development of EE programs targeted to low-income customers and suggests that EE and weatherization efforts be initially targeted for high energy users, while allowing eligible customers to continue to receive the bill discounts.

PULP suggests that the City's proposed methodology, leveraged with EE measures for high usage low-income customers through New Efficiency: New York, may result in mitigating the ratepayer costs to provide bill discounts to low-income customers without reducing EAP benefits or exceeding the two percent budget cap.

Staff Recommendation

The Accelerated Efficiency and Portfolios Order direct the utilities and NYSERDA to collaboratively deliver a Statewide LMI Portfolio of programs and offerings designed to create a more holistic and coordinated approach to deliver energy efficiency to LMI customers and communities in New York, as well as: (1) improve the experience of and ultimate benefit for LMI customers seeking to access clean energy services; (2) reduce administrative costs and increase the impact of ratepayer funding; and (3) provide more consistent and streamlined participation for service providers to improve services to this sector. Targeted funding has been allocated in the Accelerated Efficiency, Portfolios and Clean Energy Fund Orders to support these important endeavors. Staff does not recommend re-purposing funding established for the EAP to fund energy efficiency activities, however believes energy efficiency is a critical component for helping to deliver permanent reductions in energy usage for LMI customers and as such improvements can be made in the better targeting of these resources. **Staff recommends the utilities leverage their customer data to identify the highest usage**

low-income customers and target delivery of services to these customers through utility and NYSERDA administered EE programs to not only achieve the State's goals, but to provide meaningful and lasting energy relief to low-income customers. In fact, the Statewide Low- to Moderate-Income Joint Management Committee Coordination Plan filed on November 13, 2020, by NYSERDA and the Utilities identifies the efficient sharing of data between the Utilities and NYSERDA as a vital component of achieving the goals and objectives described in Statewide LMI Implementation Plan.

The intent of the EAP was to coordinate with other public assistance and energy assistance programs to the reduce the low-income customers' utility energy burden. While the stakeholders commented that low-income discounts should not be used for any other purpose than to lower utility bills, Staff encourages stakeholders to comment if there are other models that use the EAP discount for EE programs that should be pursued further that would provide a net benefit to low-income customers. **Staff recommends not allowing the use of low-income energy affordability program discounts for energy efficiency purposes, but rather to be reserved for direct utility bill discounts.**

CONCLUSION

Over the past nine months, Staff, the utilities, and other interested stakeholders have reviewed the performance of the current EAP and identified areas of concern and opportunities for improvement, including both short and long-term options to improve the efficacy of the EAP to meet the Commission's goal of limiting New York's low-income customers' energy burden to six percent. Interested parties reviewed the City's Petition to re-evaluate the program, attended a stakeholder meeting to explore the perspectives and work done by the OTDA, the utilities, and other parties since the first phase was initiated, and submitted subsequent comments to help guide this Staff report. Herein, Staff addressed not only the City's Petition, but also, in part, PULP's petition and the comments that followed, and makes recommendations to further refine the programs' assumptions and data inputs to more accurately reflect the goals of the Commission.

The success of the programs depends on cooperation and coordination among the utilities, OTDA, Staff, and other parties. Staff identified common practices since the implementation of the low-income energy affordability programs, and areas that continue to need improvement to facilitate that overall success. Since the implementation of this program, OTDA and the utilities have improved the file matching process, with OTDA sending a list of HEAP participants to file match with to the utilities more often and identifying more non-utility HEAP vendors in order to identify more low-income customers for the utility low-income programs. In addition, the utilities have implemented outreach and education strategies to inform customers of the low-income programs, which has helped low-income New Yorkers connect to the resources they need to afford their utility bills.

Although these areas have seen some success since the inception of this proceeding, there is also room for improvement. Improved coordination between OTDA and the utilities is necessary to reach more customers, as not all low-income New Yorkers are accounted for. In the near term, OTDA should increase the number of times per year the file match is sent to the utilities and continue working to identify HEAP eligible recipients to include in that match in a way the utilities can capture, regardless of fuel type or actual receipt of funds based on program limitations. Likewise, while the utilities have engaged in outreach and increased their numbers of low-income customers enrolled in the program since it began, Appendix B shows that not only is there room for overall improvement in enrollment, but there is a range of success in enrollment across the utilities that may be addressed through identification of best practices and more standardized adoption of those practices that are identified. Although the utilities rely on outside agencies for much of this data, they can streamline the process for self-enrollment and create outreach specific to this area in the near term.

At this time, Staff's recommendations focus on the near-term goals of adjusting discounts to more accurately reflect the level of need for low-income New Yorkers and expanding the base of low-income customers the programs currently reaches, while noting that additional efforts are necessary to examine other components of the program that interested parties identified as long-term goals. To achieve these objectives, Staff recommends the Commission consider the modifications to the statewide EAP as presented in this report. Staff also proposes many longer-term goals which require coordination from stakeholders and should be acted on by the Low-Income Energy Task Force.

Moreover, the COVID-19 pandemic has significantly impacted customers statewide. In instances where the customer accounts are facing first time arrearages as a result of the COVID-19 pandemic, Staff recommends residential and commercial late payment fees should continue to be waived for the two-year time period starting on the expiration of the moratorium and deferred payment arrangements should not accrue interest on customer residential and commercial arrearages for the two-year time period after the conclusion of the moratorium. Staff also recommends that each utility develop AMPs for both residential and commercial customers to mitigate the financial burdens of COVID-19 on New York households and businesses. Staff recommends that the customer self-certification process in the Department's COVID-19 Guidance Notice be continued as a component of the utilities' AMPs. The AMPs should be structured to minimize the administrative burden and maximize the incentive for customers to become current on their utility bills.

Energy costs continue to present a significant burden to low-income households, which are particularly vulnerable in their ability to access other assistance and services in order to meet health and other necessities. As the State's energy infrastructure continues to evolve, Staff will continue to pursue, with the utilities and other parties, policies which will continue to advocate for mitigating the energy burden and incorporate additional energy efficiency benefits for the low-income community to do so. The Commission has noted on several occasions that a multifaceted, cooperative approach would be necessary in order to successfully shift the energy burden of all low-income New Yorkers to six percent. While this phase of the proceeding has been directed at the short term, achievable goals of adjusting income and resource assumptions and expanding eligibility, utility affordability discounts are only one piece of the overall strategy. In the long term, Staff recommends focusing on better sharing of data to provide more targeted discounts and better account for usage reductions associated with New York's aggressive energy efficiency programs, which would optimize the use of ratepayer funds. Moreover, the Commission has approved a proceeding to address energy efficiency concurrent to this proceeding, and other integral parts of the strategy to ease the energy burden continue to operate across the state.

Staff submits this report for party comment prior to the Commission's consideration of its recommendations.