STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to	)	
Examine Programs to Address Energy	)	CASE 14-M-0565
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

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Preliminary Statement

The Public Utility Law Project of New York ("PULP") hereby petitions the Public Service Commission ("PSC" or "Commission") to take immediate action to ameliorate the devasting economic impacts of the pandemic on New York's low-income, and formerly moderate-income or middle-income utility ratepayers. Specifically, we ask for targeted relief for vulnerable households – generally speaking, seniors, low-income/moderate-income, and the disabled – that includes a broadening of the eligibility criteria for entrance into the Statewide Low-Income Affordability Program ("Affordability Program"), an increase of the funding for the Affordability Program for residential energy customers, and we ask for a new manner of calculation of Affordability Program benefits for low-income customers as is described in detail below. Because of the great economic harms being felt by millions of New Yorkers, we ask for such relief to be rendered by the Commission without delay.

Exceedingly many New Yorkers recently lost their jobs or were "furloughed" by businesses affected by the "New York on PAUSE" policies and suddenly became income-eligible for utility affordability programs. More than 25,000 families have suffered a death of a loved one[1] and lost an income, or possibly a principal income. In the five weeks ending April 18, more than a million more New Yorkers lost their jobs, equaling the amount of jobs lost in more than two years of the Great Recession, and resulting in the largest number of unemployed New Yorkers since 1976.[2] Hundreds of thousands of other New Yorkers have contracted COVID-19 and are unable to work. Millions of others, already struggling, have spent their savings, and are trapped by a dearth of financial resources and the inability to pay all their vital monthly bills.

The Low-Income Affordability program ("Affordability Program") created by the Public Service Commission ("PSC" or "Commission") in case 14-M-0565 was designed to create affordability of

[1] New York's communities of color have suffered such losses at disproportionate rates, disparately affecting their already greater financial challenges. See, https://thecity.nyc/2020/04/nyc-blacks-and-hispanics-dying-of-covid-19-at-twice-the-rate.html.

[2] See, https://www.forbes.com/sites/mayrarodriguezvalladares/2020/04/26/new-york-state-unemployment-rate-is-at-highest-level-since-the-great-depression/#35efb3d376f2.

energy utility bills by lowering consumer bills to not greater than 6% of the consumers' income.[3] Although telephone had a prior low-income program and was not included in the Affordability Program, water and broadband have no such State programs creating affordability and "social access," despite the obvious vital linkage of such services to the public health, safety and welfare, and particularly during a public health crisis. While PULP believes water and broadband should also have low-income programs and immediate rate relief, that topic is the subject of a separate petition described below.

While PULP has filed a petition seeking a generic proceeding to provide rate relief and added consumer protections for New York's millions of financially struggling households,[4] and utility "austerity" plans, there is no statutory requirement to act with celerity upon petitions no matter their importance to the public interest. Similarly, the City of New York ("City") has filed a complementary petition to 20-M-0198 seeking immediate emergency relief for New York City low-income households that will need cooling assistance this summer, based in part upon public health concerns and in part on the larger economic dislocations caused by the COVID-19 public health emergency. The City's filing asserted the source of the funds necessary for immediate relief should be the ratepayer funds leveraged for the Affordability Program. We concur. Consequently, we announce here (and in a separate filing) that we support the City's request. PULP also seeks three modifications to the PSC's affordability program guidelines and design:

- We respectfully request the Commission to require all utilities to enroll all income-eligible customers into the Affordability Program and other energy assistance programs upon the proffer of documentation showing denial of HEAP benefits for some reason other than ineligibility or evidence of participation in at least one of these programs:
    - Temporary Assistance for Needy Families ("Family Assistance")
    - Safety Net Assistance - Public Assistance
    - Supplemental Security Income ("SSI")
    - Medicaid
    - SNAP ("Food Stamps")
    - Veteran's Disability Pension

[3] See generally, Case 14-M-0565, Order Adopting Low Income Program Modifications and Directing Utility Filings, at http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BC2F31C9-B563-4DD6-B1EA-81A830B77276}.
[4] See generally, PULP Petition for Generic Proceeding on Rates and Provision of Service by Utilities, Case 20-M-0198, at http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={F5361B5C-F03C-43D0-A443-26011B4FCFF2}.

- Veteran's Surviving Spouse Pension
- Child Health Plus[5]

- We also respectfully request the Commission waive the Affordability Program's budget cap of 2% of an energy utility's electric revenues and gas revenues; and
- We respectfully request the Commission direct all utilities to apply the City of New York's methodology[6] for calculating energy affordability program discounts, based on current or approved rates rather than on historical two- or three-year averages, and using the U.S. Census' American Community Survey ("ACS") Public Use Microdata Area ("PUMA") data, and thenceforth to promptly file requests for PSC approval of the new discount levels.

PULP appreciates that the Department of Public Service ("DPS") Staff hosted a stakeholder meeting on March 5, 2020 to discuss the viability of the PSC's energy affordability program regime in light of the analyses presented by New York City in the recent Consolidated Edison electric and gas rate proceedings (Cases 19-E-0065 and 19-G-0066). DPS Staff and the Commission are understandably taking time to consider the stakeholder discussion as well as written comments, including PULP's, filed post-meeting. The showings by the City and PULP amounted to proof that the Affordability Program in its initial years was not succeeding at lowering low-income household energy burdens to 6% or less despite the investment of significant sums of ratepayer funds, and that meeting the State's goals would require significant change to program's workbooks and application, and the investment of very large additional ratepayer funds. Consequently, it would not be unreasonable for DPS Staff to carefully consider its possible solutions rather than taking precipitate action.

However, the world has changed dramatically and abruptly in the nine weeks since the stakeholder meeting. We do not have the luxury of calm or prolonged deliberations;[7] exigent circumstances demand an expedited and bold PSC response to meet an existential crisis, which is why PULP seeks immediate expedited relief herein.

PULP suggests following the approach taken recently regarding the requests of National Grid for approval to postpone its approved rate hikes, maintain or increase rather than decrease the low-income

[5] PULP continues to additionally believe that Lifeline should also be used as an eligibility determinant consistent with its position throughout Case 14-M-0565.
[6] PULP's methodology was based upon the City's analytical approach but differed in using "household" rather than "family" units to assess affordability.
[7] The Commission issued its order establishing guidelines for utilities to follow in designing their low-income programs on May 20, 2016, fully 17 months after it issued the order instituting the proceeding.

discount credit, and temporarily waive certain tariff fees. Just one day after filing its requests, National Grid obtained the sought-for approvals by way of a One-Commissioner order and the emergency action provision of the State Administrative Procedure Act.[8]

The one-Commissioner order relied on the requirement in Public Service Law ("PSL") §65(1) "that the Commission ensure the provision of safe and adequate service at just and reasonable rates" as the legal authority for approving National Grid's requests.[9] Regarding the speed and process with which the PSC issued its approval of the requested actions, the order explained:

> "The Commission action in this Order is subject to SAPA notice and opportunity for public comment requirements, which will result in an approximate 90-day delay before the Commission is authorized to make its determination. Under SAPA §202(6), an agency may take action as an emergency measure if adoption of a rule is necessary for the preservation of the public health, safety or general welfare and compliance with the SAPA requirements is contrary to the public interest. Here, both the implementation of increased electric and gas delivery rates and the reduction of low-income discount levels would create further financial hardship on customers already suffering due to the ongoing COVID-19 pandemic. Therefore, the approval of the postponement of the increase to electric and gas delivery rates and the reduction of low-income discount levels, along with the temporary waiver of tariff fees associated with certain suspended collections-related activities and non-essential services, are necessary to protect the general welfare of National Grid's electric and gas customers. Accordingly, this Order is adopted as an emergency measure under SAPA §202(6)."[10]

The reasoning of the PSC in the one-Commissioner order remains apt and is germane throughout the State:

> "The implementation of higher electric and gas delivery rates, coupled with the reduced low-income discount levels, would only serve to inflict further financial hardship on National Grid's customers, many of whom may be temporarily without work or working reduced hours due to the declared state of emergency in New York State and the mandated closure of many businesses and schools. While these measures are necessary to protect the health and safety of the public, it inevitably impacts the financial well-being of residents across the state. In order to protect the general welfare of Niagara Mohawk's ratepayers and avoid any additional financial hardship, the measures proposed by Niagara Mohawk are approved …"[11]

[8] Cases 17-E-0238, *et al.*, National Grid - Rates, Order Postponing Approved Electric and Gas Delivery Rate Increases and Updated Reduction to The Low-Income Discount Credit and Temporarily Waiving Certain Tariff Fees (issued March 25, 2020).
[9] *Id.*, p. 3.
[10] *Id.*, p. 9.
[11] *Id.*, p. 8.

Furthermore, as Governor Cuomo has stated frequently during many of his daily COVID-19 pandemic briefings, the poorest New Yorkers have suffered the greatest. This motion seeks to effect Commission action supportive of the Governor's statements. The Governor also has insisted that it would not be appropriate to return to our previous understanding of "normal" as the pandemic wanes. Rather, the Governor asserts that we must learn from this experience and take meaningful steps to improve the lives of vulnerable New Yorkers. PULP concurs. That is precisely the purpose of this motion.

DISCUSSION

I. Affordability Proceeding

When the PSC opened the Low-Income Affordability proceeding in January of 2015, it provided background that is even more relevant today in the teeth of an existential financial crisis:

> This Commission has long recognized that the "aid, care and support of the needy are public concerns...," [footnote: New York State Constitution, Art. 17, Sec. 1] and for decades has provided low income assistance programs for the poor through local utilities. [Footnote: In New York, customers who are eligible to participate in the Home Energy Assistance Program, i.e., those at or below 60% of state median income (SMI), are generally considered to be "low income."] Because energy services are essential to the safety and well-being of all residents of the state, it is the State's and the Commission's policy that the "continued provision of gas, electric and steam service to residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest." [Footnote: Public Service Law, §30, Home Energy Fair Practices Act (HEFPA).][12]

The Commission further explained that the "primary purposes of this proceeding are to provide the opportunity to standardize utility low-income programs to reflect best practices where appropriate, streamline the regulatory process to conserve administrative resources and ensure that these programs continue to be consistent with our statutory and policy objectives."[13] After almost 18 months of discussion and deliberation, the PSC made useful strides towards achieving these purposes in its Affordability Orders.[14]

[12] Case 14-M-0565, Utility Low Income Programs, Order Instituting Proceeding (issued January 9, 2015) ("Instituting Order"), p. 1.
[13] *Id*., p. 3.
[14] Case 14-M-0565, Energy Affordability for Low Income Utility Customers, Order Granting in Part and Denying in Part Requests for Reconsideration and Petitions for Rehearing(issued February 17, 2017); Order Approving Implementation Plans with Modifications (issued February 17, 2017); Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016) (collectively, "the Affordability Orders").

In the Affordability Orders, the Commission adopted a goal of reducing a household's energy burden to 6% of household income for all low-income utility customers.[15] In 2016, the PSC calculated that "approximately 2.3 million New York State households face energy burdens in excess of that level."[16] For reasons explained by New York City[17] and PULP[18], many hundreds of thousands of income-eligible customers are not enrolled in utility affordability programs and the levels of discounts are not calculated in a manner consistent with the 6% energy burden objective. Undisputedly, moreover, the current number of such households is much greater, and the impacts of the pandemic have exacerbated the shortcomings of the current program design and methodology.

The Commission implicitly recognized in its January 16, 2020 notice announcing the stakeholder meeting that the initial purposes of this proceeding were not fully achieved. PULP is not requesting herein immediate implementation of all the recommendations contained in its post-stakeholder meeting comments. In this motion, rather, we are requesting immediate implementation of three simple modifications to the PSC's Affordability Programs in recognition of the devasting impacts of the pandemic on New York's low-income utility customers.

A. Eligibility Criteria Should Include All Broadly Used Public Benefit Programs To Allow All Low-Income Ratepayers To Have Equal Access to Utility Affordability Programs.

The Commission noted on page 2 of its Order Instituting Proceeding in 14-M-0565 that differences in low-income program elements across utilities developed because of individual rate proceeding settlement discussions. Among the differences noted was "the extent to which participation is open to customers who do not obtain HEAP benefits." PULP, AARP and the Utility Intervention Unit ("UIU") of the New York State's Division of Consumer Protection urged the Commission to use the Lifeline eligibility criteria so that all poor New Yorkers could be enrolled in utility low-income

[15] Case 14-M-0565, supra, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016), p. 14.
[16] *Id*.
[17] Case 14-M-0565, supra, Petition of the City Of New York to Re-Examine Statewide Utility Low Income Program Discounts (filed January 11, 2020) ("New York City Petition").
[18] Case 14-M-0565, supra, Informal Comments of the Public Utility Law Project of New York Following the March 5, 2020 Meeting of Stakeholders (filed April 3, 2020) (PULP Informal Comments").

programs regardless in which service territory they live.[19] Whereas eligibility criteria for automated inclusion in the Consolidated Edison and KEDNY low-income programs include customer participation in more than a half-dozen public benefit programs, residents of Long Island[20] and upstate New York must receive HEAP benefits for automated inclusion in their utility's low-income programs. Moreover, as the UIU pointed out on page 5 of its Responses to Questions, dated March 4, 2015, the New York State Office of Temporary and Disability Assistance ("OTDA") informed stakeholders that less than 30% of New Yorkers who are income-eligible to receive HEAP awards actually receive such awards due to a lack of HEAP funding.[21]

The Commission did not accept the proposal to use the Lifeline criteria in its May 20, 2016 Order, but did anticipate changes in the future:

> **Reaching all 2.3 million households below 200% of FPL will involve establishing new enrollment mechanisms**. Currently, the most significant initiative in this regard is by Con Edison, which identifies and automatically enrolls customers from several different social services programs. To accomplish this, Con Edison has established a file matching procedure with the New York City Human Resources Administration and the Westchester County Department of Social Services, the two social services agencies covering its service territory.
>
> **In future phases, a statewide file match between OTDA and all utilities may be feasible, which would similarly identify and automatically enroll additional low income customers into utility programs. This is an area that can be addressed through the inter-agency task force.** In the meantime, existing programs with broader income eligibility criteria(e.g., Con Edison and National Grid NY's programs) shall maintain such existing eligibility criteria. Limiting eligibility to utility HEAP recipients as recommended in the Straw Proposal would result in a substantial reduction in the number of eligible low-income customers served at Con Edison and National Grid NY.
>
> National Grid NY serves a geographically concentrated service territory and a customer population similar to Con Edison's. It therefore faces similar circumstances regarding identifying eligible customers and estimating the level of need. **As National Grid NY's program already incorporates broad eligibility criteria similar to Con Edison's, using a similar file matching approach is appropriate….**

[19] Lifeline qualifying services include Medicaid, Supplemental Security Income, Low Income Home Energy Assistance Program, Safety Net Assistance, Section 8 Federal Public Housing Assistance, National School Lunch Program, Family Income, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, Family Assistance, Veteran's Disability Pension (non-service related), Veteran's Surviving Spouse (non-service related), Bureau of Indian Affairs General Assistance, and Head Start (Tribal Land residents only).

[20] KEDLI's Implementation Plan lists the same eligibility programs as KEDNY's but it does not appear that KEDLI uses those programs in practice.

[21] Waiting lists do not exist because OTDA closes the application process before all of the HEAP funding is encumbered.

As noted in the Staff Report, some utilities allow manual enrollment of customers that meet the income eligibility guidelines but did not apply for HEAP. The Commission will allow manual enrollment to continue where practicable; i.e., not administratively burdensome and within the budget constraints described below.[22]

The effort to replicate the Westchester County Department of Social Services/New York City Human Resources Agency/Consolidated Edison/KEDNY file matching protocols throughout the state has apparently languished or been ineffective.[23] Four years after the Commission directed DPS Staff to establish an inter-agency task force, this measure that would ensure equal access among all low-income utility consumers remains beyond our grasp.[24]

These are the panoply of eligibility programs recognized by Consolidated Edison and KEDNY:

- 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
- Child Health Plus

Standardizing the eligibility criteria on the Con Edison or Lifeline programs is sensible and equitable. Low-income ratepayers should enjoy the same access to their utility's low-income programs regardless of service territory. This concept of fundamental fairness is even more compelling now as many hundreds of thousands of households are encountering loss of income and may become eligible for one of these programs. Moreover, since it is unclear whether HEAP will ever have enough funding to

[22] Case 14-M-0565, supra, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016), pp. 16-18.

[23] One positive development is OTDA's announcement that matching will be provided for 100% of the approximately 300,000 residential HEAP customers who use non-utility energy providers as well as for HEAP residential customers who obtain gas service from one utility and electric service from a different utility. However, we identified several flaws in OTDA's data base and process. PULP Informal Comments.

[24] "A key to the success of these initiatives [achieving a maximum six percent energy burden target for all low-income ratepayers] therefore lies in better coordination among the various governmental and private agencies that administer these programs. The Commission directs Staff to work with sister agencies to create an inter-agency task force to achieve greater program coordination, share information, eliminate duplicative efforts, lower costs increase effectiveness, and advise in the development of low-income energy-related policies and programs."

provide benefits to 100% of income-eligible ratepayers, proof of denial due to lack of funds or other denial not based on income ineligibility should also be adequate for enrollment.

Accordingly, as a temporary substitute for the best practice of automated file matching, PULP requests that the Commission require all utilities to manually enroll customers in affordability programs who provide documentation showing denial of HEAP benefits due to lack of funds or evidence of participation in at least one of these programs. In conjunction with this requirement, the PSC should also direct the utilities and DPS Staff to advertise this change in as broadly a manner as possible.

B. Increasing the Two-Percent Budget Cap Is Necessary During this Economic and Public Health Crisis.

The enormity of the COVID-19 disaster requires bold action on the part of the PSC in alignment with the leadership of Governor Cuomo. The harsh and disparate impacts of the pandemic on poor environmental justice, economic justice communities and communities of color cannot be ameliorated without significant changes to the Commission's understanding of "just and reasonable rates." Pre-pandemic the PSC remarked:

> Helping a utility's neediest customers meet their payment obligations is an important function of rates that benefits Con Edison's customers by reducing the amount of uncollectibles. The cost impacts on the customer population are greatly outweighed by the benefit the Company's low-income programs provide to Con Edison's most financially vulnerable customers.[25]

Now that the pandemic has exposed the rapidly increasing breadth and depth of poverty in New York State, the two-percent cap is neither just nor reasonable.

Case 08-E-0539, which took place during the last recession, provides an example of the PSC appreciating and analyzing the impact of the real-world economy on regular people and affordability. The Commission noted that "the recommended decision summarized competing proposals to reduce the Company's Rate Year expenses and the amount of incremental revenues required **on the grounds that the economic downturn reduces the Company's customers' collective ability to pay higher electric rates**."[26]

[25] Cases 19-E-0065 and 19-G-0066, Consolidated Edison - Electric and Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued January 16, 2020), p. 88.
[26] Case 08-E-0539, Consolidated Edison - Electric Rates, Order Setting Electric Rates (issued April 24, 2009), at 8; emphasis added.

In that proceeding some of the parties, the judges and the Commission took to heart the Commission's 1980 Statement of Policy Concerning Evidence of Economic Impact in Rate Cases ("EEI Policy Statement"). The EEI Policy Statement acknowledges that the term "economic impact" has broad implications. "In fact, concern about potential customer hardship informs the very idea of regulation." It recognizes that "utility rates have various potentially harmful and beneficial multiplier effects on the overall financial and economic health of the territory where rates are imposed." This concern has shaped the Commission's thinking for decades; whether in setting an expense allowance and choosing the lower end of the range of reasonableness, when deciding to postpone the effective date to begin amortization, and in deciding how to alter rate designs, the Commission has "considered the specific impact on various groups of customers."

The impacts of the COVID-19 pandemic on the New York economy and on the financial situation of individual utility customers are unprecedented, breathtaking,[27] and arguably far more harmful than the Great Recession of 2008 or the Stagflation and interest rate crisis of the late 1970s and 1980s that drove the Commission's creation of its 1980 EEI Policy Statement. Under current circumstances, retaining the two-percent cap on low-income program expenditures is unjust and unreasonable.

C. Statewide Application of New York City's Methodology for Calculating Energy Affordability Program Discounts Would Result in Just and Reasonable Rates for Low-Income Customers.

The Commission adopted a goal in the Affordability Orders of reducing a household's energy burden to 6% of household income for all low-income utility customers.[28] PULP corroborated New York City's analyses showing that the methodology chosen by the PSC fails to result in outcomes consistent with the 6% energy burden objective, and that New York City's analytical approach would do a much better job achieving that objective.[29] In New York City's

27 *Struggling in a Good Economy, and Now Struggling in a Crisis,* "The coronavirus pandemic has shown how close to the edge many Americans were living, with pay and benefits eroding even as corporate profits surged." https://www.nytimes.com/2020/04/16/business/economy/coronavirus-economy.html?referringSource=articleShare. And see, *Impact of COVID-19 on Global Economy Structure*, "[E]conomies such as the US, China, UK, Germany, France, Italy, Japan and many others are at the verge of collapse ... In just a week 3.3 million Americans applied for unemployment and a week later another 6.6 million people started searching for jobs." https://moderndiplomacy.eu/2020/04/22/impact-of-covid-19-on-global-economy-structure/.

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

29 See New York City Petition and PULP Informal Comments, filed in this proceeding.

assessment, "the pool of low-income energy cost burdened families is staggering, and the current discount levels are insufficient to achieve the Commission's stated goal."[30]

Despite the existence of the utility low income discounts, nearly half a million low income families (14% of all families in New York City) continue to be energy burdened."[31] The percentage of energy-burdened families outside of New York City is also found to be much higher because only 30% of utility consumers eligible for HEAP actually receive HEAP benefits and OTDA and county social service agencies (with the exception of Westchester County) do not conduct computer matching of recipients of Lifeline programs with utility customer lists. Moreover, by PULP's calculations, when relying on individual PUMA level data, none of the State's 146 PUMAs achieved an overall energy burden of 6% or less for HEAP-eligible households in 2018.[32] This means that the State's energy affordability policy goal was not achieved for any PUMA in the State.

Serious flaws in the current methodology include three incorrect assumptions: 1) that all low-income customers receive the highest qualifying income level; 2) that using historical average monthly bills accurately represents current monthly bill levels;[33] and, 3) that the maximum HEAP discount level is received by most New Yorkers. Fortunately, these flaws are readily remedied, as described in New York City's post-stakeholder meeting submission at pages 5-11.[34] First, the income assumptions that discounts are based on must be modified to capture actual practice. Second, weather-normalized forward-looking bill estimates must be used to calculate discounts in place of bills two or three years old. Third, instead of using the maximum HEAP discount level that a customer might receive as an offset to the customer's bill discount, the realistic level of HEAP benefits that different customers are likely to receive must be used.

30 New York City Petition, pp.5-6.

31 *Id*., p. 9.

32 PUMAs are statistical geographic areas within states that contain at least 100,000 people. They are defined for use in Public Use Microdata Sample (PUMS) data and the American Community Survey (ACS). *See*: Public Use Microdata Areas (PUMAs), U.S. Census Bureau, available at: https://www.census.gov/programssurveys/geography/guidance/geo-areas/pumas.html.

33 The parties and the PSC acknowledged the problem with using past rates to calculate future discounts (and developed a work-around for the first year of the rate plan) in Cases 19-E-0065 and 19-G-0066, Consolidated Edison - Electric and Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued January 16, 2020), p. 86: "For both the electric and gas programs, low-income participants will receive an increase in low-income benefits to offset the estimated RY 1 increase. Discounts for RY 2 and RY 3 will be adjusted through the required annual recalculation in accordance with the Affordability Orders."

34 Case 14-M-0565, supra, "Comments of the City of New York" (filed March 31, 2020.)

The Commission should direct all utilities to apply New York City's analytical methodology for calculating energy affordability program discounts, based on current or approved rates rather than on historical two- or three-year averages, and use the household level of analysis adopted by PULP's rather than the City's use of the family level of analysis. PULP further urges the PSC to direct all utilities to promptly file requests for PSC approval of the new discount levels.

CONCLUSION

It is especially critical in light of the economic devastation caused by the pandemic, on top of pre-existing widespread poverty among New Yorkers,[35] that the Commission act immediately by way of a One-Commissioner order prior to the next Session, pursuant to the emergency provision of SAPA to modify its current Affordability Programs regime in three ways:

- Require all utilities to enroll customers in affordability programs who provide documentation showing denial of HEAP benefits due to lack of funds or evidence of participation in at least one of these programs:
  - 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
  - Child Health Plus
- Waiver of the 2% budget cap on electric revenues and gas revenues; and
- Direct all utilities to apply New York City's analytical methodology for calculating energy affordability program discounts, based on current or approved rates rather than on historical two- or three-year averages, and PULP's adoption of the household level of data, and promptly file requests for PSC approval of the new discount levels.

[35] See, e.g., the New York State Community Action Association 2019 Poverty Report at https://www.nyscommunityaction.org/poverty-in-ny; and see, United Way of New York 2018 ALICE report at https://uwnys.org/alice/.

We respectfully request therefore that the Commission and DPS Staff consider PULP's request from the vantage point of the millions of poor New Yorkers, and newly poor New Yorkers that need immediate and substantive relief and take action without delay. Just and reasonable rates are axiomatically in the public interest, but in times like these it is necessary to do as much as is practicable to offset the crisis of affordability including reexamining rates and rate plans previously found to be just and reasonable in the context of a dramatically different economic background. In times like these, as the Commission has acknowledged in the Great Recession and at the end of 1970s, it is insufficient to arrive at an assessment of just and reasonable rates without taking into account all of the deleterious economic effects to which ratepayers are currently exposed.

Respectfully submitted,

/s/

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