New York Public Service Commission Order
Adopting Low Income Program Modifications

Briefing Memo - Extracted and Edited

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

Official documents available at: http://goo.gl/YwD7Kr

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Overview

The PSC opened this proceeding in January 2015, with an instituting order, to examine the low income programs offered by the major electric and gas utilities in New York State. The stated primary purposes of the proceeding are "to standardize utility low income programs to reflect best practices where appropriate, streamline the regulatory process, and ensure consistency with the Commission's statutory and policy objectives."

In that order, the PSC directed Staff to examine low-income programs "in order to identify best practices, evaluate the effectiveness of the current low income program designs, and develop a set of recommendations for any improvements that may be warranted." Staff filed a Report on the results of its examination on June 1, 2015, including a Straw Proposal for a new statewide approach to low income programs that addresses numerous design and implementation elements including eligibility, enrollment processes, benefit structures, rate discount levels, budgeting, treatment of participant arrears, and reconnection fees.

A technical conference was held on July 30, 2015, where Staff discussed its report. Initial written comments on the Staff Report were solicited through August 24, 2015, and reply comments were solicited through September 8, 2015. Twelve public statement hearings were held in six locations throughout the state, including Glens Falls, Poughkeepsie, Buffalo, New York City, Syracuse, and Albany.

In this order, the PSC adopts a regulatory policy framework for addressing low income customer needs. The Order addresses implementation of this framework, and directs filings by certain utilities to achieve that goal.

Summary of Commission Conclusions

- The Commission adopts a policy that 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. The current utility programs reach about 1.1 million customers. Because customers could receive both a gas and electric discount, the 1.1 million customers equates to approximately 700,000 households.
- Success in this endeavor can only be achieved through a holistic approach that coordinates and leverages all available resources. The Commission authorizes and directs Staff to work with sister agencies to create an inter-agency task force, to achieve greater program coordination.
- Reaching all 2.3 million households will involve establishing new partnerships and new ways for utilities to identify and enroll eligible customers. As an initial step, the Commission directs that utilities open their low income discount programs to all households that currently receive HEAP, regardless of fuel or benefit type.
- A funding limit is established such that the total budget for each utility may not exceed 2% of total electric or gas revenues for sales to end-use customers.
- Con Edison is allowed to continue its file match approach which extends the low income discount program to customers receiving other income based benefits in addition to HEAP. National Grid NY is authorized to pursue such an approach.
- A default process of setting benefit levels is established which varies levels of discounts based on need. Utilities will be allowed some flexibility in designing rate discounts; however, alternatives must be shown to accomplish the same results, and leave no class of participant underserved.
- Statewide, the enhanced low income discount program will serve approximately 1.65 million customers, at a cost of approximately $248 million, an increase of approximately 87% to existing programs.
- Customers enrolled in the utility discount program will also be enrolled in levelized or budget billing. Participants will have the ability to opt-out.
- The costs of the programs will be borne by all classes of customers; however, the specific mode of cost recovery will be determined in rate cases, where the total impacts of all revenue requirement changes can be considered.
- Arrears forgiveness programs may continue for utilities who see value, but are not required for other utilities. A limit of funding for arrears forgiveness programs of no more than 10% of the budget shall be imposed.

Procedural Activities

BACKGROUND

The Staff Report, which included a detailed procedural history, was issued on June 1, 2015 after extensive information gathering efforts. The Report also described the various low income program approaches utilized by several key states, and summarized the existing programs in New York. The Staff report also included a table of energy burden data.

New York Low Income Household Energy Burdens

Percent of FPL	Annual Income[4]	Households	Energy Burden
0% - 50%	$12,150	489,000	41%
50% - 100%	$24,300	600,000	22%
100% - 125%	$30,375	311,000	15%
125% - 150%	$36,450	314,000	12%
150% - 185%	$44,955	422,000	10%
185% - 200%	$48,600	170,000	9%

NOTICE OF PROPOSED RULE MAKING

A Notice of Proposed Rulemaking was published in the State Register on June 2, 2015 [SAPA No. 14-M-0565SP1]. The time for submission of comments pursuant to the Notice expired on August 3, 2016. Notices by the Secretary were issued in the case dated January 16, 2015, February 12, 2015, June 1, 2015, July 7, 2015, August 21, 2015, and October 2, 2015, seeking additional comment, with the last date for comments due October 21, 2015.

COMMENTS OF THE PARTIES

Written comments on the Staff Report were submitted by the following parties:

- Alliance for a Green Economy (AGREE);
- American Association for Retired Persons (AARP);
- Association for Energy Affordability (AEA);
- Central Hudson Gas & Electric Corp. (Central Hudson);
- Citizens' Environmental Coalition (CEC);
- City of New York (NYC);
- Consolidated Edison Company of New York, Inc./Orange & Rockland Utilities, Inc. (CEOR);
- Multiple Intervenors (MI);
- National Fuel Gas Distribution Corp. (National Fuel);
- National Grid, consisting of the Brooklyn Union Gas Co. d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid and Niagara Mohawk Power Corporation d/b/a National Grid. (National Grid);
- New York State Department of State, Division of Consumer Protection, Utility Intervention Unit (UIU);

- New York State Electric & Gas Corp./Rochester Gas and Electric Corp. (NYSEG/RG&E);
- New York State Energy Research and Development Authority (NYSERDA);
- New York State Office of Temporary and Disability Assistance (OTDA);
- PSEG Long Island, LLC (PSEG); Public Utility Law Project (PULP);
- Solix, Inc. (Solix);
- Natural Resources Defense Council, Pace Energy and Climate Center, WE ACT for Environmental Justice, Association for Energy Affordability, Center for Working Families, Enterprise Community Partners, and Green and Healthy Homes Initiative, jointly as Energy Efficiency for All (EE4All).

Reply comments were filed by AEA, AGREE, CEC, Central Hudson, EE4All, MI, NYC, NYSERDA, and PULP.

In addition, over 80 written public comments (public comments are those filed by individuals and organizations who are not formally registered as active parties) were filed in this Case.

Commenters included Affordability for All; Roger Colton; Community Service Society; Laundry, Distribution and Food Service Joint Board, Workers United; Energy Democracy Alliance, NY Communities for Change; Nobody Leaves Mid-Hudson; State Senator Robert G. Ortt, 62nd District; State Senator Kevin S. Parker, 21st District; and the Sierra Club; as well as comments filed by unaffiliated individuals.

A summary of all written comments is included as Appendix A of the order.

Twelve public statement hearings were held in six locations throughout the state, including Glens Falls, Poughkeepsie, Buffalo, New York City, Syracuse, and Albany. Over the course of these hearings, more than 100 speakers offered statements on the Staff Report, generating nearly 600 pages of transcript. Many of the speakers were low income electric and natural gas customers, who testified to the difficulties that they have faced paying for service, and the need to improve energy affordability for the poorest New Yorkers.

Specific comments of the parties are addressed in the discussion in the Order.

VISION AND GOALS FOR LOW INCOME REGULATORY POLICY

In Governor Cuomo's Reforming the Energy Vision (REV) proceeding, the Commission articulated a new approach to regulation of energy markets, and new business models that create opportunities for customers and other third parties to be active participants, utilizing distributed energy resources (DER) as an integral tool. The Commission's policy to maintain universal, affordable service is a critical driver of the REV initiative.

There is no universal measure of energy affordability; however, a widely accepted principle is that total shelter costs should not exceed 30% of income. For example, this percentage is often used by lenders to determine affordability of mortgage payments. It is further reasonable to expect that utility costs should not exceed 20% of shelter costs, leading to the conclusion that an affordable energy burden should be at or below 6% of household income (20% x 30% = 6%). A 6% energy burden is the target energy burden used for affordability programs in several states (e.g., New Jersey and Ohio), and thus appears to be reasonable. It also corresponds to what U.S. Energy Information Administration data reflects is the upper end of middle and upper income customer household energy burdens (generally in the range of 1 to 5%). The Commission therefore adopts a policy that an energy burden at or below 6% of household income shall be the target level for all low income customers.

The energy burden statistics cited in the Staff Report suggest a significant energy divide exists for low income households. About 2.3 million households are at or below 200% of FPL, with an energy affordability "gap," i.e., an average annual energy burden above the 6% level, of $807. Approximately 1.4 million of these households receive a HEAP benefit; however, for the 2013-2014 program year, only about 316,000 of those households received a benefit for utility service. Closing such a wide gap for 2.3 million low income households is a non-trivial pursuit, and will require a comprehensive effort that involves all of the tools at the state's disposal, including, but not limited to, utility ratepayer-funded programs. A central role in achieving energy affordability for low income customers is played by the financial assistance programs administered by the Office of Temporary and Disability Assistance (OTDA), including the Home Energy Assistance Program (HEAP). Another important role is played by low income energy efficiency programs such as the Weatherization Assistance Program administered by New York State Homes and Community Renewal (HCR) and the ratepayer–funded EmPower-NY program administered by the New York State Energy Research and Development Authority (NYSERDA). Utility ratepayer funded programs also include the rate discount programs, as well as investments designed to create opportunities for low income households to benefit from the cost savings offered by DER.

Success in this endeavor can best be achieved through a holistic approach that coordinates and leverages all of these resources. Working together, low income financial assistance, DER, energy efficiency, and other social services programs can be delivered more efficiently, so New York can make smarter investments in our communities and serve more customers with the resources at hand.

A key to the success of these initiatives 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 and increase effectiveness, and advise in the development of low income energy-related policies and programs.

Achievement of the 6% energy burden goal for all low income utility customers will also require a phased approach to implementing program changes, as many parties, including CEC and UIU, suggested in their comments. Among other things, achieving an optimal design will require building new partnerships and new mechanisms for identifying and enrolling eligible households.

As these are put in place, the utilities will be able to enlarge the populations they are able to serve. In addition, the best solution for all customers, including low income, lies in facilitating opportunities to invest in clean energy and the means to reduce energy costs.

Greater access and support for low income and underserved communities to DER is the best way to narrow the affordability gap that needs to be filled with direct financial assistance for customers with low incomes. Greater access to advanced energy management products to increase efficiency for low income customers will empower those for whom these savings may have the greatest value, as well as allowing the most disadvantaged customers more choice in how they manage and consume energy.

Through a variety of efforts, the Commission is taking steps to promote affordability of utility service and provide opportunities to offer benefits to low and moderate income customers to participate in DER. For example, the reauthorization of funding for the NY Sun photovoltaic program included an allocation of up to $13 million to support penetration of solar technology into low and moderate income markets.

Within the past year, the Commission also approved the reallocation of $11 million of uncommitted System Benefit Charge (SBC) funds to supplement the EmPower-NY low income energy efficiency program budget, as well as an additional increase of up to $8 million. In addition, interconnection of community distributed generation (DG) projects was prioritized to projects that promote low income customer participation during the introductory Phase One period. Staff also initiated a collaborative to develop means for encouraging low income customer participation and to address obstacles to such participation in Community DG during Phase Two.

In January, 2016, the Commission authorized a Clean Energy Fund (CEF) framework, to accelerate the growth of New York's clean energy economy, address climate change, strengthen resiliency in the face of extreme weather and lower energy bills for New Yorkers. The CEF is designed to meet four primary objectives: (1) greenhouse gas emission reductions; (2) affordability, as measured by reductions in customer energy bills; (3) statewide penetration and scale of energy efficiency and clean energy generation; and (4) growth in the State’s clean energy economy. Additionally, the fund will attract and leverage third-party capital to support Governor Cuomo's aggressive Clean Energy Standard, mandating achievement of meeting 50 percent of our electricity needs with renewable resources by 2030.

As these other relevant proceedings evolve, greater opportunities to achieve affordability through increased energy efficiencies, demand response and DER deployment will reduce reliance on rate subsidies. In later phases, as these new markets and tools continue to develop, the Commission expects that a greater portion of the burden for ensuring affordability for low income customers will shift from direct financial assistance to such innovative approaches.

In the meantime, as the Commission continues to work with utilities and third parties to develop innovative programs to expand the reach of DER within low income communities, the utility low income rate assistance programs will continue to be funded where market solutions are not yet a viable option.

Through a phased approach, best practices under the current operating environment can be incorporated now, and further steps towards increased benefits can be pursued.

The Commission addresses the various recommendations in the Staff Report to implement the program described in the Straw Proposal, and the Commission's decisions with respect to such recommendations; and concludes by establishing further filings and process to implement the decision.

CONCLUSION

Access to energy services is essential to the safety and well-being of all residents of the state. Ensuring adequate access for those who face financial difficulties is a public concern, because the utility and societal cost of leaving the economically disadvantaged without such access can be much greater than the cost of maintaining utility service for these customers. Even during the recent trend toward lower commodity prices, especially for natural gas, low income customers continue to have difficulty paying their energy bills and maintaining utility service.

The Commission will continue to work toward facilitating opportunities for all customers, including low and moderate income customers, to invest in clean energy and advanced energy management products, and to enhance demand elasticity and efficiencies. The utilities and third parties should continue to develop and manage programs that provide opportunities for all consumers, regardless of income, to achieve the benefits of REV and clean energy. Partnerships with community groups and other market actors may spur additional investments in DER projects for low and moderate income customers. The CEF will also help lower energy bills for all New Yorkers. Finally, the Commission's Consumer Advocate will continue to work with the Consumer Advisory Council, utilities and other interested stakeholders to further develop these programs as part of ongoing REV development. In the meantime, the program designs outlined here are a strong and measured response designed to help ensure affordable access to service and optimize the implementation of the utility programs.

Given the phased approach to implementing the Commission's low income policies, utilities will need to file implementation plans that can be updated as needed. Crucially, the plans must include proposals for programs for introduction by utilities in areas that are not being served by markets as part of ongoing REV development, but allow market participants to identify opportunities to serve low income customers. The Commission directs filings by utilities with more than 25,000 customers, to achieve implementation of this framework, including any necessary program modifications, timelines, estimation of costs and proposals for cost recovery, including the details of the reconciliation of actual program costs to amounts reflected in rates. Utilities should utilize their existing low income program cost recovery methods, to the extent practicable, and estimate the cost allocation among the classes resulting from such an approach. Utility filings must propose a path to incorporate these recommendations into ongoing rate plans, as well as cases coming before the Commission in 2016.

ORDER

1. The regulatory policy framework for addressing low income customer needs, as described in the body of this Order, is adopted. Central Hudson Gas & Electric Corp., Consolidated Edison Company of New York, Inc., Orange & Rockland Utilities, Inc., National Fuel Gas Distribution Corp., Brooklyn Union Gas Co. d/b/a National Grid NY, KeySpan Gas East Corp. d/b/a National Grid, Niagara Mohawk Power Corp. d/b/a National Grid, New York State Electric & Gas Corp., and Rochester Gas and Electric Corp. are directed to make the filings described herein, within 90 days of the Commission's order in this case, for further Commission review and approval.

2. In preparing their respective filings pursuant to Ordering Clause 1, the utilities should utilize their existing low income program cost recovery methods, to the extent practicable, and estimate the cost allocation among the classes resulting from such an approach.

3. The utilities' filings pursuant to Ordering Clause 1 shall discuss the expected timeline for the Office of Temporary and Disability Assistance to begin sharing data on all Home Energy Assistance Program recipients, and for each utility to begin using such data to enroll customers.

4. The utilities' filings pursuant to Ordering Clause 1 shall explain and justify any departure from the default method of calculating discount levels as described herein.

5. The utilities’ filings pursuant to Ordering Clause shall propose processes for participating customers to be notified of the option to refuse budget billing, and to exercise such option; and include a detailed description of each utility’s budget billing plan, including a description its method for estimating bills when 12 months of billing data are not available.

6. The utilities’ filings pursuant to Ordering Clause 1 shall explain their strategies for incorporating educational efforts into their low income programs.

7. The utilities' filings pursuant to Ordering Clause 1 shall provide a timetable for compliance with the reporting requirements included herein.

8. National Grid NY must indicate in its filing whether it intends to utilize a file matching process to enroll eligible customers, and propose a timeline for implementing such a file match.

9. Staff is directed to work with other government agencies to establish an inter-agency task force, to achieve greater program coordination, share information, eliminate duplicative efforts, lower costs and increase effectiveness, and advise in the development of low income energy-related policies and programs.

10. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

11. This proceeding is continued.