Testimony of Executive Director Steven Ettannani
New York City Department of Consumer and Worker Protection

Before the Committee on
Consumer and Worker Protection

Hearing on
Con Edison Rate Increases and Introduction 372

June 30, 2022

Introduction

Good afternoon, Chair Velázquez, and members of the Committee. I am Steven Ettannani, Executive Director for External Affairs at the Department of Consumer and Worker Protection (DCWP), and I am joined today by Seth Berkman, Energy Policy Advisor in the Mayor's Office of Climate and Environmental Justice. Thank you for the opportunity to testify today before the Committee on Introduction 372, relating to an Office of the Utility Advocate.

Utility bills are a reality for all New Yorkers, and when rates rise there are consequences to monthly and household budgets. When this happens, individuals, families, and small businesses are forced to find a way to make ends meet, often at the expense of something else. New Yorkers cannot afford to have their financial health continually impacted by ever-increasing rates from utility providers. For those reasons, the Administration welcomes today's hearing to hear from the utilities and better understand why certain rates for our residents have been rising again.

Existing Regulatory Structures

Utilities such as electric, gas, steam, water, telecommunications, and cable are regulated by distinct entities depending on the types of services that are provided. The primary regulator in New York State is the Department of Public Service (DPS), which has a broad mandate to ensure access to safe and reliable utility service at just and reasonable rates.[1]

As a regulator, DPS facilitates consumer complaints charged against service providers through its Office of Consumer Services (OCS). According to publicly available information, OCS annually handles a quarter of a million consumer contacts, of which 30,000 are referred to service providers for investigation and reply. It utilizes a quick resolution system to provide consumers with a timely response to their complaint within 14 days, reduce the number of complaints charged to a service provider, and ensure that office staff have time and resources to handle more difficult cases.[2]

DPS, through the Public Service Commission (PSC), is also charged with reviewing "utility rate cases," the formal process by which a regulated utility is allowed to request an increase in rates. These utility rate cases are the primary instruments for regulating these industries, and interested

[1] https://www3.dps.ny.gov/W/PSCWeb.nsf/All/553FBA3F3EEF7FBD85257687006F3A6D?OpenDocument
[2] https://www3.dps.ny.gov/W/PSCWeb.nsf/All/FA05AA0D1F13FED085257687006F3A81

persons, such as public interest groups, representatives of customers, and local municipalities may intervene in a utility rate case before the PSC. In the case of New York City, the Mayor's Office of Climate and Environmental Justice advocates for consumer interests and priorities before the PSC during utility rate cases. The City's primary strategic objectives in Con Edison's current rate case are to limit rate increases, ensure equitable investment in historically underserved communities, promote the City's climate goals, and enhance protections for vulnerable residents.

At the same time, the State has an office at the Department of State dedicated to representing consumers before the PSC, known as the Utility Intervention Unit (UIU). The UIU analyzes filings, submits testimony, engages in settlement discussions, and participates in evidentiary hearings in the PSC's proceedings.[3] Through this work, the UIU seeks to ensure that consumer concerns are considered at utility rate cases and in policy-related matters across New York.

Introduction 372

Turning to today's legislation, Introduction 372 would create an Office of the Utility Advocate at DCWP. The office would refer utility-related complaints to appropriate entities, contact utilities to resolve complaints, testify before the PSC and in other public hearings, assist consumers with accessing financial aid to cover utility costs, and conduct outreach and reporting around utilities.

This Administration has been committed to serving New Yorkers across the five boroughs. In fact, the City already refers complaints and inquiries regarding utilities to the appropriate regulatory entities, utility companies, or city agencies of jurisdiction. In the last ten months alone, the City's 311 system has fielded close to 80,000 complaints and inquiries on these matters. The City, through the Human Resources Administration (HRA), regularly connects New Yorkers with financial aid, such as the federally funded Home Energy Assistance Program (HEAP) to help New Yorkers pay their utilities. In the past ten months, HRA has received over 11,000 consumer referrals on utilities from 311. And, as my colleague at the Mayor's Office of Climate & Environmental Justice can speak to, the City regularly testifies and advocates on behalf of New Yorkers at utility rate cases before the PSC.

It remains a priority of the Administration to get stuff done for New Yorkers, both efficiently and effectively. There are already existing City and State efforts to serve utility customers. As we continue our conversations with the Council to work together on the specifics of this bill during the legislative process, we want to ensure any final proposal works in harmony with those efforts and avoids undue redundancies. Of course, we are also eager to learn more about the experiences of your constituents, as customers of these utilities, to help inform what more the City can do to meet their needs.

Conclusion

I would like to thank the Council for today's hearing, which speaks to issues that affect us all as New Yorkers, and for the opportunity to testify today. I look forward to any questions you may have.

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[3] https://dos.ny.gov/utility-intervention-unit-1

Testimony of Con Edison to the
City Council Committee on Consumer and Worker Protection
June 30, 2022

Good morning. Thank you, Chairwoman, and members of the committee for the opportunity to provide comments today. My name is Kyle Kimball, and I am Vice President of Government, Regional, and Community Affairs at Con Edison. I am joined by my colleagues, Kerri Kirschbaum, Director of State Regulatory Affairs, and Stephanie Merritt, Director of Tax. We are here today before this committee to discuss how we can work together to reduce customer bills.

Explanation of Customer Bills

At the outset, I want to spend just a moment reviewing – at a high level - a customer's Con Edison bill. A customer's bill reflects three categories of costs, each representing roughly one-third of a customer's bill:

- Supply Charge: This reflects the amount power generators charge for the supply of electricity that Con Edison then delivers to its customers. As a reminder, Con Edison does not generate electricity, nor do we produce (drill for) natural gas. Most of the electricity that powers our city comes from natural gas-powered generators. When the price of natural gas increases, the cost to generate power increases, which, in turn, increases the supply cost on customers' bills. The cost of energy supply on the Con Edison bill reflects the price charged by power generating companies without any markup from Con Edison. Con Edison makes no money on this supply. A customer's Supply Charge is the unit price of the electricity multiplied by the amount that was used by the customer during the bill period. For customers who purchase their energy from Con Edison – as opposed to a third-party supplier - customer supply costs are also affected by Con Edison's hedging program, the purpose of which is to mitigate supply price fluctuations.

- Delivery Charge: This is the portion of the bill that reflects the costs of building and operating the energy delivery system, including investments in our energy delivery infrastructure to support reliability, resiliency, safety, and public improvement projects requested by government entities (e.g., a City of New York water main project). It also reflects investments in energy efficiency to help our customers control their energy usage and thereby control their bills. In addition, a meaningful portion of our capital investments now go toward advancing the clean energy transition. It is within delivery charges that Con Edison earns our regulated rate of return that is approved by the NYS Public Service Commission (NYS PSC). From 2011-2021, residential bills increased at, or less than, the rate of inflation and average residential consumption decreased.

- Taxes: Con Edison is the single largest property taxpayer in New York state and paid $2.2B in property taxes to municipal and state entities in its service territory in 2021--$2B of that goes to the City of New York. We pay these taxes on the pipes and wires that deliver electricity, gas, and steam to our customers (this is called the special franchise tax), and on our facilities (real estate tax). These tax costs are reflected in the delivery charges our customers pay. In addition to the special franchise tax and other property taxes, government entities also add other taxes and surcharges to the bill, including sales and gross receipts taxes, and fees to fund the clean energy transition which go to the State. Altogether, about 30% of our bill is the result of government taxes; special franchise tax and property tax are a little more than ½ of all these taxes and are about 17% of the total bill.

Help for Our Customers

We are committed to affordability for our customers who require assistance, and we recognize that many customers have struggled recently with higher-than-expected bills. For those customers, Con Edison has a range of programs that offer meaningful discounts or more flexible payment terms, as well as education resources, including:

- Deferred payment agreements, which more than 100,000 customers currently use to spread payments out over time.
- Payment extensions, which provide additional time for customers to make payments.
- Energy Affordability Program discounts for qualified low-income customers, which aim to limit utility costs to 6% of the average low-income customer's income based on a statewide formula that is updated annually, and which can adjust if delivery costs change. More than 400,000 Con Edison customers participate in these programs today; a typical discount is $23 per month, which represents a 25% discount on a typical electric customer bill of $90. On March 1st, we unveiled a new online enrollment option for this program, allowing customers to self-certify that they qualify.
- Working with customers and local and state government agencies to facilitate the receipt of public assistance by customers.
- Level payment plans that allow customers to pay in equal monthly amounts over the year even as their bills change, thereby reducing bill volatility.
- Regular virtual customer community resource forums for interested stakeholders to learn more about our programs and activities.

In addition, the best way for customers to manage their bills and minimize environmental impact is to manage their usage. We offer energy-saving tips, energy efficiency programs that help customers save, and assistance for customers. More information about these programs can be found on our website at www.coned.com.

Some other actions we will be taking going forward include the following:

- The NYS PSC has approved our proposal to adjust our billing process to more closely align, on monthly bills, the impacts of power generation supply price volatility with the results of our hedging positions. The adjustment, implemented as of June 1, will serve to reduce the likelihood of significant supply cost volatility on customer bills.
- Before this winter, Con Edison informed its customers that it expected natural gas prices to rise. Going forward, we will specifically address both gas price volatility and its follow-on impact on electric price volatility in our pre-winter communications. These communications will also continue to provide cost-saving tips and information on payment assistance programs.
- We will also provide notice to customers in cases where supply price increases could result in significantly higher bills. We do expect, as has been recently reported in the media and by our regulator, that bills may be 10% or higher than last summer. This is not unique to New York City or even New York State. It is happening all around the country.
    - In fact, Barclays Plc calculates that, from a national perspective, monthly bills will be more than 40% higher than last year's, and projections from the US Energy Information Administration show this year's retail residential rates rising the most since 2008.

- Con Edison, recognizing that the Covid-19 pandemic has caused economic hardship for low-income families and individuals, is also implementing approximately $338M in relief toward past-due bills owed by residential customers participating in our Energy Affordability low - income discount program. This program is consistent with an order by the NYS PSC and includes a combined $250M that was allocated to all utilities to help with low-income customer pandemic related arrears. Notably, it is supported by the Public Utility Law Project (PULP), AARP, and the Department of State Utility Intervention Unit. Con Edison's share of the statewide amount is approximately $165M, and Con Edison is recovering an approximate additional $167M with a bill surcharge of just under one half of 1 percent over four years. The Company is providing an additional $18M of shareholder contributions.

Investment Plan Rate Filing

Importantly, the electric supply increases charged by power generators are completely unrelated to our recently filed investment plan for the energy grid. This investment plan contains groundbreaking programs and innovative proposals to accelerate New York's transition toward a clean, renewable, and resilient future and our recently expanded Clean Energy Commitment sets forth our vision to help the State achieve its goal of a net zero economy by 2050. Furthermore, in recognition of the City and State's ambitious clean energy goals, we have proposed a plan that is no longer focused on growing the natural gas system and places the financial benefits of renewable energy investments in the hands of our lowest income customers. The investment plan is a key step in a transition to a clean energy economy while continuing to provide safe and reliable service, and resilience against storms. For these reasons, we believe this plan is worthy of support. We're in the middle of the year-long, open, and transparent process, and our goal is to seek an agreement with our stakeholders that balances affordability and cost impacts with the need to invest in our system. Disinvestment is simply not an option.

Property Taxes are Regressive and Increasing Astronomically

The Company strives to make sure that its property taxes are fair through negotiation with municipalities and other initiatives to reduce property assessments--but we need help if we want to bring down bills.

To level set: Our New York City property taxes have increased from about $500M in the year 2000 to more than $2B today, which is more than a 300% increase. New York City property taxes are not set by the state but by the City of New York.

New York is unique in the way that utilities like Con Edison are assessed for property taxes. In addition to paying taxes on our buildings and land like other businesses, utilities in this state are also taxed on the actual infrastructure we build and install. These fees, authorized by the state and collected by municipalities, are called "special franchise taxes". New York is unique in that it taxes not only the real estate but the utility infrastructure in the ground, the pipes, and wires, needed to provide delivery service to our electric, gas and steam customers. Again, this circumstance is different from how other businesses are taxed and has resulted in an ever-increasing tax bill that contributes significantly to higher rates. The special franchise tax also has the unintended consequence of penalizing our customers for needed investments in the system, including to maintain high levels of reliability, storm resilience, and to meet our City and State clean energy goals. For example, if the Company added $2B of infrastructure investment in the City, the Company, and that means our customers, would pay an annual property tax of approximately $100M on that infrastructure investment.

This current property tax framework raises the cost of the clean energy transition and serves only to compete with the necessary investment in energy infrastructure that is necessary to meet our region's needs. A partnership with elected officials, including all of you, is needed to fix this broken property tax system and we would like to add this item to the larger discussion of inequitable property taxes. This unjust property tax system has already been called out as such by some elected officials, regulators, and advocates. In fact, some PSC Commissioners have expressed major concerns about this issue.

Comments on the Proposed Office of Utility Advocate (Intro 372-2022)
This proposed bill would create a new utility advocate office within the New York City Department of Consumer and Worker Protection.

If the intended goal and concerns of the Council are to lower costs for customers, adding another level of government rarely achieves that goal. We also currently provide numerous reports to our regulator, including related to reliability/outages, storm preparedness, and customer service. These reports are available to the public on the New York State Department of Public Service (NYS DPS) website.

This proposed department seems duplicative and unnecessary considering the numerous entities whose mission it is to represent customers' interests in utility matters: the NYS DPS's Office of Consumer Policy and Consumer Services, the Utility Intervention Unit within the Department of State, the Office of the Attorney General, the statewide Special Counsel for ratepayer protection within the NYS DPS, in addition to not-for-profit entities focused on smaller customers such as PULP, among others. Of note, the Mayor's Office of Climate and Environmental Justice works closely on utility issues and represents the City's interests in our rate cases. Creation of another office would be an additional cost that would be unlikely to yield any significant impact on customer rates considering that consumers are strongly represented by these entities. In fact, a very similar proposal has been vetoed repeatedly in the state legislature for the above-stated reasons.

As an alternative to creating a new office of utility advocate, the Council should focus on meaningful ways to reduce the costs to customers. The elephant in the room here is property taxes and the overall cost of doing business in New York City. Other charges and fees, such as revocable consents and permits continue to increase and drive up the cost of providing our essential services. As just one example, we pay $1,500 annually for each communication device on City poles we use to transmit information to our smart meters. We then pay property taxes on those very same devices—so New Yorkers are paying twice.

Also, the delays we experience every day to do the work we need to maintain our infrastructure is often slowed down by many processes, this includes our "public improvement" work. We would welcome a city process for identifying and working with us and other interested stakeholders on these added costs, fees, etc., that could provide real relief from upward pressure on customer bills.

Notwithstanding our concerns about duplicative entities working in the same space, should the legislation become law, we would coordinate with the new department as needed.

And finally, we need to ensure we all understand that policies to accelerate our transition off fossil fuels require building out the electric grid, e.g., Local Law 154 (ban on new gas connections). If we want to "electrify everything," and customer outages are considered unacceptable, it is ignoring reality to state that our investment plan rate filing is not necessary or it's just to enrich our shareholders. We would like to and need to find a common understanding of this important point. I should add anyone can join the rate case as an intervenor, and the NYS PSC has held multiple public statement hearings on this topic.

We look forward to working with the Council and other stakeholders on this important topic and are happy to answer any questions you may have.

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MANHATTAN BOROUGH PRESIDENT MARK LEVINE
TESTIMONY BEFORE THE CITY COUNCIL
COMMITTEE ON CONSUMER AFFAIRS
JUNE 30, 2022

Good afternoon, Chair Velázquez, and members of the Committee on Consumer and Worker Protection. My name is Mark Levine, and I am the Manhattan Borough President. I would like to thank Chair Velázquez for holding this hearing. I am proud to co-sponsor Intro. 0372-2022 with Speaker Adams to establish the Office of the Utility Advocate within the Department of Consumer and Worker Protection (DCWP).

This bill would create a central contact point for New Yorkers struggling to receive service from electric, gas, water, and internet providers. These are not luxuries that households can go without. They are basic needs that no New Yorker should be deprived of at any time.

The Office of the Utility Advocate will create a one-stop website for New Yorkers in need of help. The Advocate will be tasked with directing consumer complaints to the appropriate channel while assisting consumers with accessing available resources to reduce their individual burden. New Yorkers won't have to navigate bureaucracy or spend time trying to find the right financial assistance programs while their water or power is shut off. Instead of wasting precious time in a bad situation, they'll be able to quickly get the help they need.

This office will hold the crucial responsibility of creating and executing a public education campaign on utility services. Too many New Yorkers are hit by surprisingly high bills, forcing them to dip into savings. The Utility Advocate will show people how to keep their bills low, point them towards available sources of financial aid as well as affordable programs provided by the utility companies, and ensure they know the rights and protections they are entitled to. The rules we have in place are only useful if people are aware of them and can take advantage of them.

Centralizing these processes increases support for vulnerable New Yorkers while providing the City with better data and information for oversight of crucial services. It is simply good governance.

Thank you again to the Chair and members of the committee for the opportunity to testify today, and I look forward to working with the Council, the Mayor, and utility providers to ensure that New Yorkers are able to count on access to affordable, reliable and essential utility service.

Testimony of the Partnership for New York City

New York City Council
Committee on Consumer and Worker Protection

Int. 372-2022 – Creating an office of the utility advocate within the Department of Consumer and Worker Protection

June 30, 2022

Thank you, Chair Velázquez and members of the committee, for the opportunity to testify on Int. 372 which would create an office of the utility advocate within the NYC Department of Consumer and Worker Protection. The Partnership for New York City represents private sector employers of more than one million New Yorkers. We work together with government, labor, and the nonprofit sector to maintain the city's position as the preeminent global center of commerce, innovation, and economic opportunity.

We oppose the proposal to create a city office to address utility customer complaints and provide education and advocacy on utility issues. In the past decade, city government has grown by more than 10% and its attendant costs by more than 30%, often as a result of bills that create new offices or programs rather than adjusting priorities and functions of existing agencies. We are heading into uncertain economic times when tax revenues are likely to be insufficient to support essential city services.

There are alternative mechanisms in place for consumers to resolve complaints with utilities and learn about services and programs. The NYS Department of Public Service (DPS), which oversees utilities, maintains a consumer hotline where a complaint can be filed. DPS also hosts a website to provide consumers with education and information about utility services and assistance programs. Many utilities direct consumers to these DPS resources. Every utility has a customer service hotline as well as online resources. Additional resources exist for certain types of utilities. For example, consumers can submit complaints about cable television franchisees to 311 and the NYC Department of Information, Technology and Telecommunications. The city could expand 311's ability to record complaints to other types of utilities.

A new city office would require funding for staff and overhead. The average cost for a city employee was $ 144,331 in fiscal year 2021. The taxpayers cannot afford a new office to solve every problem. We urge the City Council not to move forward with Int. 372.

Thank you.

July 1, 2022

Testimony of Briana Carbajal, State Legislative Manager at WE ACT for Environmental Justice

To the New York City Council Committee on Consumer and Worker Protection

Regarding Con Edison Price Increases

To Committee Chair Marjorie Velázquez and Committee on Consumer and Worker Protection:

I am Briana Carbajal, the State Legislative Manager at WE ACT for Environmental Justice, a 33 year old community-based organization founded in West Harlem.

I am a member of the Energy Democracy Alliance, a statewide coalition of community-based organizations, grassroots groups, and policy experts working together to advance a just and participatory transition to a resilient, localized, and democratically controlled clean energy economy in New York State. I myself have received my Master's in Climate Science and Policy from Columbia University's Climate School.

In reaction to the ConEd rate increase plan, WE ACT demanded that the New York Public Service Commission (PSC) reject the rate hike, reject the expansion of fossil fuels, and instead require Con Edison (ConEd) to invest in efficiency, electrification, and renewable, clean, affordable, safe, and healthy power and heat for our homes and businesses–without raising our rates!

Investor-owned utilities (IOUs) – like ConEd – have burdened our communities with high bills and air pollution. IOUs exacerbate climate change and economic and racial injustice as they continue to put profit over people. The utilities' environmental racism causes respiratory and cardiac diseases, cancers, adverse perinatal outcomes, and psychosocial stress.

IOUs allow for more blackouts and brownouts to occur in disadvantaged communities (DACs) in times of high energy demand, including heat waves. In the July 2019 heat wave, ConEdison caused a blackout to nearly

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50,000 residents in the Canarsie and Flatlands[1], which are majority-Black neighborhoods and with more than 40 percent of residents born outside the U.S. In NYC, African Americans accounted for almost half of the 100 or more heat fatalities each year between 2000 and 2012.[2]

Low-income and fixed-income New Yorkers will face extremely hot apartments this summer if ConEd prices increase. The Heat Vulnerability Index (HVI) shows neighborhoods whose residents are more at risk for dying during and immediately following an extreme heat event. Three out of four Northern Manhattan neighborhoods scored a 5[3], meaning they are at the highest risk. These neighborhoods experience high surface temperatures, a lack of green space, limited access to home air conditioning, and a high percentage of residents who are low-income or non-Latinx Black. If ConEd raises prices, people cannot afford to run their air conditioners (A/Cs), even if they have access to one. Moreover, due to climate change, instances of extreme humid heat, otherwise known as wet bulb temperature[4], will very likely increase mortality rates amongst vulnerable populations without access to A/C units. Extreme heat is already the number one weather-related killer in New York City[5].

Low-income households in New York City have among the highest energy burdens in the US. Energy burden is the portion of a household's income spent on power and heat. The national average energy burden for low-income households is 8.6%, three times higher than the average for non-low-income households. For some households in disadvantaged communities, the energy burden can be as high as 30%. New York City residents, through their electric bills, have paid more than $4.5 billion over the past decade to owners of power plants that emit high levels of harmful pollutants in communities of color in New York City[6].

Con Ed is the largest investor-owned utility in the country. It reaps approximately $12 billion dollars in annual revenues and owns $63 billion dollars in assets. Con Ed's CEO, Timothy Cawley, received over $7.4 million in compensation in 2020. It is unconscionable that board members, shareholders, and ConEd executives are needlessly trying to make even more profit off of ratepayers who continue to suffer financial hardship amidst an ongoing pandemic. The state guarantees IOUs a "reasonable"

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1 https://grist.org/article/during-deadly-heat-wave-new-york-utility-cut-power-to-high-risk-neighborhoods/
2 https://www1.nyc.gov/assets/doh/downloads/pdf/epi/datatable47.pdf
3 https://a816-dohbesp.nyc.gov/IndicatorPublic/HeatHub/hvi.html
4 https://research.noaa.gov/article/ArtMID/587/ArticleID/2621/Dangerous-humid-heat-extremes-occurring-decades-before-expected
5 https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief47.pdf
6 https://www.nylpi.org/resource/report-new-yorkers-pay-the-price-for-peaker-plant-emissions/

return on investments. Price increases for ratepayers are not necessary to improve the "safety and reliability" of utility services.

We need our state regulators to enforce the Climate Leadership and Community Protection Act and deny ConEd permission to put more than $1 billion of our money annually into the gas system, and instead put our money towards renewable options. In ConEd's 2020 rate case, state regulators failed to do their job to protect us and allowed the company to spend a lot of money on new fossil fuel infrastructure and promised the company huge profits by extending the life of its gas systems. We demand the New York State Department of Public Service (DPS) do a better job in this rate case of upholding the CLCPA and protecting us and future generations from paying for stranded assets.

WE ACT for Environmental Justice supports Int 0372-2022, which would create an office of the utility advocate within the department of consumer and worker protection. We believe the creation of this office is essential for the economic health and wellbeing of New Yorkers because over 400,000 ConEd customers are struggling with utility debt and are over 60 days behind on their payments. NYC and Westchester customers in arrears owe an average of $2,147 per household to ConEd as of April 2022.

The office of the utility advocate would assist utility customers with accessing financial assistance to pay their utility bills, educating, and providing testimony for public hearings in rate cases conducted by the public service commission. ConEd sought an historically unprecedented $1.7 billion in increased charges including an 11.2% increase in electric rates and 18.2% in gas delivery rates this year. The actions the utility advocate office could take are vital to the protection of low-income communities of color from investor-owned utility greed.

Regarding Int 0372-2022 Creation of a utility advocate's office

To improve the equitability of this bill, WE ACT claims the following improvements should be made to Int 0372-2022:

1. Robust translation services need to be offered to utility customers seeking assistance from this office. About 25% of the NYC population are native Spanish speakers, and about 35% of New

Yorkers speak a language other than English. Migrants make up the majority of workers in low-wage labor markets[7]. Therefore, they are more at-risk of falling behind on their energy bills so we need to make sure we are addressing their needs to the fullest extent possible.

2. This office offers a lot of potential for assisting people in utility arrears through a variety of avenues, but it will only be effective if there is an adequate number of staff dedicated to this office. We are now post-budget, how will funding be allocated to create an office that is effective, efficient, and has enough capacity to properly advocate on behalf of New Yorkers?
3. This office should work in conjunction with the public advocate's office and attorney general's office so they may participate in lawsuits with utility industries on behalf of everyday New Yorkers.

We deserve and demand real action and commitment from our government on climate change and health. Protecting the health of both people and the planet requires that we stop using fossil fuels and shift to renewable energy as quickly as possible. We need a strong office of the utility advocate to help New Yorkers get out from under the thumb of crushing debt caused by profit-seeking IOUs.

Sincerely,

Briana Carbajal

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[7] https://doi.org/10.1177/0308518X211065049

Good afternoon, and thank you for this opportunity to testify before the Committee on Consumer and Worker Protection. My name is Ian Donaldson, and I am a Communications and Community Relations aide with the Public Utility Law Project of New York, or “PULP”.

Today, I’d like to focus my testimony on New York City Council Bill No. 372-2022, sponsored by Speaker Adams, which would create the Office of Utility Consumer Advocate within the Department of Consumer and Worker Protection, along with the four resolutions that are also being considered by the Committee.

As you will recall, the concept of an energy utility consumer advocate is not entirely new to the City of New York or its residents. Prior to the 1990’s, the Department of Information Technology & Telecommunications (“DoITT”) oversaw energy issues like it does telecom issues now.

Generally, PULP is supportive of Council Bill No. 372 and believes that such an office could ultimately foster better outcomes for struggling residential and small business utility consumers. Utility bills often invoke confusion, stress or frustration, especially when someone has fallen behind financially. For residential consumers, there are also many entities involved in the process, including the State Department of Public Service for disputes, the Human Resources Administration for financial assistance help, and the utility itself. The aid of another advocate to help City residents navigate these channels and get the help they need would be a very welcomed addition. PULP would be pleased to work on direct service cases and in rate cases with the Advocate. We also note that the Office will be in a unique position to draw on its expertise in direct services to spot trends and ultimately advocate for policy changes in rate cases to improve the ratepayer experience.

PULP also believes that the reporting requirements under Subdivision (c) could be strengthened. For example, the proposed utility advocate's focus is very broad, encompassing the Department of Environmental Protection's oversight of water bills, along with the internet, cable, and telephone service providers that operate within the City. It would therefore make sense that those entities are also subject to the Advocate's annual rating and report.

The COVID pandemic has taught us how valuable good data is, and while we know how Con Edison's and National Grid's customers are doing financially, we are completely in the dark as to how many water, internet, cable, and phone customers are behind on their bills. To make evidence-based policy, lawmakers must know those things, thus we urge consideration of such during negotiations for new and renewed franchise agreements.

Finally, we are generally supportive of Resolution Nos. 162, 173, and 174. With regard to Resolution No. 172, we suggest that rather than add two additional seats to the Public Service Commission dedicated to NYC's interests, that the Council consider requesting that one seat be required to be filled by an infrastructure expert, since infrastructure issues are a huge concern for NYC with its complicated environment. If that expert joins the newly created “consumer advocate” seat on the PSC, that should meet the needs expressed in the Council’s resolution.

- Good afternoon
- My name is Laurie Wheelock and I'm the Deputy Executive Director of the Public Utility Law Project ("PULP")
- PULP, like Legal Aid, offers Direct Services to low-income individuals with utility problems, including how to resolve termination notices, what financial assistance programs they may be eligible for, how to read their bills, and more.
- Our Direct Services Team has been actively involved with numerous cases stemming from this winter's bill surge
- Beginning on Monday, February 7, 2022, PULP began to see a significant increase in call and email volume to our hotline
- By 10am that morning, we had already received two calls from elected officials in Brooklyn, requesting information and assistance for their constituents
- One office received close to 350 messages on their answering machine between Friday evening and that Monday morning. Another office received close to 250 messages, all relating to spikes in their ConEd bills
- PULP is a small nonprofit with 9 full-time staff, covering the entire state. We began to work with the elected officials' offices to triage cases to assist those individuals who needed assistance
- We also began to work internally to devise a plan to help with the volume of calls/emails we were receiving, knowing full well that what was happening in ConEd's territory would hit all of the other electric/gas providers in NYS, depending on their billing cycle
- First, we came up with a public education plan-

    - We put together a one pager and social media images and did an e-blast to our state and municipal elected official email list
    - We explained how customers have two parts of their bills, supply and demand
    - We touched on the supply chain issues and shortages on the federal level and consequent increase in demand/prices
    - We also flagged that utilities have a responsibility
        - to "hedge" the market and through forecasting and planning
        - As well as communicating with their customers to expect significant increases in costs/prices
- Second, we created a direct services plan of action for individuals to follow with steps for customers to take
    - contact ConEd- explain if/why they can't pay the bill increase
        - Then pay what you can when you can
        - Apply for financial assistance
        - Discuss affordable payment agreements with ConEd
    - file a complaint with the Department of Public Service so that they know how widespread the bill surge was
- Third, we collaborated with elected officials and nonprofit organizations in NYC and the around the state to hold virtual trainings and help make sense of the "bill surge"
- Three months later, while the initial spike in call and email volume about Con Edison's bill surge has gone down, we still receive regular communications for individuals concerned about their bills
- With hot summer weather here, people are particularly nervous that they will not be able to afford their bills

- PULP will continue to work to assist people with long term plans for how to handle unexpected price spikes

Good afternoon, and thank you for this opportunity to discuss the energy affordability challenges confronting New York City's approximately 850,000 low-income households. My name is William Yates. I am the Director of Research for the Public Utility Law Project (PULP). On May 20th I filed testimony in the Con Edison rate case for PULP that assessed the impacts that Con Ed's proposed electric and gas rate increases would have upon low-income households already struggling to pay their utility bills. My testimony is available on the Public Service Commission ("PSC") website under Cases 22-E-0064 and 22-G-0065.

Today I'd like to focus on two aspects of my testimony. The first is what's known as the "Energy Burden", which is the percentage of annual household income spent on utility-provided electricity and natural gas, plus any deliverable fuels such as heating oil. In 2016, the PSC adopted a policy that total energy costs for all the State's low-income households should not exceed 6% of their incomes (in Con Edison's case, 3% for electricity and 3% for gas). However, my analysis of U.S. Census Bureau data determined that the City's low-income households spent an average of 8.9% of their incomes on energy in 2020, almost 50% more than the PSCs policy target. Onto that already excessive burden, Con Edison now proposes to add delivery rate increases approaching 20% for electricity and 26% for gas.

Low-income energy burdens vary considerably throughout New York City, ranging from 6.4% in Elmhurst and Corona, Queens to 14.4% in Tottenville, Great Kills &

Annadale on Staten Island. In parts of the City where Con Edison provides *both* electric and gas service, energy burdens range from 7.2% in East Harlem to 12.5% in Wakefield, Williamsbridge, Woodlawn, Co-op City, Pelham Bay & Schuylerville in the Bronx. Importantly, because Con Edison provides very little gas *heating* service in the City, most of the quantifiable low-income energy burden derives from the high cost of electric service. At an average 6.5%, this *electric* energy burden is more than twice the PSC's target of 3% for Con Edison's low-income households. Moreover, it exceeds 8% (almost three times the Commission's 3% policy target) in Bronx Community Districts 1, 2, 9, 10 and 12; and in Manhattan Community Districts 2 and 7. Finally, it must be understood that an additional, undeterminable energy burden is borne by customers whose heating costs are included in rent, many of whom must use supplementary electric equipment to provide *adequate* heat. It is on top of these burdens that Con Edison proposes electric delivery bill increases approaching 20% of current rates.

The second aspect of my PSC testimony I'd like to discuss is the additional impact that electric *supply* price shocks such as that which occurred in New York City in January and February can have upon low-income energy burdens. Here it is important to note that Con Edison is not permitted to make a profit on the electricity it supplies to customers. It merely "passes through" the cost of electricity it procures for customers—approximately 75% of which is through the New York Independent

System Operator ("NYISO") spot market. *Because* this market is highly volatile, Con Edison seeks to shield customers from rate shocks like those that occurred early this year by hedging some, but not all, of its NYISO purchases. And yet, as we know, the Company's hedging practices are not always sufficient to avert such shocks.

Con Edison has forecast that electric supply costs will actually *decrease* from 2023 through 2025, thereby moderating the impact of its proposed delivery rate increases. But bill surges like that which occurred in January and February raise questions about the reliability of such forecasts, especially in light of the impacts that recent geopolitical events are having upon world energy markets. Natural gas is used to generate a significant share of Con Ed's electric supply. In the U.S., constraints on natural gas production and prospects for greater gas exports were already exerting upward pressure on prices *before* Russia's invasion of Ukraine. Since the invasion, the upward momentum of natural gas prices has been unrelenting. Natural gas prices, as notoriously volatile as they may be, may therefore be biased toward higher overall prices for the foreseeable future, casting doubt on Con Edison's forecast and adding further to the energy burdens of its low-income customers.

Thank you again for this opportunity to address the energy affordability problems confronting low-income households in New York City.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service.	**CASE 22-E-0064**
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.	**CASE 22-G-0065**

DIRECT TESTIMONY OF WILLIAM D. YATES, CPA

FOR THE

PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.

Dated: May 20, 2022

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DIRECT TESTIMONY OF WILLIAM D. YATES, CPA, CASES 22-E-0064, 22-G-0065 - CORRECTED

Introduction and Overview

Introduction

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

A. My name is William D. Yates, my office address is at the Public Utility Law Project of New York, Inc., 194 Washington Avenue - Suite 320, Albany, NY 12210. I am presenting testimony in these proceedings for the Public Utility Law Project of New York, Inc. ("PULP").

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

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

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

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

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

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

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

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

Cases 16-E-0058 and 16-G-0059 (National Grid-NY; and National Grid-LI);

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

Case 16-G-0257 (National Fuel Gas);

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

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

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

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

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

Cases 19-G-0309 and 19-G-0310 (National Grid-NY; and National Grid-LI);

Cases 19-E-0378, 19-G-0379, 19-E-0380 and 19-G-0381 (NYSEG & RG&E);

Cases 20-E-0380, 19-G-0381 (Niagara Mohawk, a/k/a National Grid-Upstate);

Cases 20-E-0428, 19-G-0429 (Central Hudson), and;

Cases 21-G-0073 and 21-E-0074 (Orange and Rockland).

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

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

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

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

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

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

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

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

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

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

In Cases 19-G-00309 and 19-G-0310, I testified concerning affordability issues, rate design, HEFPA related matters, collection practices, and customer complaints in the KEDNY and KEDLI service areas.

In Cases 19-E-0378, 19-G-0379, 19-E-0380, and 19-G-0381, I testified concerning affordability issues, rate design, HEFPA related matters, collections practices, closure of customer service offices, and customer complaints in the NYSEG and RG&E service areas.

In Cases 20-E-0380 and 20-G-0381, I testified concerning affordability issues, rate design, HEFPA related matters, collections practices, advanced metering infrastructure, low- and moderate-income energy efficiency, and customer complaints in the Niagara Mohawk service area.

In Cases 20-E-0428 and 20-G-0429, I testified concerning affordability issues, rate design, HEFPA related matters, collections practices, low- and moderate-income energy efficiency, and customer complaints in the Central Hudson service area.

In Cases 21-G-0073 and 21-E-0074, I testified concerning affordability issues, rate design, low- and moderate-income energy efficiency, and language access in the Orange and Rockland service area.

<u>Overview</u>

Purpose of Testimony

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to identify the utility affordability challenges of residential low-income customers in the Con Edison service area, challenges which would be exacerbated by the approval of the Company's proposed rate increases in these proceedings. My testimony:

- Focuses on measures that would improve the affordability of utility service for low- and moderate-income households in the Con Edison service area while also contributing substantially to the State's goals of achieving 100% zero-emission electricity by 2040, and net-zero greenhouse gas ("GHG") emissions by 2050; and

- Makes additional recommendations intended to improve the customer service experience of vulnerable residential customers.

Taken together, my testimony applies a "More Green for Less Green" approach to addressing the twin objectives of increasing affordability for low-income households and achieving the State's long term climate goals in a manner reasonably calculated neither to "strand" low-income, seniors, or other financially vulnerable households on the natural gas network as millions of other customers depart, nor to erect a cost barrier to transitioning to renewable energy that millions of New Yorkers cannot surmount.

Findings

Q. What are the major findings of your testimony in these proceedings?

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

1. Economic disruption caused by the COVID-19 pandemic has had a prolonged, negative, and disproportionate impact on utility affordability for the residential customers of Con Edison, whose customer bills past-due more than 60 days ("arrears") have soared to unprecedented heights. However, discounts provided to participants in Con Edison's Energy Affordability Program ("EAP") have had a moderating effect on the rate of increase of EAP participant arrears in relation to the much higher rate of increase for non-participants.
2. Recent and pending initiatives to provide arrears assistance with Federally and State funded resources and to implement utility arrears management and forgiveness programs should alleviate at least some of the arrears burden faced by residential Con Edison customers, but the effectiveness of these initiatives will depend on the timing and extent of actual aid disbursements.
3. After the Parker-Richardson moratorium on utility collections expired in December 2021, and the winter two-week moratorium passed, Con Edison's residential customers with past-due bills again became subject to collections activities, including the application of late fees and service termination.
4. Based on "Public Use Micro Sample" data made available by the U.S. Census Bureau through its annual American Community Survey (hereinafter, "ACS

Microdata"), only about 49% of households eligible to participate in Con Edison's Energy Affordability Program ("EAP") were actually enrolled as of December 31, 2021. Initial progress made by the Company early in the Pandemic to increase enrollment appears to have been reversed by the New York City Human Resources Administration's decision to stop identifying Con Edison residential customers who qualify for EAP enrollment solely due to their receipt of Medicaid benefits. Additionally, the Westchester County Department of Social Services has failed since September 28, 2020 to provide regular file matching records that would have identified eligible Con Edison customers for EAP enrollment. By December 2021, EAP enrollment had *decreased* slightly from December 2019.

5. Surging supply prices for electricity in early 2022 call into question the Company's projections that average electric and gas supply prices will *decline* over the course of any rate plan in these proceedings; instead suggesting that supply price volatility—which was the subject of hundreds of residential customer complaints to the New York State Depart of Public Service ("DPS") in early 2022—could further aggravate the utility affordability crisis faced by the Company's residential customers.
6. Based on ACS Microdata, the percentage of household income that low-income households in the Con Edison service area spent on electric and gas utility bill ("energy burden") was 9.0% in 2020, fifty percent (50%) higher than the State's policy goal that all low-income households in New York State should incur energy expenses of not more than six percent (6%) of their annual income.
7. The transition to clean energy-sourced heating is likely to result in ever-increasing numbers of low-income households relying upon electricity to operate heating equipment. Absent solutions that make electricity more affordable for low-income households, their energy burdens will likely only grow larger, and they will be increasingly at risk of service termination.
8. The Company's proposed rate increases, which include substantial increases in both fixed monthly charges and volumetric delivery rates, risk worsening energy burdens for low-income households, including EAP participants. Delivery bills for average usage "Tier 1" EAP electric, gas non-heating and gas heating customers

would increase 29.3%, 29.1%, and 31.9%, respectively under Con Edison's proposals. Percentage increases for Tiers 2 – 4 customers would be substantially higher.

9. Con Edison's proposal to build, own and operate solar generation facilities and direct the profits to providing additional credits to EAP participants has the potential to meaningfully reduce the energy burden of these customers. However, in order to achieve the Commission's policy goal that all low-income households (not just the 49% enrolled in the EAP) spend no more than six percent (6%) of their household income on energy annually, almost ten times more solar capacity than the 1 gigawatt amount the Company has proposed would need to be developed. Endeavoring to close the affordability gap for low-income households through such an initiative would make a concomitant contribution to achieving the State's efforts to replace fossil fuel-based electricity generation with clean, renewable resources.
10. Con Edison's proposal to amortize electric and gas depreciation reserve deficiencies over twenty years is unnecessarily harmful to ratepayers.
11. Both EAP gas non-heating customers who use their gas service only for cooking, and ratepayers generally, would achieve net financial benefits by such customers replacing their gas ranges with electric ones and terminating their Con Edison gas non-heating service. In the process, a significant amount of greenhouse gas emissions and inherent safety risks associated with natural gas service would be reduced, which is consistent with the requirements of both the CLCPA and a 2021 amendment to the New York State constitution stating that "Each person shall have a right to clean air and water, and a healthful environment."[1]
12. The bill impacts of costs being considered in other proceedings (e.g., those considering transmission system upgrades, accelerated energy efficiency measures, and electric vehicle ("EV") charging make-ready programs), together with costs yet to emerge from implementation of most of the goals and strategies of the Climate Leadership and Community Protection Act ("CLCPA"), are likely to further burden

[1] See: New York State Constitution, Article 1 Section 19. Available at: https://dos.ny.gov/system/files/documents/2022/01/Constitution-January-1-2022.pdf

Con Edison's low-income customers during any rate period resulting from these proceedings.

13. Because they disincentivize conservation, Con Edison's proposal to increase fixed monthly charges and retain a declining block rate design for gas heating are inconsistent with the CLCPA's requirement that New York State achieve an 85% reduction in gross GHG emissions by 2050 and are inconsistent with the principles of the REV proceeding.
14. Con Edison proposes to recover $28.8 million more in revenue from residential gas non-heating customers and $29.9 million less from its residential gas heating customers than is supported by its cost-of-service study in the proposed Rate Year, causing an unnecessary additional burden on residential gas non-heating customers.
15. The Company's gas tariff provision allowing master-metered, multiple dwelling residential building customers to be included in the same service class as 1–4 family customers, pairs customers of radically differing usage profiles and makes it virtually impossible to design rates that incentivize conservation and energy efficiency by one of these two types of customers without doing harm to the other. This provision also allows households who are affluent enough to use large amounts of natural gas to heat large homes (a.k.a. "McMansions" or residents of "Billionaires Row") to "free-ride" the class's favorably priced declining block rate structure such that they are arguably disincentivized from reducing their carbon emissions.
16. Since the start of the Pandemic, PULP has experienced a significant increase in calls from persons living in households that are Con Edison customers who indicate they are the victims of domestic violence, and PULP has identified some amendments to the Company's policy and procedures for such cases.

Q. Are you sponsoring any exhibits?

A. Yes. I am sponsoring five (5) exhibits, as follows:

- Exhibit__(WDY-01): A set of analyses I prepared to support my findings and recommendations in this testimony.

- Exhibit__(WDY-02): The Microsoft SQL Server code I used to calculate 2019 and 2020 energy burden data based on ACS Microdata for 2015 – 2019 and 2016 – 2020. An index of code references for each microdata variable I used in my testimony, together with their margins of error, is included at ___(Exhibit ___(WDY-01), 45 - 49)
- Exhibit__(WDY-03): The Company's responses to certain information requests ("I/Rs") made by PULP in these proceedings.
- Exhibit__(WDY-04): The Company's responses to certain I/Rs made by other parties in these proceedings.
- Exhibit__(WDY-05): A February 11, 2022, letter from the New York State Department of Public Service ("DPS") to Con Edison regarding the impact of high electricity supply prices in early 2022 on the Company's residential customers, together with a report obtained by PULP through a Freedom of Information Law ("FOIL") request to DPS listing complaints by residential complaints of Con Edison from October 2018 through March 2022.

Recommendations

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

A. I recommend several actions in my testimony calculated to reduce the affordability problems of, and improve customer service for, many of Con Edison's residential customers. In the context of these proceedings, I recommend that the parties and Commission:

1. Set the Company's common equity ratio at 48.00% and base its return on equity ("ROE") upon the Commission's generic financing methodology. Compared to the Company's proposals, an equity ratio set at 48.00% would alone save ratepayers $64.2 million in the rate year, while an ROE based upon Commission's generic financing methodology has the potential to save ratepayers hundreds of millions of dollars;
2. Adopt the Company's proposal to provide clean energy credits for low-income customers ("CECLI") and condition them substantially on sustained increases in

energy assistance program ("EAP") enrollment. Such a program—if fully scaled to meet the needs of EAP enrollment representing 100% of eligible households—has the potential to greatly supplement the resources currently being provided to low-income households through discounts and energy efficiency measures and to accelerate progress toward replacing fossil fuel-based electricity generation with clean, renewable energy sources;

3. Implement a low-income electrification appliance program to replace gas powered stove/oven ranges with electric ones, including the cost of electric upgrades where necessary, thereby allowing gas non heating customers who use their gas service solely for cooking to save money by terminating their gas service. In the process, such customers would no longer require gas EAP discounts and would contribute to reductions in greenhouse gas emissions throughout the Company's service area;
4. Reject Con Edison's proposal to amortize depreciation reserve deficiencies over twenty (20) years and instead amortize these deficiencies over the remaining lives of electric and gas plants. At the same time, adopt the Company's proposal to reduce the useful lives of longer-lived gas plants in recognition of the requirements emerging from the CLCPA, thereby limiting the impact upon ratepayers to only that which is necessary to accomplish the goal of reducing reserve deficiencies to Commission tolerance bands;
5. Freeze the residential fixed monthly charge for electric service and apply any rate increases to volumetric rates, thereby providing a greater incentive for low-to-moderate usage customers to conserve electricity and for more customers to moderate their usage;
6. Eliminate the implied subsidy of gas heating customers by gas non-heating customers and reduce gas non-heating customers' fixed monthly charges, thereby reducing the energy burden on gas non-heating customers;
7. Remove multiple dwelling buildings from the residential gas heating class ("SC3"), thereby making the remaining class, to be comprised by 1-4 family households, more homogenous so that rate designs that incentivize conservation can be developed to increase affordability for those customers reducing their gas usage;

8. Consider alternative rate designs for remaining (1-4 family) customers in SC3 with the objective of freezing fixed monthly charges and applying any additional revenue requirement to volumetric rates that eliminate—to the greatest extent possible and "just and reasonable"—the class's current declining block rate design;
9. Create a customer energy solutions ("CES") program that funds the individual metering of high usage, 2-4 family gas heating customers who are EAP participants, thus incentivizing individual households to be responsible for conserving their own gas usage, while increasing further the homogeneity of the remaining membership of SC3;
10. Increase outreach and education activities in line with the Company's proposals in these proceedings, with a particular focus on efforts to increase EAP enrollment, language access based on the languages covered under New York City Local Law 30 of 2017, Local Law 73 and Executive Order 120 and protections against service terminations during cold weather periods for residential electric customers taking Heat Related service;
11. Improve safeguards against service termination in cold weather periods for residential customers using electricity to operate supplemental heating equipment by facilitating the coding of such customers' accounts as "Heat Related," as required by 16 NYCRR § 11.5(c)(1).
12. Make six years of billing history available through "MyAccount," thereby eliminating the imbalance of information that currently favors the Company in situations involving disputes or other billing matters. This would likely reduce such disputes and complaints by residential customers to DPS;
13. Include a data field for customer service representatives ("CSRs") identifying customers who indicate they have been victims of domestic violence, thereby protecting the confidentiality of such customers while they are proceeding with actions to remove themselves from their obligations under their Con Edison service;
14. Suspend the residential terminations, uncollectible bills, and arrears incentive mechanism, thereby preventing the awarding of ratepayer incentive funds based on non-representative Pandemic era data; and

15. Modify the commission complaint metric for all utilities so that it is based upon the outcome of DPS/commission determinations, thereby implementing a utility-wide solution to the shortcomings of the current metric.
16. Continue suspension of residential service terminations during extreme heat, thereby protecting public health, safety and welfare; and given the City of New York's forecast that the number of heat waves could increase from two to seven per year by 2050, and that the average annual number of days over 90°F could more than triple from 18 to 57 by 2050.

Discussion

Energy Affordability Challenges Confronting Low-Income Households

COVID-19 Pandemic

Q. How has the economic fallout from the COVID-19 crisis impacted the ability of Con Edison's residential customers to pay their utility bills?

A. The COVID-19 crisis had an immediate and severe economic impact on the Company's residential utility customers when Governor Cuomo issued his "New York on Pause" Order on March 20, 2020.[2] This order, which mirrored the actions of most other states attempting to slow the spread of the novel coronavirus disease ("COVID-19" or "Pandemic"), resulted in the suspension of most non-essential economic activity and caused widespread furloughs and layoffs throughout the State. New York's unemployment rates soared from 3.8% in February 2020[3] to 14.5% by April 2020.[4] The economic disruption caused by the Pandemic was acutely felt in the Company's service area, with May 2020 unemployment rates soaring as high as 21% in New York City. (Exhibit ___(WDY-01), 53) In June 2020,

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[2] See: *Governor Cuomo Signs the 'New York State on PAUSE' Executive Order*, March 20, 2020. Available at: https://www.governor.ny.gov/news/governor-cuomo-signs-new-york-state-pause-executive-order.
[3] See: *State Labor Department Releases Preliminary February 2020 Area Unemployment Rates*, March 31, 2020. Available at: https://www.labor.ny.gov/pressreleases/2020/march-31-2020.shtm.
[4] See: *State Labor Department Releases Preliminary April 2020 Area Unemployment Rates*, May 27, 2020. Available at https://www.labor.ny.gov/pressreleases/2020/may-27-2020.shtm.

Governor Cuomo signed the State Legislature's Parker-Mosley Bill, protecting ratepayers through a comprehensive moratorium on utility service terminations.[5]

The economic repercussions of the Pandemic have had an unprecedented impact on the ability of the Company's residential customers to pay their utility bills, as reflected by the progression of their amounts past due more than sixty days ("arrears") since February 2020. (Chart 1)

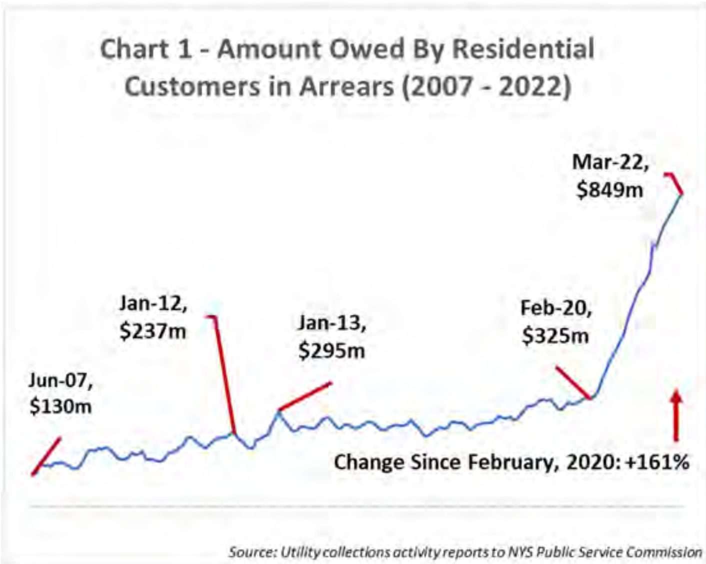


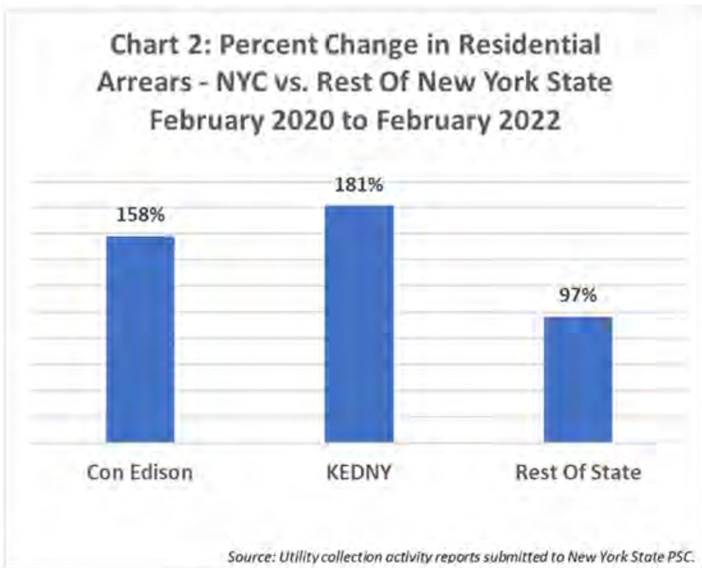
Exhibit (___WDY-01), 56 - 60

Residential arrears surged 161% from February 2020 through March 2022, from $325 million to $849 million. To put this in perspective, arrears as of March are now three-and one-half times their January 2012 Great Recession peak, and almost three times their January 2013 Superstorm Sandy high. Nothing like this has ever happened to Con Edison's residential ratepayers before.

Q. Has the pandemic had a similar impact on residential utility customers in the rest of New York State?

[5] See: *Chapters 108 and 126 of the Laws of 2020*; see also: *New York State Senate Bill S8113A/A10521*. Available at https://legislation.nysenate.gov/pdf/bills/2019/S8113A. The Parker-Mosley Moratorium Act followed the voluntary moratorium begun in March 2020.

A. Yes, however, the impact has been felt most acutely by households in the New York City area which, as of April 21, 2022, had experienced 59% of the State's COVID-19 related deaths, [6] and concomitant reduction of household income. The disparate impact on the City's utility customers is made evident by comparing the February 2020 through February 2022 percentage increase in residential arrears of both Con Edison and Brooklyn Union Gas Company d/b/a National Grid NY ("KEDNY") with that of the rest of New York's electric utilities. (Chart 2)



(Exhibit ___(WDY-01), 61 - 66

Con Edison's residential arrears rose 158% during the first two years of the pandemic, 60% faster than the rest of New York State outside of New York City, which rose 97%. KEDNY's rate of increase was even greater: 181%, or 87% faster than the rest of the State. A major factor contributing to this disparity is likely that, since May 2020, the unemployment rate in New York City has persistently exceeded that of the rest of New York State. (Chart 3)

[6] See: *Coronavirus Disease – New York*. Available at: https://www.google.com/search?client=firefox-b-1-d&q=new+york+state+covid+cases+chart#colocmid=/m/059rby&coasync=0

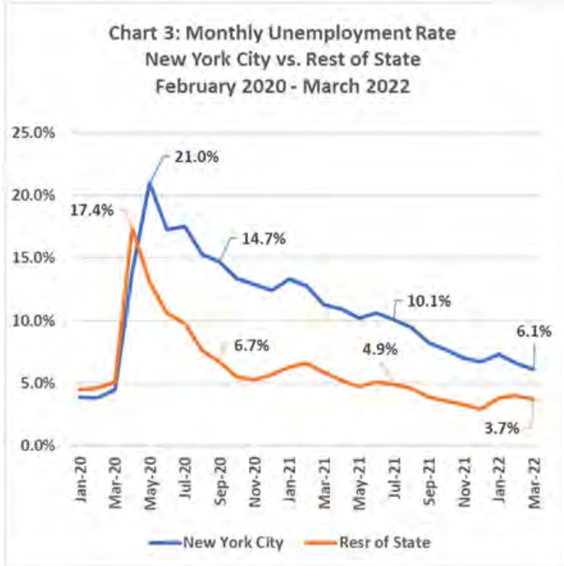


Exhibit ___(WDY-01), 53 – 55

As Chart 3 shows, the unemployment rate in New York City, which was below that of the rest of the State at the beginning of 2020, peaked at 21.0% in May 2020, just as other parts of New York were beginning to see their rates fall. Since May 2020, the City's unemployment rate has remained persistently above the rest of the State. The differential, which was at its widest (8.0 percentage points) in September 2020, was still 2.4 percentage points in March 2022. Moreover, more than one in ten of New York City's workforce was without a job from April 2020 through July 2021—a period of fifteen months. The extended loss of income by a higher percentage of New York City residents than those elsewhere in the State, magnified by all the other consequent pandemic-related disruptions to household finances (e.g., medical bills and other healthcare costs), are likely to have been significant contributors to the much higher rates of increase in residential arrears among New York City than those elsewhere in the State.

Q. **Has any federal, state, or other funding for additional bill payment assistance to residential utility customers been designated during the pandemic?**

A. Yes. Using $3.2 billion of federal funds made available through the federal American Rescue Plan Act of 2021,[7] the New York State Office of Temporary and Disability Assistance ("OTDA") created an "Emergency Rental Assistance Program" ("ERAP") that was supposed to include assistance for utility arrears but which, to date, has only provided $14 million of such assistance statewide. OTDA also announced a $150 million "Regular Arrears Supplement" ("RAS") to its Home Energy Assistance Program ("HEAP") on September 22, 2021.[8] RAS was designed as a one-time benefit based on the actual amount of current utility arrears, up to a maximum of $10,000 per applicant household, paid directly to the household's gas and/or electric utility vendor(s). The application period for the RAS supplement opened in September 2021 and closed March 15, 2022. It is unclear how many Con Edison customers applied for RAS or how many will ultimately be awarded a supplementary grant.

Additionally, New York State's fiscal year 2023 budget added $250 million in State funding to eliminate Pandemic-related utility arrears for low-income households, and to reduce all other household arrears that accumulated during the pandemic. This funding will be administered by the Department of Public Service in cooperation with guidelines established via a public workgroup consisting of OTDA, consumer organizations, and utilities ("EAP Working Group"). The program is in addition to an estimated $100 million to be paid using American Rescue Plan Act funds though ERAP[9] to reduce utility arrears. Moreover, Governor Hochul launched a new initiative between OTDA and DPS to automatically enroll more low-income households in utility discount programs that will save participating households hundreds of dollars per year on utility costs.[10]

Finally, the Commission's August 12, 2021 *Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings* in Case 14-M-0565 created the EAP Working

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[7] See: *H.R. 1319 – American Rescue Plan Act of 2021*. Available at: https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf.
[8] See: *Home Energy Assistance Program (HEAP)*, New York State Office of Temporary and Disability Assistance. Available at: https://otda.ny.gov/programs/heap/. And see, https://www.governor.ny.gov/news/governor-hochul-announces-150-million-heating-utility-assistance-consumers.
[9] See: *Emergency Rental Assistance Program (ERAP)*, New York State Office of Temporary and Disability Assistance. Available at: https://otda.ny.gov/programs/emergency-rental-assistance/.
[10] See: *Governor Hochul Announces $2 Billion in Reserve Pandemic Recovery Funding in the FY 2023 Budget*, April 9, 2022. Available at: https://www.governor.ny.gov/news/governor-hochul-announces-2-billion-reserve-pandemic-recovery-funding-fy-2023-budget.

Group, which is also considering the feasibility of implementing arrears management and forgiveness programs at each utility.[11]

Q. Do you think these initiatives have, collectively, the potential to provide significant relief to Con Edison residential customers burdened by arrears that they cannot pay?

A. Yes. They will have some, hopefully significant, impact. Statewide, the federal monies administered through OTDA amount to $250 million which, when combined with the State budget appropriation of $250 million, total $500 million. One way of estimating the share of these resources that residential Con Edison customers might receive is by determining the share of statewide arrears represented by Con Edison customers, which, as of February 2022, was 32.1% in terms of accounts in arrears and 47.3% in terms of amounts past-due. (Exhibit ___(WDY-01), 125). A range of estimates from 32.1% to 47.3% of $500 million of statewide resources would suggest that $160.5 million to $236.5 million could be applied to Con Edison's customer arrears of $849 million (March 2022), or approximately 19% to 28% of those residential arrears.

However, the effectiveness of these assistance initiatives will depend on the timing and extent of actual disbursals. The $250 million State budget appropriation attaches limits on the time period of arrears accumulation that qualify for assistance, requires that recipients receiving such assistance must not have already received RAS assistance, and sets an August 1, 2022 date by which all $250 million of budget appropriated funds must be disbursed—after which there is a potential risk that any remaining appropriated funds will be unavailable, although it will not apply to any funds provided through OTDA or by other means. The EAP Working Group is currently developing an implementation plan for the disbursal of the entire $250 million of budget assistance, and is continuing to work with OTDA to facilitate the disbursal of the remainder of the $150 million of RAS assistance and $100 million of fiscal year 2022-23 and remaining fiscal year 2021-2022 ERAP assistance.

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[11] See *Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings*, Case 14-M-0565, 51. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={1CFD4CE2-AB87-4A8C-B56B-F123366B1520}.

Q. Will residential customers in arrears be subject to collections measures while all this is being sorted out?

A. Yes. After the December 2021 expiration of the Parker-Richardson moratorium on utility collections, residential Con Edison electric customers with past-due bills once again became subject to collections activities as of January 3, 2022, including the application of late fees and service termination. Heating customers became subject to termination as of April 15, 2022. However, as of March 2022, I note that Con Edison has reported zero residential service terminations since the expiration of Parker-Richardson in December 2021.

While the Company was not allowed to charge its residential customers late fees since July 2020,[12] Con Edison did file a petition in cases 19-E-0065 and 19-G-0066 that resulted in a Commission order dated November 18, 2021 granting the Company the ability to establish an alternative recovery mechanism to recover its "unbilled fees" deferrals that resulted from the PAUSE Order and laws enacted during the COVID-19 pandemic.[13] Specifically, the Commission granted the establishment of a surcharge to recover Unbilled Fees for Rate Year 1 and surcharge/surcredit for Rate Years 2 and 3, subject to the offsetting cost reductions resulting from the Pandemic. PULP plans to monitor the surcharge to track any unexpected cost increases to customers.

Con Edison also implemented a new online capability in the fall of 2021 that allowed residential customers to enter into deferred payment agreements ("DPAs"), including selection of terms and submission of documentation. Customers taking advantage of this capability to resolve their arrears are no longer subject to collections activities, assuming they are able to meet the terms of their agreements. Moreover, the EAP Working Group,[14] which both the Company and PULP are members of, is actively discussing programs that

[12] See, Chapters 108 and 126 of NY's Laws of 2020 Parker-Mosley Moratorium Act of 2020 and Chapter 106 of NY's Laws of 2021 through the Parker-Richardson Moratorium Act of 2021.
[13] See, Order Authorizing Alternative Recovery Mechanism for Unbilled Fees, at https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={704E8551-D927-4D09-9A79-F3B9C7D0F229}.
[14] The EAP Working Group was formed pursuant to 14-M-0565 and 20-M-0266.

will help address arrears accrued during the pandemic, while also protecting accounts from service termination.

Q. Has the online DPA capability resulted in an increase in residential DPAs?

A. Yes, however, it must be noted that the increase in DPAs is from a very low base, which was caused by the need for customers to obtain emergency HEAP benefits during the pandemic. In order for customers to qualify for emergency HEAP, they are required to present final termination notices to HRA, which they would not be issued if they had resolved their arrears through DPAs. Chart 4 shows both the effect of this phenomenon beginning after February 2020 through the fall of 2021, and the increase in DPAs after the Con Edison online capability became active:

Exhibit ___(WDY-01), 126 -127

A precipitous drop in newly issued and outstanding DPAs began after February 2020, which only reversed beginning in September 2021. This reversal has continued through March 2022, however, neither new DPA issuance nor outstanding DPAs have returned to their seasonal lows prior to the pandemic. About 108,000 residential customers had DPAs at the end of March 2022. It is reasonable to assume that many more still need to enter into agreements to avoid the risk of service termination.

Low-Income Energy Burdens

Q. How do you define a "low-income" household?[15]

A. For purposes of my testimony, I define a low-income household as one that is eligible for HEAP, based on their income, household size[16], and their payment of either a utility electric and/or gas bill—<u>whether or not they are actually enrolled in Con Edison's Energy Affordability Program</u>.

Q. Are all of these households enrolled in Con Edison Energy Affordability Program ("EAP")?

A. No. As I will discuss in my testimony, only about 49% of low-income households in the Company's service area were enrolled in the EAP in 2020.

Q. Were you able to determine the percentage that low-income households in the Con Edison service area spend on energy (a.k.a. "Energy Burden")?

A. Yes. I was able to calculate the energy burden of households in the Con Edison service area using ACS Microdata. These data are a sub-sample of the American Community Survey ("ACS"), which asks a representative sample of Americans questions related to income, housing, and other topics. ACS questions are designed to provide measures of socioeconomic conditions using a weighting method that ensures its estimates are consistent with official Census Bureau population estimates by age, sex, race, and Hispanic origin, as well as estimates of total housing units.

The most recent five-year ACS Microdata is for the years 2016 – 2020, to which I will refer for the bulk of my testimony. I have also included in my exhibits equivalent data from the 2015 – 2019 edition of the ACS Microdata to provide a comparison of pre-Pandemic data with data for which one of the five years included the Pandemic year of 2020. My analysis of each edition showed only a mild increase in margins of error between 2019 and

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[15] New York uses numerous definitions of low-income. HEAP uses 150% of the federal poverty limit or approximately 60% of the AMI for low-income. See 49 U.S.C. section 5302 for the federal Health & Human Services definition.

[16] Section 19 to Article I of the New York State Constitution reads that: "Each person shall have a right to clean air and water, and to a healthful environment."

2020. The complete set of energy burden variables I analyzed can be found at Exhibit ___(WDY-01), 45 – 49.

Q. What was the energy burden for low-income residential customers in 2020?

A. In 2020, the combined electric, gas and deliverable fuel energy burden for the estimated 912,806 low-income households in the Con Edison electric service area[17] was 9.0%, fifty percent (50%) higher than the Commission's stated policy that an energy burden at or below 6% of household income shall be the target level for all low-income households in New York.[18] Five hundred seventeen thousand four hundred and seventy (517,470) of these households (57%) spent more than 6% of their annual income on energy, while 327,032 (36%) reported energy burdens exceeding 10% of their household income. (Exhibit ___(WDY-01), 48).

I further determined that:

- The electric and natural gas energy burden of the estimated 312,589 low-income households who paid for both electric and gas service in the Con Edison gas service area in 2020 was also 9.0%, 50% higher than the Commission's target of 6.0%. 60% of these households spent more than 6% of their annual income on their electric and gas utilities, while 38% incurred electric and gas energy burdens greater than 10% of their incomes. (Exhibit ___(WDY-01), 49);
- The electric energy burden of the estimated 632,774 low-income households who paid only for electric service in the Con Edison service area in 2020 was 6.2%, more than twice the Commission's target of 3.0% for Con Edison electric-only customers. 78% of these households spent more than 3% of their annual income for their electric service, while 52% incurred an electric energy burden greater than 5% of their incomes. (Exhibit ___(WDY-01), 48); and
- The gas energy burden for the 125,095 low-income households in the Con Edison gas service who identified their gas bill amount separately from their electric bill

[17] Includes: utility electric and gas service provided by Con Edison, gas service provided by KEDNY, and the cost of deliverable fuels such as heating oil, propane, and kerosene.
[18] See: *Order Adopting Low Income Program Modifications and Directing Utility Filings*, Case 14-M-0565 at 3. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BC2F31C9-B563-4DD6-B1EA-81A830B77276}.

amount in 2020 was 3.9%, 30% higher than the Commission's target of 3.0%. 42% of these households spent more than 3% of their annual income on their gas service, while 29% incurred a gas energy burden greater than 5% of their incomes. (Exhibit ___(WDY-01), 49).

Increased Use of Electricity For Heating Purposes

Q. Can you explain why the electric energy burdens of low-income households in the Company's service area are so much higher than their gas energy burdens?

A. Multiple factors contribute to the difference between low-income electric and gas energy burdens. In Con Edison's service area, the most obvious factor is that most low-income households who pay for their gas use it for non-heating purposes (e.g., cooking). To put this in perspective, the average non-heating gas bill for participants in Con Edison's energy affordability program ("EAP") is about $43, while the average non-heating electric bill for EAP participants is approximately $114 —reflecting (as is common knowledge) the many more household uses for electricity than natural gas.[19]

An important additional factor—one of increasing significance as the State seeks to reduce the use of fossil fuel-based heating sources—is the role that electricity usage plays in providing the energy necessary to operate "clean" heating alternatives. Heat Related service means utility service provided under a rate classification or code applicable to residential space heating or service necessary to start or operate a dwelling's supplementary heating system when the building's primary heating system is inadequate and is controlled by a third party such as a landlord. While it is certainly true that Con Edison has very few EAP accounts for which it provides Heat Related electric service under a rate classification applicable to residential heating, it is also apparent—based on ACS Microdata and findings from surveys conducted for the Company's Innovative Pricing Pilot ("IPP")—that a significant percentage of EAP participants use electricity for heating equipment, such as:

- Electric Baseboard Heaters;

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[19] See: *Staff EAP Workbook August 12, 2021*, Case 14-M-0565, Tab "Con Edison". Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={4A9D3028-F056-4262-A633-16E569BFDDAA}.

- Electric Wall Heaters;
- Air-Source and Ground-Source/Geothermal Heat Pumps;
- Ductless Heat Pumps ("Mini-Splits")"; and
- Packaged Terminal Air Conditioners ("PTACs").

ACS Microdata show that about 11% of low-income households in the Con Edison service area reported that electricity was their primary heating source in 2020. (Exhibit ___(WDY-01), 49). While a 2020 IPP survey of Con Edison EAP participants on Staten Island and in Westchester County data found that 37% of these households use electricity with at least one of the above-cited types of equipment to meet their heating needs (a 2021 IPP Brooklyn survey further found that 30% of EAP households used such equipment for heating purposes).[20]

Heat pumps are, in particular, a growing source of electricity use as households transition from fossil fuel-based heating sources to clean heating technologies. In this regard, the Company's response to I/R City-88 is instructive, wherein it reports that 32,377 air source heat pump units had been installed within New York City as of February 28, 2022, through its Clean Heat program. (Exhibit ___(WDY-04), 5).

Q. Has the installation of heat pumps in Con Edison's service area thus far helped the State achieve its climate goals?

A. I/R City-88 did not request information on whether these installations were replacing fossil fuel based systems. To learn more about Con Edison's heat pump installation program, PULP will issue I/R PULP-132, the response to which should be available for rebuttal testimony.

Q. What are the implications of having a significant percentage of low-income residential electric customers classified as "non-heating" using electrically powered equipment to meet their heating needs?

[20] See: *Innovative Pricing Pilot Quarterly Report, April 2021 – June 2021*, Case 18-E-0397 at Section 8.0, 27; Section 9.0, 37. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={0204AB60-54D1-4BF6-B9F0-E4DA982BDFD7}

A. Among the many implications, two are especially relevant in these proceedings. Firstly, the transition to clean energy-sourced heating will result in ever-increasing numbers of low-income households relying upon electricity in some way to provide heating. Absent solutions that make electricity more affordable for low-income households, their energy burdens will likely only grow larger.

Secondly, low-income customers using electrically-powered equipment to provide heating and who find themselves unable to pay their electric bills will be at risk of service termination. But unless they have provided written notification to the Company within the twelve months prior to their scheduled service termination that they rely upon their electricity to operate heating equipment, their service would not be considered "heat related" under HEFPA, and they would thus not be entitled to HEFPA's special termination procedures during cold weather periods.[21] I discuss my proposal to address this circumstance later in the customer service part of my testimony.

Energy Affordability Program

Q. What has been the impact of the Pandemic upon the ability of low-income customers participating in Con Edison's Energy Affordability Program ("EAP") to pay their utility bills?

A. It seems apparent that ongoing discounts provided to EAP participants have served to moderate their increase in arrears during the pandemic somewhat. These customers' arrears rose at comparatively slower rates than those for households not receiving discounts. (Charts 4 – 6).

[21] 16 NYCRR § 11.5(c)(1).

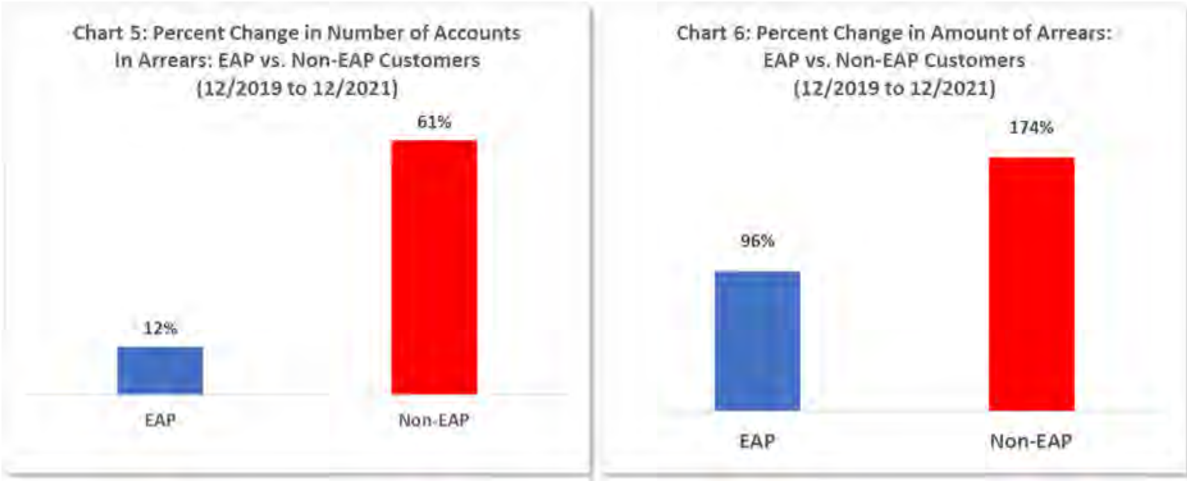

Exhibit ___(WDY-01), 2

The number of accounts in arrears among residential customers not receiving EAP discounts ("Non-EAP" customers) rose 61% from December 2019 through December 2021—five times the rate of EAP customers, while Non-EAP customers' past-due amounts increased 174% (80% faster). This disparity supports my observation that discounts provided to EAP participants had a moderating effect on their arrears during the period. It also suggests that large numbers of low-income households not given access to the discount plan, together with households made "newly" low-income due to COVID-19 related un- or under-employment, need admittance into the EAP to protect them from the impact that the economic collapse had on their ability to pay their utility bills.

Q. Has enrollment in Con Edison's energy affordability program increased in response to the economic effects of the Pandemic?

A. No. I observed that there was no net increase in EAP participation from December 31, 2019 through December 31, 2021. To determine why no progress was made enrolling newly-eligible low-income customers in the program during this period, I prepared I/R PULP-71 to Con Edison which requested any information that might be available to explain this counter-intuitive situation. The Company's response to my information request indicated that Con Edison was informed by the City of New York in June 2020 that the City's Human Resources Administration ("HRA") would no longer be identifying for EAP enrollment Medicaid customers who were not participating in any other EAP-qualifying program. The Company goes on to say that, in response, it has been working with HRA to enroll

Medicaid-only customers who contact Con Edison directly, self-identifying their eligibility. (Exhibit ___(WDY-03), 4).

Q. How many low-income households receiving only Medicaid benefits in 2020 were presumptively eligible for participation in the EAP in 2020?

A. It's not possible from the ACS Microdata to determine exactly how many of such customers there were in 2020, but a good estimate can be made by computing the number of low-income households in the service area who received Medicaid benefits but did not receive SNAP, SSI or cash assistance. According to the ACS Microdata, such households accounted for about 239,100, or 26%, of all of the service area's low-income households in 2020. (Exhibit ___(WDY-01), 49).

Q. Do you think this could be a major factor explaining why net EAP participation has not increased during the Pandemic?

A. Yes. Upon receiving the Company's response to I/R PULP-71, I reviewed the quarterly low income reports again and noted that EAP enrollment rose materially (6.5%) during the first three quarters of 2020, from 432,103 to 459,994 participants. Exhibit ___(WDY-01), 2). I also verified that this was not just a seasonal increase by reviewing the 2018 and 2019 low-income reports. Though seasonality does appear to be a factor contributing to changes in quarterly EAP participation, the effect was mild in the first three quarters of 2018 (1.6%) and 2019 (1.8%). I therefore conclude that there is a reasonable likelihood that HRA's cessation of identification of Medicaid-only customers to Con Edison for enrollment in the Company's EAP halted what would have otherwise been a continued increase in EAP participation after the third quarter of 2020, given the large number of Medicaid recipients in New York City (over 3.5 million persons as of June, 2020).[22] Instead, enrollment dropped 6.5% from September 2020 through December 2021. (Exhibit ___(WDY-01), 2).

If it is true that HRA's cessation of identifying Medicaid-only customers was part of the decline in EAP participation levels, which, to reiterate, is the opposite of what would reasonably be expected given the economic calamity being thrust upon Con Edison's

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[22] See: *Medicaid Enrollment by County, June 2020*. New York State Health Department. Available at : https://www.health.ny.gov/health_care/medicaid/enrollment/docs/by_resident_co/2020/june-2020.pdf.

residential customers during this time, then it must be addressed in the Commission's ongoing proceeding examining programs to address energy affordability for low-income utility customers (Case 14-M-0565), in which Con Edison, HRA and PULP are all parties. Otherwise, EAP enrollment levels are likely to decline further, absent effective offsetting initiatives to boost enrollment which the EAP Working Group in Case 14-M-0565/20-M-0266 is currently considering.[23]

Q. Were you able to identify any other factors that may have contributed to the lack of increased EAP enrollment during the pandemic?

A. Yes. As reflected by the Company's response to I/R PULP-129, Westchester County DSS has not returned quarterly file matching data sent by Con Edison to identify customers who are eligible for EAP enrollment since September 28, 2020. (Exhibit ___(WDY-03), 18) This means that newly eligible households have not been enrolled and that households already enrolled have not had their eligibility renewed for more than 18 months, a period during which Con Edison's residential arrears rose to unprecedented heights.

Q. What do you conclude from the responses to PULP's I/Rs relating to EAP participation amongst Westchester County households during the Pandemic?

A. I conclude that utility affordability for low-income households in Westchester County has been materially damaged by the failure of Westchester County DSS to perform quarterly file matching over an extended period of time when such households have been most vulnerable. I believe that the EAP Working Group in Case 14-M-0565 and the Commission should investigate the reasons for this lapse and that the Governor's office should require that corrective action is taken to make these households whole and to take all steps necessary to ensure that such a lapse does not recur.

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

Electric Supply Price Volatility

Q. Have there been any other recent events that have aggravated the affordability problem for Con Edison's residential customers?

A. Yes. Beginning in January 2022, Con Edison residential full-service customers started receiving bills that were 49 and 58 percent higher for New York and Westchester customers, respectively, from their previous bill for the typical energy usage. (Exhibit ___(WDY-05), 4). These bills reflected a combination of higher market prices for natural gas and electricity driven by abnormally colder weather in January and February, coupled with higher energy use also due to the cold weather. According to the Department of Public Service ("DPS"), this situation occurred throughout New York State. However, due to the monthly manner in which Con Edison applies forecasted hedge values to customer bills—which are designed to smooth out market price fluctuations—mismatches between the value of the hedges and the supply rate billed to customers occurred and caused bill shock for customers. (Exhibit ___(WDY-05), 3-4).

Based upon the Company's response to I/R PULP-105, I downloaded the market supply charges for residential customers in NYISO Zones H (Westchester), I (Westchester) and J (New York City) of Con Edison's service area from December 2021 through March 2022. I then calculated the monthly average median prices per kilowatt hour for each zone; and compared the averages and medians to the monthly supply charge ("MSC") for each month. I observed that January average and median electricity supply price increases versus December for Westchester were 67% and 82%, respectively; and 71% and 82%, respectively, in New York City. February prices for Westchester exceeded December's by even greater percentages: Westchester – Average 97%, Median 131%; New York City – Average 143%, Median 156%.[24] (Exhibit ___(WDY-01), 70).

Q. Were you able to determine whether Con Edison's residential electricity supply portfolio was adequately hedged?

A. No. However, I noted from the Electric Supply Panel testimony that about three quarters (75%) of the Company's electricity energy and capacity are obtained from spot purchases,

[24] Simple averages do not take the weighting of other variables into account. In this case, usage is not considered.

which are subject to high levels of price volatility. (Exhibit ES-1), 1). To mitigate the impact of price volatility on its customers, Con Edison maintains a supply portfolio that is hedged, but not 100% hedged. (Testimony of Ivan Kimball - Electric Supply, 11). It is entirely possible, therefore, that the bill shock experienced by Con Edison customers in January and February 2022 was due not just due to the monthly manner in which Con Edison applies forecasted hedge values to customer bills, but also to insufficient hedging.

Q. Did you find evidence of the magnitude of residential customer complaints filed by Con Edison customers against the Company that were related to these significantly higher market supply charges?

A. Yes. PULP filed a Freedom of Information Law ("FOIL") request with DPS for all residential complaints against the Company since October 2018. The response included 427 complaints filed in February 2022 that had as one of their descriptions either "High Bill" or "Inaccurate Bill". (Chart 7).

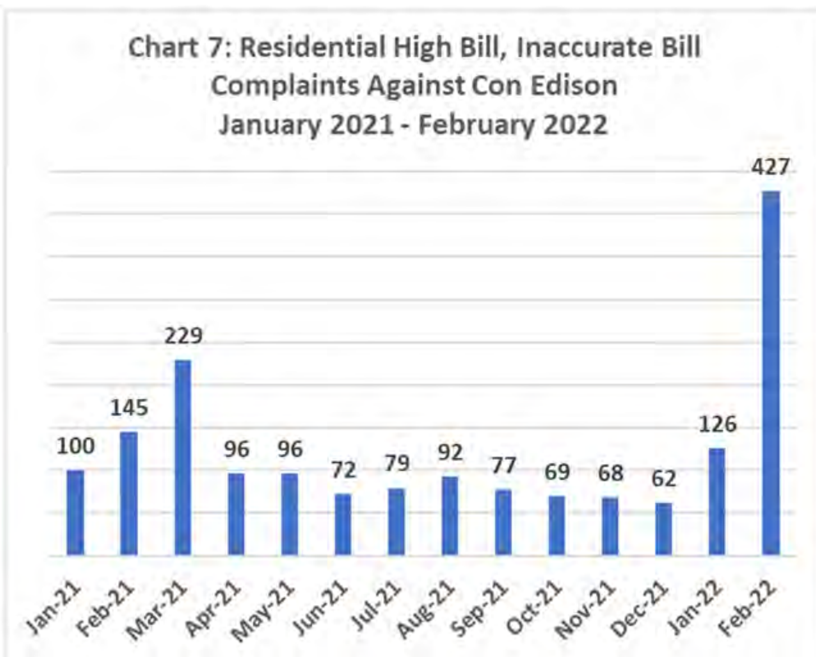


Exhibit ___(WDY-05), 7

February 2022 high/inaccurate bill complaints were almost twice those of the next-highest month (March 2021). They were almost three times those of February 2021. These complaints provide evidence that the surge in electricity supply prices was not consistent with seasonal effects, and that as a result Con Edison's residential customers experienced considerable rate shock and economic harm.

Q. What are the implications of volatile electricity supply charges and/or inadequate hedging procedures on Con Edison's residential customers?

A. Insufficient hedging of volatile electricity supply charges risks rate shock for residential electric customers, such as that which happened in January 2022. It also calls into question the assumptions the Company has made about the total electric bill impacts of its proposed rate increases in these proceedings. In this regard, it is worth noting that Con Edison projects for this rate case that the electric supply component of residential customer bill will actually decrease from 2023 – 2025. (Exhibit ___(ERP-2) Schedule 9, 1).

Q. Do you believe that the Company's forecast for reduced residential electric supply costs are correct?

A. No. I think that the Company should examine the effectiveness of its hedging procedures and incorporate a factor into its forecasts for residential electric supply costs that accounts for any uncertainties about its inherent ability to mitigate price volatility through hedging. It may be that even higher volatility—and more of it to the upside than down—will be a regular feature of electricity and natural gas pricing for the foreseeable future. The federal Energy Information Administration notes that natural gas prices could rise above forecasted levels if summer temperatures and electricity demand are higher than previous years.[25] Further, domestic supply constraints caused by limits on new shale production and increased U.S. liquified natural gas ("LNG") exports, all other things being equal, argue for higher, rather than lower, prices for electricity sourced from natural gas fired generation.

Impact of the Company's Proposals on Affordability

Base Rate Increases

Q. Please describe the Company's proposed increases in residential rates.

[25] See, US Energy Information Administration "Short Term Energy Outlook – May 2022".

A. Based on Exhibit ___(ERP-02) of the Company's Electric Rates Panel, residential electric customers using 400 kilowatt hours (kWh) per month (a "typical" or "average" electric non-heating customer) would experience a $14.62 monthly increase, equating to a 13.3% increase in their total bill. The average electric heating customer, using 1,000 kWh per month, would see their total bill rise $31.91, or 12.9%. (Exhibit ___(ERP-02), Schedule 5, Table 1).

Based on Exhibit ___(GRP-03) of the Company's Gas Rates Panel, a residential non-heating gas customer using 5 therms per month (a "typical" or "average" gas non-heating customer) would experience a $6.40 monthly total bill increase, representing an 18.0% increase. The average gas heating customer, using 100 therms per month, would see their total bill rise $38.48, or 18.7%. (Exhibit ___(GRP-03) Schedule 3, 1,5).

Total monthly bill increases factor in changes in cost of the supply of electricity and natural gas in addition to the delivery costs of providing service, which renders "total bill" increases noticeably lower than delivery bill increases. Since delivery costs are those which the Company control — whereas supply costs are not — delivery bill impacts are a more accurate measure of the increases proposed to be levied by the Company upon their customers.

Q. What are the equivalent increases in the delivery charge portion for "typical" or "average" customers?

A. Under the Company's one-year proposal, the monthly electric delivery bill increases for these customers would be 19.5% (non-heating customers) and 19.8% (heating customers). Gas non-heating and heating customers would see their bills rise 19.5% and 25.9%, respectively. (Exhibit ___(WDY-01), 116, 118).

Q. Do the Company's proposed increases vary for other residential customers?

A. For electric customers with monthly usage less than the average customer amount of 400 kWh, the percentage delivery bill increases would range from 17.7% for customers using no electricity to 19.4% for customers using 360 kWh. Above average usage electric customers would see delivery bill increases ranging from 19.5% for customers using 425 kWh to 20.2% for customers using 40,000 kWh. (Exhibit__(WDY-01), 112).

For gas non-heating customers with monthly usage less than the average customer amount of 5 therms, percentage delivery bill increases would range from 11.6% for customers using no gas to 15.8% for customers using 4 therms. Above average usage gas customers would see delivery bill impacts ranging from an increase of 22.9% for customers using 6 therms to an increase of 84.6% for customers using 3,000 therms. (Exhibit__(WDY-01), 116).

For gas heating customers with monthly usage less than the average customer amount of 100 therms, percentage delivery bill increases would range from 29.5% for customers using no gas to 25.7% for customers using 90 therms. Above average usage gas customers would see delivery bill impacts ranging from an increase of 26.9% for customers using 150 therms to an increase of 36.2% for customers using 200,000 therms. (Exhibit__(WDY-01) at 118).

Q. What would be the overall bill impact of Con Edison's proposed electric and gas rate increases on those low-income households who are enrolled in the Company's Energy Assistance Plan ("EAP")?

A. The percentage bill impacts of the Company's proposed rate increases would vary for EAP customers due to the differing discount levels received by program participants, as set forth in the Commission's August 12, 2021 *Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings* in Case 14-M-0465 ("2021 EAP Order").[26] The 2021 EAP Order established fixed discount formulas for each EAP level, or "tier" that are updated annually in compliance with the requirement in the Commission's *Order Approving Implementation Plans with Modifications* in Case 14-M-0465 ("EAP Implementation Order") in order to re-calculate the EAP discounts for each tier based on the latest average electric and gas bills, New York State median household income, and the Federal Poverty Level.[27]

[26] See: *Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings*, Case 14-M-0465, Appendix D, 1. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={1CFD4CE2-AB87-4A8C-B56B-F123366B1520}.

[27] See: *Order Approving Implementation Plans with Modifications* at 33. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={9BE99F5C-7F98-4376-8ABF-F3604F4495BF}.

The monthly bill impacts of the Company's proposed rate increase upon Energy Assistance Program participants usage are presented at Exhibit ___(WDY-01), 112 - 122. These pages show that each non-heating electric and gas EAP tier would experience higher percentage total bill and delivery rate increases at most all usages levels than would Non-EAP customers. Table 1 compares the percentage increases between electric EAP and Non-EAP customers at three monthly usage levels (280 kWh, 425 kWhs and 600 kWhs):

Table 1: Percentage Electric Delivery Bill Impacts Non-EAP vs. EAP

Usage Level (kWhs)	Non-EAP	EAP (Non-Heating)				EAP (Heating)			
		Tier 1	Tier 2	Tier 3	Tier 4	Tier 1	Tier 2	Tier 3	Tier 4
280	19.3%	31.3%	42.2%	117.8%	60.1%	31.3%	42.2%	370.9%	73.6%
425	19.5%	27.4%	33.1%	53.4%	40.2%	27.4%	33.1%	97.3%	44.3%
600	19.7%	24.8%	27.9%	36.0%	31.1%	24.8%	27.9%	45.8%	32.8%

Exhibit ___(WDY-01), 112 - 115

Table 2 compares the percentage increases between EAP and Non-EAP customers at monthly usage levels of 5 therms, 82 therms and 100 therms:

Table 2: Percentage Gas Delivery Bill Impacts Non-EAP vs. EAP

Usage Level (Therms)	Non-EAP	EAP (Non-Heating)				EAP (Heating)			
		Tier 1	Tier 2	Tier 3	Tier 4	Tier 1	Tier 2	Tier 3	Tier 4
5	19.5%	25.3%	25.3%	25.3%	25.3%	11.5%	8.7%	7.3%	8.0%
82	73.3%	76.4%	76.4%	76.4%	76.4%	110.6%	497.7%	297.1%	2067.5%
100	74.3%	77.2%	77.2%	77.2%	77.2%	76.9%	142.9%	417.1%	205.6%

Exhibit ___(WDY-01), 116 – 122

As the tables show, the percentage bill impacts of the Company's rate increase proposals would be far worse for all EAP participants than they would be for Non-EAP customers, except in the case of very low-usage gas heating participants.

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

A. Because EAP participants receive a monthly fixed discount on their bills, the impact of the Company's proposed rate increases would be amplified in percentage terms, especially since the proposals include substantial increases in fixed monthly charges.

Q. Has the Company incorporated changes to its EAP discount levels that would help alleviate some of the impact of its proposed rate increases?

A. Not with its filing. However, it is possible that the annual update effective November 1, 2022, could result in discount modifications.

Q. How many participants are enrolled in each EAP tier?

A. Table 3 shows estimated heating and non-heating participation by tier in Con Edison's EAP, based on Staff's Low-Income Workbook filed with the 2021 EAP Order:

Table 3: EAP Electric and Gas Participation By Tier

Tier	Electric				Gas			
	Non-Heating	% of Total	Heating	% of Total	Non-Heating	% of Total	Heating	% of Total
1	421,340	96.0%	1,723	78.9%	109,117	94.8%	17,536	81.0%
2	802	0.2%	86	3.9%	10	0.0%	807	3.7%
3	2,583	0.6%	312	14.3%	48	0.0%	2,602	12.0%
4	13,982	3.2%	64	2.9%	5,892	5.1%	707	3.3%
Total	438,707	100.0%	2,185	100.0%	115,067	100.0%	21,652	100.0%

Source: Staff EAP Workbook August 12 2021, Tab "Con Edison"[28]

PULP Proposals

Set the Company's Common Equity Ratio at 48.00%, and Base its Return on Equity Upon the Commission's Generic Financing Methodology.

Q. Why do you think that Con Edison's equity ratio should be set at 48.00%?

[28] See: *Staff EAP Workbook August 12, 2021*, Case 14-M-0565, Tab "Con Edison". Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={4A9D3028-F056-4262-A633-16E569BFDDAA}.

A. The Company's 50.00% requested equity ratio is not reasonable because its own initially filed projections indicated it would have an equity ratio of 48.21% during the Rate Year. (Exhibit ___(AP-5 Schedule 2). Moreover, as of its April 6, 2022 update, Con Edison now projects its Rate Year equity ratio will be only 48.02%. (Update Exhibit ___(AP-5) Schedule 1).

At the 50.00% equity ratio the Company seeks, the weighted cost of the common equity component of the capital structure would be 5.00%, based on Con Edison's requested 10.00% return of common equity. In contrast, a more realistic 48.00% equity ratio would yield a weighted cost of common equity of 4.80%, lowering the overall rate of return based on the Company's original filing to 6.90%, from 7.10%

Q. **What is the significance of lowering the rate of return?**

A. The rate of return is the percentage by which a utility's rate base is multiplied in order to determine its "revenue requirement" (the amount of revenue that will be used to set the rates that customers pay for their utility service). Lowering the rate of return also lowers the revenue requirement which, in this example, would result in savings to electric ratepayers of approximately $46.5 million for the Rate Year (based on the Company's initial filing). Gas ratepayers would experience savings of $17.7 million, for a total savings to all ratepayers of $64.2 million in the Rate Year. (Exhibit ___(WDY-01), 124).

Q. **Are there any other reasons why you believe that a 48.00% equity ratio is more appropriate for Con Edison than a 50.00% equity ratio?**

A. Yes. In the most recent rate case of Con Edison's sister company, Orange and Rockland, DPS Staff found that a 50.00% common equity ratio was unreasonable:

> "There are several reasons why the Company should not be authorized a 50.00% common equity ratio for the Rate Year. First, we find it unnecessary based upon our own analysis of the parent company's financing practices and our reluctance to allow additional equity at the utility level considering the manner in which the non-utility businesses have been capitalized in recent years. Second, despite the Company's downgrade to "Baa" by Moody's Investors Service, referred to as Moody's, earlier this year, we believe that authorization of a 48.00% common

> equity ratio will be sufficient for the Company to continue to attract capital at reasonable terms. Third, and finally, we believe that a 48.00% common equity ratio, coupled with our 8.75% ROE recommendation, will be sufficient for the Company to maintain its financial integrity during the Rate Year."
>
> (Staff Finance Panel Testimony, 19).[29]

Here it is important to understand that Con Edison and Orange and Rockland are both wholly-owned subsidiaries of Con Edison Inc. ("CEI"), the aforementioned "parent company". <u>Thus, Staff's finding in Orange and Rockland that a 50.00% equity ratio was unnecessary based upon its analysis of CEI's financing practices is equally applicable to Con Edison.</u>

Q. Do you think that Con Edison's requested 10.00% return on common equity is appropriate?

A. No. Witness Villadsen, who submitted expert testimony forming the basis of Con Edison's 10% ROE request in these proceedings (Direct Testimony of Dr. Bente Villadsen - Return on Equity), also performed the analysis which was the basis for Orange and Rockland's 9.5% return on equity request in Cases 21-G-0073 and 21-E-0074.[30] In contrast, Staff's ROE proposal was 8.75%. In these proceedings, an 8.75% ROE would lower the weighted cost of the common equity component of the capital structure further, to 4.2%, while the resultant rate of return would equal 6.40%. <u>The additional savings to electric ratepayers in such an example would be $225.1 million. Gas ratepayers would experience additional savings of $85.5 million, for a total additional savings to all ratepayers of $310.6 million in the Rate Year.</u> (Exhibit ___(WDY-01), 124).

Combined savings in a one-year (litigated) case resulting from a 48% equity ratio and an 8.75% return on equity would therefore total $374.8 million. (Exhibit ___(WDY-01), 124).

[29] See: *Prepared Testimony of Staff Finance Panel*, Cases 21-G-0073, 21-E-0074. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={A620BF2A-2868-4104-9BC0-6420D4E759AE}.

[30] See: *Direct Testimony of Dr. Bente Villadsen - Return on Equity*, Cases 21-G-0073, 21-E-0074. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={E2FA99F3-2A2B-4107-AC94-1A6250F72399}.

Q. What do you recommend for the equity ratio and return on equity for a one-year (litigated) rate plan in these proceedings?

A I recommend that the Commission set the equity ratio at 48%, and the return on equity at the rate proposed for a one-year case by Staff in its direct testimony, which should in all likelihood be based on the generic financing methodology it uses in all rate cases[31].

Adopt the Company's Proposal to Provide Clean Energy Credits for Low-Income Customers ("CECLI"), Conditioned Substantially on Sustained Increases in Energy Assistance Program ("EAP") Enrollment

Q. Do you support the Company's Clean Energy Credits for Low-Income Customers ("CECLI") proposal?

A. Yes. I believe that this proposal offers a transformational opportunity to achieve both material improvements in the affordability of utility service for Con Edison's low-income customers and large-scale reductions in the State's greenhouse gas emissions profile. However, I also believe that to truly achieve its potential, CECLI's implementation must be conditioned substantially on sustained increases in EAP Enrollment.

Q. Do you agree with the Company's position that it has adequately addressed Commission concerns about utility ownership of generation assets?

A. Yes. The testimony of the Customer Energy Solution Panel provides three compelling justifications for utility ownership of these assets:

- The Company plans to seek projects located outside of the Con Edison and Orange and Rockland service territories, alleviating any concerns about vertical market power;
- The Company would be a price taker and would not be able to artificially impact wholesale market prices; and
- The Commission has acknowledged the role for utility investment to address particular areas, such as meeting low-income customer needs where there is no

[31] See: *Recommended Decision*, July 18, 1994, Case 91-M-0509 (Proceeding on Motion of the Commission to Consider Financial Regulatory Policies for New York State Utilities).

developed market and the public interest warrants utility investment to support development.

(Customer Energy Solutions Panel Testimony, 56 – 57).

Q. How would CECLI improve utility affordability for the Company's low-income households?

A. The program would benefit those of the Company's 912,806 low-income households who are participants in Con Edison's Energy Affordability Program ("EAP") by issuing them monthly bill credits representing a share of net profits from the sale of electricity by proposed Company-owned solar generation facilities. An average of 449,716, or 49%, of these customers were enrolled in the EAP during 2020. CECLI bill credits would supplement monthly EAP discounts, thus further closing the affordability gap for these customers.

Q. Do EAP participants need further bill payment assistance?

A. Yes. As I demonstrated earlier, it is clear from ACS Microdata that low-income energy burdens overall (EAP participants plus unenrolled low-income households) far exceed State affordability targets. Low-income households paying for both their electric and gas utilities in the Con Edison electric and gas service areas in 2020 suffered a 9% energy burden in 2020 (50% higher than the Commission's stated policy), while the energy burden of low-income households who paid for only their electric utilities was 6.2% (107% over State policy), and the energy burden of low-income households who identified their gas utility bill separately from their electric utility bill was 3.9% (30% over State policy). (Exhibit ___(WDY-01), 47 - 49).

Q. Is Con Edison taking steps to increase enrollment in its EAP program so that more eligible households can enroll in its EAP?

A. Yes. The Company's response to I/R PULP-71 describes the measures it is taking to promote its EAP and facilitate greater enrollment. As one example, it indicates that Con Edison was informed by the City of New York in June 2020 that the City's Human Resources Administration ("HRA") would no longer be identifying for EAP enrollment

Medicaid customers who were not participating in any other EAP-qualifying program. The Company goes on to say that in response, it has been working with HRA to enroll Medicaid-only customers who contact Con Edison directly, self-identifying their eligibility.

The Company also indicates that it has increased outreach and education directed towards low-income and at-risk customers, which has included efforts to raise customer awareness regarding the EAP and to encourage customers to apply for public assistance; and that it is also an active participant in the Department of Public Service's ongoing EAP Working Group in Cases 14-M-0565/20-M-0266. As part of this group, it helped develop statewide plans to standardize the process of enrolling customers in EAPs and to raise awareness that customers can self-certify as public assistance recipients. Finally, Con Edison launched an online EAP application process to further facilitate self-certification in March 2022 and has begun outreach and education activities on this topic. (Exhibit ___(WDY-03), 3-5).

Q. Is there an urgent need for increased enrollment in Con Edison's EAP?

A. Yes. As previously discussed, data on the progression of Con Edison's residential arrears since the onset on the COVID-19 are alarming. Residential customers more than sixty days past-due on their bills owed the Company $849 million in March 2022, more than two and one-half times the $325 million they owed in February 2020. As I also discussed earlier, enrollment in the Company's EAP did not budge from December 2019 through December 2021, despite the period's unprecedented escalation of arrears, most acutely among customers <u>not</u> enrolled in the EAP.

Getting as many of these customers enrolled in the EAP as possible would provide them with necessary assistance that they have heretofore lacked and would help Con Edison's proposed plan to provide clean energy credits to low-income customers, if implemented, to become a resource that could assist a larger percentage of the 912,806 low-income households it serves. It is urgent that all available assistance be provided to customers whose household finances have been disrupted by the economic fallout of the COVID-19 pandemic before Con Edison resumes its normal procedures for terminating service due to nonpayment.

Q. Earlier you indicated that the proposed CECLI program had the potential to achieve material improvements in the affordability of utility service for Con Edison's low-income customers. How significant a contribution could it make towards this goal?

A. At the full level of generation capacity, the Company proposes (a one gigawatt build out over ten years) affordability gains mean significant, but only incremental progress towards EAP participant affordability—even if there is no sustained progress towards higher EAP enrollment. Company revised projections through 2053 show that CECLI bill credits would peak from 2033 through 2036 at 11% of gross EAP electric bills before tapering down to 9% by 2053, about 3 percentage points less than the Customer Energy Solutions Panel projected in its testimony. (Exhibit ___(WDY-01), 51; Customer Energy Solution Panel, 55). <u>Additionally, the bill credit proposal only considers non-heating electric bills in estimating the benefit that the credits would have upon EAP affordability</u> (Exhibit ___(WDY-03), 20).

As Staff's Low-Income Workbook shows, Con Edison's 110,000 EAP gas non-heating customers have average monthly bills of $42.90, with a further 21,000+ gas heating customers have average monthly bills of $193.60 and its approximately 2,200 electric heating have average monthly bills of $193.60. Most if not all of the gas customers are also electric customers, so when their combined bill is considered the benefit of the bill credits would likely average 6 – 7%.

Additionally, any material success the Company might have enrolling more eligible customers in its energy affordability program would dilute the benefits being received under the Company forecast for EAP participation, which is static at 455,000 participants from 2024 through 2053. (Exhibit ___(WDY-001), 51). In sum, while an intriguing and potentially transformative proposal, the Company's CECLI program as proposed would likely result in only incremental progress toward utility affordability for Con Edison's low-income customers, and, importantly, that progress would inure solely to the benefit of those households fortunate enough to be enrolled in the EAP.

Q. What do you suggest that would make the CECLI program realize its potential?

A. I suggest that this program proceed in a manner that is conditioned upon sustained increases in EAP enrollment. Toward that end, I propose that as a successive set of enrollment milestones are met and sustained, the program be allowed to increase in capacity well beyond the 10-year, 1 gigawatt level of capacity proposed by the Company. In this regard, I recommend the following:

- Con Edison's proposal to acquire two 100-megawatt solar generation facilities for operation commencing in 2024 and 2025 should be approved, but not the eight facilities which it proposes to acquire after 2025.
- Concurrently, the Company should endeavor to increase enrollment in its EAP to a minimum of 550,000 participants by January, 2025. (This would allow the Company three years to increase participation by approximately 110,000 households, a meaningful majority (60%) of eligible households.)
- If Con Edison successfully increases EAP enrollment to 550,000 participants by January, 2025, and assuming siting is deemed practicable, it should then file a proposal in its next rate plan to build, own and operate 1.2 GW of additional solar generation capacity over a three-year rate plan.
- In considering Con Edison's proposal for an additional 1.2 GW of solar generation capacity in its next rate plan, the parties and the Commission should require the Company to increase EAP enrollment to 595,000 participants by January, 2028.
- This procedure should be repeated over successive three-year rate plans in increments of 1.2 GW of solar generation (assuming siting is deemed practicable) and 45,000 EAP participants, adjusted for updated needs assessments using ACS Microdata, with the goal being that by 2050, sufficient CECLI resources would be available to substantially close the affordability gap for all Con Edison households who are eligible for, *and enrolled in*, the Company's EAP.

In this way, the Commission could be confident that successive additions to CECLI capacity would be conditioned upon corresponding increases in the percent of eligible low-income households participating in Con Edison's EAP, and thereby eligible to receive credits through CECLI. The Commission would likely also avoid the outcome of providing increasing CECLI credits to a static (or worse, decreasing) number of EAP participants;

while those households not EAP enrolled are left "waiting at the door" for a ticket to improved utility affordability.

Q. How much more CECLI solar generation capacity do you think is necessary to meaningfully address the affordability needs of Con Edison's low-income households?

A. Based on ACS Microdata for 2020, together with the Company's revised Clean Energy Bill Credit workpapers, I estimate that 8.6 gigawatts of solar generation capacity would be needed in 2024 in order to close the affordability gap for Con Edison's low-income customers; that is, to reduce their energy burden for combined service to 6% from 9%, and their electric-only and gas-only energy burdens to 3% from 6.2% and 4.2%, respectively. (Exhibit ___WDY-01), 6-7, 50).

To determine that this level of capacity would be needed, I first adjusted 2020 ACS Microdata on aggregate income, and energy costs for low-income customers in the Con Edison service area to reflect actual inflation from 2021 and estimated inflation for 2022 – 2024. I separated aggregate income and energy expense into three categories: households who identified themselves as electric-only customers, households who identified themselves as gas-only customers and households who identified themselves as combined-service customers. I considered only the income and electric costs of households in the Con Edison electric service area, and only the income and gas costs of households in the Con Edison gas service area. (On the assumption that this program should address energy burdens related to Con Edison service only, I did not include the gas costs of households in the KEDNY service area or deliverable fuel costs in my analysis.)

I then calculated the aggregate target energy cost for each service type by multiplying aggregate income by the Commission's policy targets. I then calculated an "affordability gap" for each service type by subtracting target energy costs from actual energy costs. (I define "affordability gap" as the difference between target energy costs based upon the State's affordability policy and actual costs energy incurred.) Finally, I subtracted projected EAP discounts and the projected value of energy efficiency impacts from the affordability gap to determine a remaining affordability gap, which in projected 2024 dollars for all low-income customers (EAP and Non-EAP households) equaled $315 million for electric-only service, $0[32] for gas-only service and $195 million for combined electric and gas service.

Next, I used the 2024 net revenue projected by the Company to be generated from each 100MW facility, as reflected in the Company's revised Clean Energy Bill Credits workpaper to determine the capacity necessary to generate sufficient electricity to close the affordability gap for each service type. I found that 5.6 gigawatts would be necessary to eliminate the affordability gap for electric-only customers, while 3.0 gigawatts would be needed for combined-service customers. The total capacity needed to close the electric and gas service affordability gap for households in the Con Edison electric and gas service areas would therefore be 8.6 gigawatts. Due to economic and operational considerations over a thirty-year useful life for each installation as reflected in the Company CECLI workpapers, however, the actual amount of capacity needed would be 9.5 gigawatts. (Exhibit ___(WDY-01), 128).

Q. This is almost ten times what the Company proposed to deploy over ten years. Is that your proposal?

A. No. In the first place, it is worth noting that there would likely be significant practical constraints upon the siting of 9.5 gigawatts of utility-scale generation even in areas of New York State outside the Con Edison and Orange and Rockland service areas. My goal here is to help frame the conversation that will take place to determine whether or not to proceed with the CECLI program and, if so, the nature and extent of its implementation. By defining the electric and gas affordability gap problem, I have shown how CECLI could contribute to its solution.

Q. Did you perform any cost-benefit analysis in conjunction with your effort to determine the solar capacity needed to close the affordability gap?

A. Yes. I prepared an analysis projecting the recovery of costs associated with an initiative such as this, including amortization of plant assets and carrying charges. Over a thirty-

[32] ACS Microdata show that there were only 2,890 low-income gas-only households in 2020 (i.e. they did not pay for their own electricity), with a margin of error of +/- 551 households, or 19.1%. To simplify my analysis I allocated a sufficient share of gas energy efficiency resources to this small group to eliminate their affordability gap altogether.

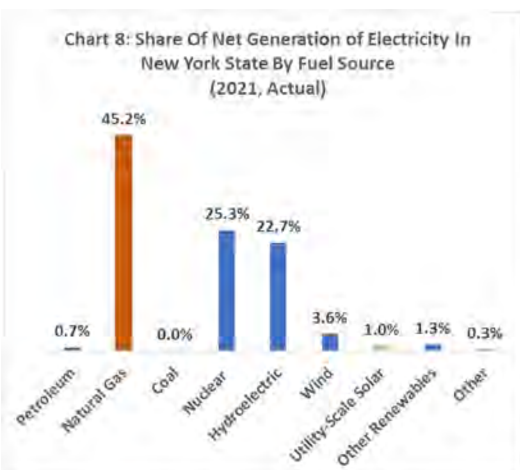
year amortization period, ratepayers would incur total costs of $21.4 billion. I then offset those costs by the hypothetical avoided costs of discounts that would have to be provided to close the remaining affordability gap as an alternative to the CECLI program. Those discounts totaled $22.8 billion. On this basis, the net benefit equaled $1.4 billion. (Exhibit ___(WDY-01), 128).

Q. Are there any other benefits to ratepayer of such a program?

A. Yes. There are tremendous societal benefits generated by replacing fossil fuel generated electricity with clean, renewable energy sources. Ratepayers would get much more than the financial benefit of avoiding the need to provide additional EAP discounts to close the affordability gap. They would set in motion a powerful catalyst for achieving the State's climate objectives for 2050.

Q. Please describe the catalyzing effect this program could have for achieving the State's climate objectives for 2050.

A. Charts 8 and 9 compare the mix of fuel sources used to generate electricity in New York State in 2021 based on United States Energy Information Administration ("EIA") data. Chart 8 shows the actual fuel source mix, while Chart 9 shows the mix had the solar generation capacity necessary to close the affordability gap through the CECLI program been available to offset natural gas sourced generation:



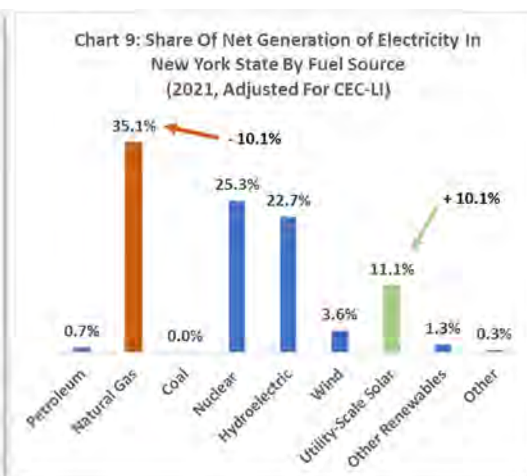


Exhibit ___(WDY-01), 52

Had 9.5 gigawatts of capacity through a Clean Energy Credit For Low-Income Program been available to New York State in 2021, it would have been possible to add utility-scale solar-sourced generation, and reduce natural gas-sourced generation, amounting to 10.1% of the State's total electricity generation for the year. Solar's contribution to net generation could have, in these circumstances, been 10 times its actual contribution in 2021. Importantly, had a program such as CECLI been in place by all of the State's electric utilities, enough additional utility-scale solar generation capacity might have been available to increase solar's share of the fuel mix (and reduce natural gas's) to levels approaching 20%.

Of course, if solar were to continue to gain share at the expense of natural gas, policy makers would need to be mindful of natural gas's role as a reserve fuel for the State. However, this is unlikely to be a problem in the foreseeable future since the share of natural gas-sourced electricity generation has been *increasing* in recent years to make up for reductions in nuclear-sourced generation. (Exhibit ___(WDY-01), 52).

In sum, I believe that a program such as CECLI—if implemented prudently—has the potential to be a "game changer" helping to solve two persistent problems at the forefront of policy making in the State's regulated utility sector:

- How to make residential utility bills affordable for all of Con Edison's New York's low-income households (if they are <u>all</u> enrolled in the EAP); and
- How to advance the State's goal of achieving 85% gross reductions in GHG emissions by 2050.

Implement a Low-Income Beneficial Electrification Appliance Program

Q. Please describe PULP's proposed low-income beneficial electrification appliance program.

A. I propose that the Company add a program to the scope of activities of its Customer Energy Solutions ("CES") Group that would be tasked with procuring, and coordinating the delivery and installation of, electric appliances (primarily stove/oven ranges) for income-eligible gas Service Classification 1 (hereinafter, "non-heating") customers as an alternative to these customers continuing their gas service with the Company. I anticipate that an initiative such as this could achieve:

- Substantial savings to participating customers that would reduce their energy burdens;
- Meaningful reductions in usage of natural gas in the Con Edison service area; and
- Significant long-term savings to ratepayers by eliminating the need to fund gas affordability program (EAP) non-heating discounts.

Q. Who would be eligible for this program?

A. All residential gas non-heating customers who are recipients of benefits in one or more public assistance programs that confer eligibility in the Company's EAP—whether or not such customers are actually enrolled in the EAP.

Q. How would the program work?

A. Any eligible customer who rents their residence and wishes to take advantage of the program would complete an application provided to them by Con Edison. The application would include a request by the customer for Con Edison to terminate non-heating gas service once the electric appliances procured on their behalf were delivered, installed, and verified to be in working order. The tenant would forward the completed application to their landlord for approval, who would, upon written approval, submit the application to Con Edison. Upon receipt of the landlord-approved application, Con Edison would then procure the approved appliances and arrange for their delivery and installation. Once installed, the installation contractor would notify Con Edison, whereupon the Company would send written confirmation requests to both the customer and their landlord to verify that the appliance(s) were in working order. Upon receipt of signed confirmations to that effect, Con Edison would initiate termination of the non-heating gas customer's account.

Eligible homeowners would follow the same application process but without the need for landlord approval.

Q. Why not just have a rebate program?

A. This program would be different than a rebate program in that it would require the cancellation of non-heating gas utility service in exchange for Con Edison covering 100% of the cost of purchase and installation of the replacement appliance.

Q. How would participating customers benefit from this program?

A. Non-heating customers who took advantage of this program would eliminate their entire gas bill, including its fixed customer charge. For the average SC1 customer, who uses only 5 therms per month (Exhibit ___(WDY-01), 11), this would result in a monthly savings of $35.54, mostly due to the elimination of the fixed monthly charge which is currently $27.70 and which the Company proposes to increase to $31.00 (Exhibit ___(GRP-03), Schedule 4,1). Savings would be offset only by the cost of the incremental electricity necessary to operate their new electric appliances. For example, customers obtaining electric ranges rated at an average of 3000W[33] would incur an average incremental electricity cost of $13.38 per month, resulting in net monthly savings of $22.16, or $266 annually. (Exhibit ___(WDY-01), 14) EAP participants would save $178 annually, reflecting the fact that they would no longer be receiving the $7 monthly discounts they had been provided on their gas bills. (Exhibit ___(WDY-01), 12, 129 - 132).

Q. How would the program contribute to the State's GHG reduction goals?

A. The low-income electrification appliance program would achieve immediate, permanent, and potentially substantial reductions in GHG in the Company's service area. (Exhibit ___(WDY-01), 13).

Q. How would the program be funded?

A. The program would be funded by ratepayers, similar to other electrification and energy efficiency initiatives within the scope of activities of the Customer Energy Solutions Group. For example, for years the Company has supplied free LED light bulbs to customers switching out incandescent bulbs[34]. And in these proceedings, Con Edison proposes several

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[33] See, for example: GE Hotpoint® 30" Free-Standing Standard Clean Electric Range. Available at: https://products.geappliances.com/appliance/hotpoint-specs/RBS360DMWW#tab2_. Average wattage = (Bake Wattage + Broil Wattage) / 2 = (2585W + 3410W) / 2 = 2,997.5W.

[34] See: *Con Edison's Free Lighting Program Moves Into Queens*. Available at: https://www.coned.com/en/about-us/media-center/news/20161117/free-lighting-program-moves-into-queens.

new ratepayer-funded initiatives that would facilitate customer-owned electrification and efficiency investments, including but not limited to:

- Heating Electrification Make Ready Program (Exhibit___(CES-1)); and
- Make-Ready DER for DAC and Low Income (Exhibit___(CES-2)).

Q. Would any ratepayer *savings* result from the Low-Income Beneficial Electrification Appliance Program?

A. Yes, unlike the above-cited programs, as regards EAP participants in this program, ratepayers would achieve direct savings over twenty-five (25) years that could more than offset the costs associated with appliance electrification. The reason for this is that each EAP gas non-heating customer who elects to participate in the Low-Income Beneficial Electrification Program would no longer require ratepayer-funded $7 per month non-heating discounts ($84 of annual savings). In the given example above, the electric range replacement would cost approximately $750 with tax and delivery[35,36]. I estimate that there would also be approximately $450 of Con Edison labor costs to process each application for appliance replacement; procure, arrange, and confirm delivery and installation; and schedule and process subsequent service termination. Over twenty-five years, savings from gas EAP disenrollment would exceed program costs by about $100. (Exhibit ___(WDY-01), 13).

Q. What amortization period do you propose?

A. To minimize bill impacts, I recommend that program costs be amortized over twenty-five years, a period over which savings from EAP disenrollment would be more than program costs. This would also mean the program would have little or no annual bill impact on ratepayers. (Exhibit ___(WDY-01), 13).

Q. Would there be any need to increase discounts for electric EAP participants due to higher electricity usage among participants in this program?

[35] See: Hotpoint® 30" Free-Standing Standard Clean Electric Range. Available at: https://products.geappliances.com/appliance/hotpoint-specs/RBS360DMWW#tab2_.

[36] Of course, the Company may be able to achieve better pricing through volume purchasing and contracting for delivery and installation.

A. It is possible but would depend on the impact of the program upon average bills for EAP electric participants. Since the level of non-heating gas enrollment in the Company EAP is only about 25% that of electric EAP enrollment, and since there would be only about $113 of incremental electric costs in the example I have provided (about 0.5% of the average income of low-income electric households in the Company's service area) (Exhibit ___(WDY-01), 48), the impact is likely to be nominal unless participation in the low-income beneficial electric appliance program among EAP participants approached a substantial majority of all customers enrolled for gas non-heating EAP discounts.

Q. Are there any other benefits associated with your proposal?

A. Yes. Having fewer customers use natural gas service for their cooking needs would reduce the inherent safety risks to customers and the public associated with this type of utility service.[37]

Q. Do you agree with Con Edison's proposal for the amortization of depreciation reserve deficiencies for electric and gas plant?

A. No. The Company's proposal to amortize these deficiencies over twenty years should be rejected on the grounds that it would be unnecessarily harmful to ratepayers; in particular, low-income households who are still coping with the economic fallout caused by the COVID-19 pandemic, along with persistent energy burdens that are well in excess of the State's affordability policy.

Q. Why do you think the Company's proposal is unnecessarily harmful?

A. There are two reasons. The first is that while, in my opinion, the Company has made a good faith effort to anticipate the impact that the CLCPA will have upon the remaining useful lives of longer-lived assets in its gas business, one result of the proposal would be to instantly increase the 2020 gas reserve deficiency to $693.3 million, more than double the deficiency which was based on remaining lives without consideration of potential CLCPA requirements. (Exhibit ___(DP-5), 3). Then layering on the proposal to amortize the entire

[37] See: *Order Approving Settlement Agreement*, Cases 14-G-0201, 14-G-0212. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={9486BBAD-3A31-412C-AE3F-588D7E1C03C9}.

excess deficiency (that which is over 10% of the "theoretical" depreciation reserve) over only 20 years (4.7 years *shorter* than the remaining lives resulting from the Company's proposal and well short of 2050) magnifies the bill impact of the Company's depreciation proposal considerably. (Exhibit ___(WDY-01), 4.) Yet, there is no requirement likely to emerge from the CLCPA stating that utilities must *recover* their investments in gas plants *faster* than would have been the case in the absence of such State mandates.

Q. What is the second reason?

A. The second reason has to do with the Company's assertion that, with regard to the possibility of deferring complete cost recovery beyond the shortened useful lives under its proposal:

> "…the result would be future customers paying for assets that are already retired, which would result in intergenerational inequity."
>
> (Depreciation Panel at 61).

Con Edison has been a signatory to joint proposals in cases dating back at least as far as 2004[38] which included agreements upon depreciation rates that resulted in and/or perpetuated large electric plant reserve deficiencies. Notably, the Company's Property Tax and Depreciation Panel in Case 13-E-0030 that indicated that, as of December 31, 2011[39]:

> "A large Electric plant reserve deficiency has been persistent for the last nine years"

This means that Con Edison's reserve deficiency problems date back at least to the year ended December 31, 2002. The Company now seeks to amortize the entire (both electric and gas) depreciation reserve deficiency that exceeds the Commission's 10% tolerance band for such variances over a period of twenty years. (Depreciation Panel at 6). It has, therefore, already enabled intergenerational inequity, in that its proposal to cure the reserve deficiency would ensure the deficiency's existence for a total of 40 years—well-more than

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[38] See: *Joint Proposal*, Case 04-E-0572. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={6ECCA86A-3F87-4127-9962-FE245878D03B}.

[39] See: *Property Tax and Depreciation Panel – Electric Testimony*, Case 13-E-0030 at 24. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={781B0BE1-A190-4003-B9F6-EDA6D8D8A51E}.

a generation. Con Edison's switch to a policy of averting intergenerational inequity at this late date is neither necessary nor in the public interest in affordable rates.

Q. Do you propose a deferral mechanism to balance the needs of addressing the potential impacts of the CLCPA, ensuring progress toward the Commission's maximum 10% tolerance limit for depreciation reserve deficiencies, and avoid unnecessary harm to ratepayers?

A. Yes. Depreciation reserve deficiencies in excess of 10% resulting from historic variances and shortened useful lives of plant assets due to the CLCPA should be recorded to a separate deferral account and amortized over the remaining useful lives of the underlying plants assets based on Columns 4 – 8 of Exhibit ___(DP-4) and Exhibit ___(DP-5). Con Edison should initially record the entire reserve deficiency as of 2020 (updated through 2022 for the Rate Year) as a regulatory asset, with an offsetting credit to accumulated depreciation. The Company should then record depreciation expense annually based on Column 12 of Exhibit ___(DP-4), with the offsetting credit to accumulated depreciation. Separately, the Company should annually record revenue in the amount of its depreciation expense, offset by an amount to be recovered in rates based on Column 7 of Exhibit ___(DP-4), and a debit to the reserve deficiency regulatory asset for the difference between Columns 12 and 7 of Exhibit ___(DP-4). Finally, annually, the Company should amortize a straight-line amount of its reserve deficiency regulatory asset based on an updated calculation of the remaining useful lives of the underlying plant assets. In any year in which the reserve deficiency regulatory asset balance is less than or equal to 10% of the theoretical reserve balance, no amortization of the asset should be taken.

Q. What would your proposal accomplish?

A. It would allow:

- The Company to recognize the depreciation expense resulting from CLCPA considerations;
- The Company to recover its investments in plant assets over their remaining useful lives as determined by its depreciation study;

- The historic depreciation reserve deficiency in excess of the Commission's 10% tolerance band to be eliminated by 2050; and
- Ratepayers to save $16.3 million annually versus the Company's proposal, of which residential ratepayers would save $8.5 million annually based upon the Company's Rate Year forecast share of revenues to residential classes. (Exhibit ___(WDY-01), 4).

Q. Does this interfere with Con Edison's ability to *depreciate* its gas plant at rates that take into account the State's GHG reduction goals?

A. No. The issue of amortizing the depreciation reserve deficiency would be separated from the depreciation of electric and gas plant under my proposal. Thus, the parties and the Commission could, in these proceedings, take the steps necessary to begin addressing the State's climate goals as they relate to depreciation rates, while also considering affordability impacts on ratepayers.

Q. Has the Commission indicated that individual rate cases are an appropriate venue to consider such matters?

A. Yes. The Commission declared in its August 12, 2021 *Order Approving Joint Proposal, as Modified, and Imposing Additional Requirements* in Case 19-G-0309[40] that CLCPA Sections 7(2) and 7(3) apply to rate cases, citing Sections 7(2) as follows:

> In considering and issuing permits, licenses, ***and other administrative approvals and decisions***, including but not limited to the execution of grants, loans, and contracts, all state agencies, offices, authorities, and divisions shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law. Where such decisions are deemed to be inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits, each agency, office, authority, or division shall provide a detailed statement of justification as to why such limits/criteria may not be met, and

[40] See: *Order Approving Joint Proposal, as Modified, and Imposing Additional Requirements*, Cases 19-G-0309 and 19-G-0310. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={CC550437-3EC4-4F79-8F83-CFA85C572020}.

identify alternatives or greenhouse gas mitigation measures to be required where such project is located.

(Order at 69-70, ***Emphasis Added***).

While recognizing that its "orders in rate cases fall within the ambit of Section 7(2)'s application to other administrative approvals"[41], the Commission also made the point that the CLCPA is still a nascent law whose implementation remains a work-in-progress in the State. It indicated that the Department of Environmental Conservation ("DEC"):

- Had issued only one set of regulations[42] thus far, which do not yet provide guidance regarding how the emission limits will apply to individual sources of greenhouse gas emissions or even individual sectors of the economy;
- Is not required by the CLCPA to issue regulations ensuring compliance with statewide emission reduction mandates until January 2024 (one year after the proposed Rate Year in these proceedings); and
- Is not required by the CLCPA to begin working with other state agencies and authorities to develop agency-specific regulations until its own January 2024 regulations are promulgated.

(Order at 71-72).

Rate Design

Q. What increases is the Company proposing for its residential fixed monthly charges?

A. Con Edison proposes to increase its fixed monthly charges for residential electric service by $3.00, or 17.6%, to $20.00. (Exhibit __ (ERP-02), Schedule 3, Table 1)). The Company proposes to increase its fixed monthly charge for residential gas non-heating service by $3.30, or 11.9%, to $31.00. (Exhibit ___(GRP-3) Schedule 2, 1); and its fixed monthly charges for residential gas heating service by $7.20, or 30.3%, to $31.00. (Exhibit ___(GRP-3) Schedule 2, 2).

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[41] *Order Approving Joint Proposal, as Modified, and Imposing Additional Requirements*, Cases 19-G-0309 and 19-G-0310 at 70.

[42] See: *CP-49 / Climate Change and DEC Action*, updated December 1, 2021. Available at: https://www.dec.ny.gov/docs/administration_pdf/cp49revised.pdf.

Under this proposal, combined service residential gas non-heating customers would pay $6.30 more in such charges every month for a total of $612.00 in fixed monthly charges annually; while combined service gas non-heating customers would pay $10.20 more in such charges every month for fixed monthly charges that would also amount to $612.00 annually. The percentage delivery bill impact for average usage combined service customers due to these proposals alone would be 5.8% for gas non-heating customers and 4.6% for gas heating customers. (Exhibit ___(WDY-01, 112, 116, 118).

Q. Do you support such increases?

A. No. Raising fixed monthly charges penalizes conservation-minded low and moderate usage customers by denying them any ability to reduce their monthly energy costs for the part of their bills represented by such charges. As such, it runs contrary to both the Commission's historical objectives regarding the promotion of energy efficiency in New York, the principles of the Reforming the Energy Vision ("REV") proceeding and, more recently, the objectives of the State's CLCPA[43]:

> "The purpose of the proceeding is to design an EPS to meet the targets for energy efficiency which, along with additional renewable resource development, and other programs, decreases the State's dependence on fossil fuel-based generation and imported fuels, and reduces its greenhouse gas emissions**. An EPS should be designed ultimately to reduce customer bills**, stimulate State economic development, and create jobs for New Yorkers."
>
> (Order Instituting Proceeding, Case 07-M-0548 at 4[44], **Emphasis Added**).
>
> "Comfortable, Affordable, and Safe Energy Efficient Homes and Businesses:
>
> New clean heating and cooling technologies, such as electric heat pumps and smart thermostats, **combined with energy efficiency, will save New Yorkers energy and money**."

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[43] See: *Climate Act*. Available at: https://climate.ny.gov/.
[44] See: *Order Instituting Proceeding*, Case 07-M-0548 at 4. Available at: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={625676B8-D6A2-4AB9-8D53-5426AB4BDD6D}.

(Climate Act Fact Sheet at 1[45], **Emphasis Added**).

Furthermore, as I have shown, they are well beyond anything that low-income ratepayers and other residential customers suffering severe energy burdens can afford during these troubling economic times.

Q. What do you think should be done with fixed monthly charges and, more broadly, rate design instead?

A. The Company should be required to explore changes in its rate design with the goal of reducing or, at the very least, freezing fixed monthly charges.

Changes in the Company's overall rate design should include, at a minimum, lessening the differential between the penultimate and tail block rates for gas service (i.e., "flattening the blocks"), while ensuring that high usage gas customers who are participants in the Company's EAP are provided with adequate discounts and energy efficiency resources so that their energy burdens are not increased under any new rate design. Such approaches are in line with the Commission objectives regarding energy efficiency and the State's progressive climate goals as set forth by the CLCPA. Now more than ever, alternative rate designs must be discussed and implemented where possible in every rate case, provided that bill impacts must not be increased upon low-income/fixed-income ratepayers. The CLCPA and the State's progressive climate goals must be considered and effectuated while protecting low-income/fixed-income ratepayers from disparate bill increases. In sum, all New York rate cases must prioritize greener/alternative rates that promote conservation of energy and lessened reliance upon increased fossil fuel demand, while averting disparate rate impacts upon low/fixed-income households.[46]

Freeze the Residential Fixed Monthly Charge for Electric Service and Apply Any Rate Increases to Volumetric Rates

Q. What is your proposal to improve the affordability of service for residential electric customers?

[45] Available at: https://climate.ny.gov/-/media/CLCPA/Files/CLCPA-Fact-Sheet.pdf
[46] See: *The Climate Leadership and Community Protection Act*. Available at: https://climate.ny.gov/.

A. I recommend that the residential fixed monthly charge for electric service be frozen at $17.00 and that any increase in revenue requirement determined in these proceedings be applied to volumetric rates.

Q. How would such a recommendation benefit low-income residential electric customers?

A. Low-income residential electric customers would save $36 annually versus the Company proposed $3 per month increase in the fixed monthly charge. Part of that savings would be offset by higher volumetric rates, but conservation-minded customers would have the opportunity to mitigate offsetting costs by reducing their usage where practicable.

Q. Is your proposal more aligned with CLCPA requirements than the Company's proposal?

A. Yes. My proposal better incentivizes conservation by using volumetric rates to send price signals instead of fixed monthly charges.

Eliminate the Implied Subsidy of Gas Heating Customers by Gas Non-Heating Customers and Reduce Gas Non-Heating Customers Fixed Monthly Charges

Q. What is your proposal to improve the affordability of service for those non-heating customers who retain their natural gas service?

A. I recommend that the Commission end the implicit subsidy of gas heating (SC3) customers by gas non-heating (SC1) customers. Based on the testimony of the Gas Rates Panel, it is apparent that the Company is proposing to recover $28.8 million *more* revenue from SC1 customers than is necessary based on its cost-of-service study, while also proposing to recover $29.9 million *less* revenue from SC3 customers. (Exhibit___(GRP-1) Table 1A). This imposes an unfair extra burden on gas non-heating customers who already have limited ways to achieve savings on their bills through conservation and energy efficiency.

Q. Why are gas non-heating customers' ability to save money on their bills through conservation and energy efficiency so limited?

A. Under current rates, over 80% of the bill of for an SC1 customer with average usage simply goes to paying their fixed monthly charge (Exhibit___(GRP-3) Schedule 2, 1; Schedule 4, 1); while for the average usage EAP participant, the minimum charge adds up to over 90% of the monthly bill. (Exhibit___(GRP-3) Schedule 3, 2). Moreover, 65% of SC1 bills in 2019 were for usage of 3 therms or less, which is the amount of gas included in the monthly minimum charge. These customers have no opportunity to save through conservation or energy efficiency. (Exhibit ___(WDY-01), 20).

Q. How could eliminating the implied subsidy of SC3 customers by SC1 customers improve the affordability of non-heating gas service?

A. I propose that the elimination of this subsidy be used to lower the minimum charge for gas non-heating customers. Using the Attachment 2, Tabs "SC1 ExLI" and "SC1 LI" of the Company's response to I/R DPS-263 (Exhibit ___(WDY-04), 2), I prepared Pages 19 – 24 of Exhibit ___(WDY-01) to show that—had the subsidy been $28.8 million in 2019—removing it would have allowed for a $4 reduction in the minimum charge, from $27.70 to $23.70, with only a slight increase in the volumetric required to achieve the same (adjusted) amount of revenue. In this scenario, all customers with monthly usage less than or equal to 500 therms would have saved on their bills. In fact, for the year, 99.99% of all bills would have reflected savings, with only 1,073 out of 7,244,436 bills showing increases. Non-EAP customers using 3 therms or less (69% of total) would have paid 14% less; while EAP participants—who receive a $7 monthly discount on their bills—using 3 therms or less (48% of total) would have realized savings of 19%.

Q. How does lowering the monthly minimum charge provide a greater incentive to conserve and improve energy efficiency?

A. The lower the fixed minimum charge, the more valuable marginal reductions in usage will be in percentage terms. For example, a customer reducing their usage from 7 to 6 therms under the Company's existing rate design in 2019 would have experienced a 4.9% drop in their bill, while under my proposal the same savings would have represented a 5.6% decrease. For households looking to make conservation and energy efficiency decisions based on the percentage they would be able to save on their bill, my recommended rate design with a lower monthly minimum charge would send a stronger conservation and energy efficiency signal.

Q. Is this type of incentive consistent with the requirements set forth the Climate Leadership and Community Protection Act (CLCPA)?

A. Yes. The CLCPA requires that the State achieve an 85% gross reduction in greenhouse gas (GHG) emissions by 2050. For customers who respond to percentage savings signals, any reduction in fixed monthly charges would be consistent with the requirements of the CLCPA. In contrast, increasing fixed monthly charges could arguably be interpreted to be *inconsistent* with the requirements of Section 7(2) of the CLCPA.

In sum, I believe that the public interest would best be served by eliminating the implied subsidy of SC3 customers by SC1 customers, using the resulting savings to improve affordability for SC1 customers by lowering their monthly minimum charge, which would in turn increase the incentive for many SC1 customers to conserve and/or implement energy efficiency measures that would further the State's goal of achieving an 85% gross reduction in GHG emissions by 2050.

Remove Multiple Dwelling Buildings from the Residential Gas Heating Class ("SC3")

Q. What is your proposal to improve the affordability of service for residential gas Heating (SC3) customers?

A. I recommend that:

- Residential multiple dwelling buildings be removed from the residential gas heating service class and assigned to their own class; and
- The Company consider alternative rate designs for the remaining (1 – 4 family) customers in SC3.

Q. Why do you propose that residential multiple dwelling buildings be removed from residential gas heating service class SC3 and assigned to their own class?

A. The Company's gas tariff provision allowing master-metered multiple dwelling residential building customers to be included in the same service class as 1–4 family customers[47] pairs

[47] See: *Consolidated Edison Company of New York, Inc. Schedule for Gas Service*, Leaf 236 (PDF Page 297). Available at: https://ets.dps.ny.gov/ets_web/search/showPDF.cfm?M%3AIS%20%3B%2A%29LOUNWD%5CJ%5E8%2B%22

customers of radically differing usage profiles, making it relatively impossible to design rates that incentivize conservation and energy efficiency by one of these two types of customers without doing harm to the other.

Q. Why is it so difficult to design rates incentivizing conservation and energy efficiency by one of these types of customers without doing harm to the other?

A. Master-metered multiple dwellings are generally apartment buildings in which the landlord provides heat to all tenants as part of their rent. In New York City, apartment buildings often house hundreds of individuals. In contrast, 1 – 4 family customers are individually metered households living in a single-family home; individually or master-metered customers residing in 2 - 4 family structures; or individually metered households occupying apartments in multiple dwelling buildings. Such customers may represent as little as one person's usage, while multiple dwelling building accounts often represent the usage of hundreds of persons. Table 4, which is a summary of the 2019 bill frequency (usage) data for these two types of customers reveals just how disparate the usage profiles between these two types of customers are:

Table 4: Usage Profiles of Con Edison 1-4 Family vs Multiple Dwelling Heating Gas Customers (2019)

Customer Type	Number of Bills	Estimated Number of Customers	Usage (Therms)	
			Total Usage	Average Usage
1 - 4 Family	3,389,111	282,426	341,807,118	101
Multiple Dwelling	271,592	22,633	662,376,272	2,439

Exhibit ___(WDY-01), 25 - 36

The average monthly usage of master-metered multiple dwelling buildings in the Con Edison service area in 2019 was 2,439 therms, while the average monthly usage for a 1-4 family customer was 101 therms. A rate design intended to send a price signal to conserve

%2B5%2F0MD%2F0%29%21QF%2ASLO%5CU2R%2AK%3AR%5CA%5B%2A2H%22N%5EAISF%20XNY%0A%27N7JEJK%5F%2CB%40%20%20%0A.

and/or implement energy efficiency measures at usage levels over 100 therms (in the form of a higher price per therm) might be appropriate for single persons living in their own separately metered apartments but would be entirely unjustified for landlords supplying heating for their tenants as a part of their rent. Such landlords would likely have no other choice than to raise rents to compensate for the extra cost of natural gas heating service resulting from a more environmentally friendly rate design. (Ironically, it is entirely likely that many of the individual tenants in such buildings would be consumers of amounts of gas for heating that is at or below the average usage of Con Edison's 1 - 4 family gas heating customers!)

The reverse of this is the current rate design of Con Edison's SC3 class (another, equally absurd situation). Customers pay a monthly minimum charge that is comparatively high ($23.80) for individual households versus landlords of large apartment buildings—a charge which also includes the first 3 therms of gas. The effective rate per therm at this level of usage is therefore $7.93 ($23.80 / 3). The next "block" or range of energy (87 therms) is then priced at $1.2571, drastically lower than the effective price per therm included in the monthly minimum charge. After 90 therms (3 + 87), the delivery price of gas drops all the way down to $0.9562 per therm. Finally, consumption that exceeds 3,000 therms in a single month is priced at just $0.7361. (Exhibit ___(GRP-3, Schedule 2, 2).

This arrangement works well for master-metered landlords in large apartment buildings but not so well for conservation-minded individually metered households living in individual units. Instead of sending price signals that reward the latter for their efforts to reduce consumption, this rate design accommodates the usage profiles of the former—landlords of multiple dwelling apartment buildings—by charging them only $0.9562 per therm for the highest block of energy. Worse, this arrangement allows those individual households who are affluent enough to use large amounts of natural gas to heat large homes (a.k.a. "McMansions") to "free-ride" the declining block rate structure such that they are arguably disincentivized from reducing their carbon emissions. In sum, SC3's declining block rates produce an incentive mechanism that is clearly at odds with the State's goal of achieving 85% gross reductions in GHG emissions by 2050, yet it is currently impossible to design more meaningfully conservation-minded rates for gas heating customers due to the conflicting, albeit legitimate, interests of landlords of large multiple dwelling buildings and customers in 1 - 4 family buildings.

Q. What is the solution?

A. I propose that a new service classification be created for multiple dwelling gas heating customers that meets the criteria set forth in the Company's gas current tariff at Leaf 236, (2). SC3 would then be comprised of only 1-4 family customers, the usage profiles of whom would be much more homogenous and would better lend themselves to changes in rate design that addressed the State's climate objectives.

Q. Is there a precedent for such separate classifications?

A. Yes. KEDNY, whose service area shares the electric service area of Con Edison, has separate service classifications for:

- 1-2 family customers, separately metered units of a multiple dwelling, or master-metered multiple dwellings in which there are there are not more than five (5) individual dwelling units ("SC1B")[48] and
- Multiple dwelling buildings having six or more individual flats or apartments. ("SC3")[49]

Q. Are these the only criteria for each KEDNY service classification?

A. No. Class 1B also allows:

- Up to fifty percent (50%) of the cubical content to be occupied by non-residential activities;
- Building or premises owned or occupied by religious organizations where gas is utilized exclusively in connection with such religious purposes;
- Building or premises owned or leased by not-for-profit veterans' organizations; and

[48] See: *The Brooklyn Union Gas Company - Schedule for Gas Service*, at Leaf 143 (PDF Page 273). Available at: https://ets.dps.ny.gov/ets_web/search/showPDF.cfm?M%3AIS%20%3B%2A%29LOUNWD%5CJ%5E8%2B%22%2B5%2F0MD%2F0%29%21QJ%27R%3C%5BXU2R%2AK%3AR%5CA%5B%2A2H%22N%5EAISF%20XNY%0A%27N7JEJK%5F%2CB%40%20%20%0A.

[49] *The Brooklyn Union Gas Company - Schedule for Gas Service*, at Leaf 163 (PDF Page 296).

- Certain community residences as defined in Subdivisions 28, 28a or 28b of Section 1.03 of the New York State Mental Hygiene Law.

Q. Do these additional criteria also confer eligibility in Con Edison's residential gas heating class?

A. No. Customers meeting these criteria would be eligible for SC1 service, which is generally reserved for "non-heating" purposes, but also includes clauses allowing service to meet the above-described religious organizations, veterans' organizations, and community residences heating needs.

Q. Why are these types of organizations eligible for residential service?

A. The New York State Public Service Law ("PSL") requires that electric and gas utilities provide service to organizations meeting these criteria at rates not greater than those charged to residential customers.[50]

Q. Are there significant numbers of these customers included in Con Edison's SC1 class and how much energy do they consume?

A. The Company indicated in its response to I/R PULP-91 that traditional residential customers used 29,775,073 therms in 2021 (Exhibit ___(WDY-03), 2). If their 2019 usage was roughly equivalent to their 2021 usage, then "non-residential" usage would equate to approximately 23% of overall SC1 usage. (Exhibit ___(WDY-01), 16, 18).

Consider Alternative Rate Designs for the Remaining (1-4 Family) Customers in SC3 with the Objective of Freezing Fixed Monthly Charges and Applying Any Additional Revenue Requirement To Volumetric Rates That Eliminate—To The Greatest Extent Possible—The Class's Current Declining Block Rate Design

Q. Returning to the subject of Con Edison residential gas heating, how can affordability of service be improved for the remaining (1 – 4 family) customers in Service Classification 3?

[50] Public Service Law (hereinafter "PSL"), Article 4, § 76

A. At a minimum, I recommend that the residential fixed monthly charge for gas heating service be frozen at $23.80 and that any increase in revenue requirement determined in these proceedings be applied to volumetric rates. I also propose that the parties and the Commission explore alternative rate designs that would, to the greatest extent possible, minimize or eliminate the use of declining block rates in favor of more conservation/environmentally friendly designs.

Q. How would freezing the monthly fixed charge improve affordability of service for low- to moderate-usage residential gas customers?

A. Customers would save $86.40 annually versus having to pay the additional $7.20 that Con Edison proposes to collect monthly in fixed charges. Of course, in aggregate that savings would be offset by higher volumetric rates; however individual, conservation-minded customers would have the opportunity to mitigate offsetting costs by reducing their usage where practicable.

Q. Is your proposal more aligned with CLCPA requirements than the Company's proposal?

A. Yes. My proposal better incentivizes conservation by using volumetric rates to send price signals instead of fixed monthly charges. This consideration is especially significant for the gas side of Con Edison's business, since households have more direct control over their carbon emissions from gas usage than they do from their electricity usage.

Q. What alternative block rate design options do you recommend the parties and the Commission explore to improve affordability for low- to moderate-usage customers and incentivize conservation among all 1 – 4 family heating customers?

A. I recommend that the parties and the Commission consider alternative rate designs that—to the greatest extent possible without causing rate shock among single family heating customers—reduce or eliminate the use of declining block rates. Toward that end, I provide two hypothetical rate design scenarios for the parties to consider:

- Hybrid declining/inclining block rates; and
- Seasonal inclining block rates.

Regardless of whether the parties and Commission adopt either of these designs or another alternative, I also recommend that high-usage EAP participants who are landlords of 2 – 4 family properties be provided with the necessary resources to individually meter each dwelling in their buildings—a proposal I discuss later in my testimony.

Q. How can you analyze the usage profiles of 1-4 family gas heating customers separately from multiple dwelling customers if both are currently included in the same class?

A. The Company separated 1 - 4 family from multiple dwelling usage for 2019 in its response to Attachment 2 of I/R DPS-263. (Exhibit ___(WDY-01), 25 – 36). Using the 1 – 4 family data, I was able to develop hypothetical scenarios of alternatives that would increase affordability for low to moderate usage customers while also sending better price signals to higher usage customers to conserve energy and reduce greenhouse gas emissions.

Q. Please describe your first rate design scenario for 1 – 4 family SC3 heating customers.

A. In this scenario, which can be found at Exhibit ___(WDY-01), 37 - 38, I modeled a hybrid declining/inclining block rate design for the remaining (1 – 4 family) customers in SC3 that:

- Froze the monthly minimum charge;
- Lowered the per therm delivery rate for the second block 10.1% from $1.25710 to $1.13045, while increasing the upper limit of the block from 90 to 100 therms;
- Increased the per therm delivery rate for the third block from $0.95620 to $0.98000, while decreasing the upper limit of the block from 3000 to 750 therms and
- Increased the per therm delivery rate of the fourth block from $0.73610 to $5.45645 for consumption over 750 therms.

The result would have been an average savings of 6% for SC3 customers with usage greater than 3 therms and less than or equal to 100 therms—who accounted for 62% of the bills for SC3 in 2019—compared to Con Edison’s current rate design. A 3% savings would have been realized by customers with usage in the 101 – 750 therm range (34% of 2019 bills). Just 0.3% of bills—those of customers with usage over 750 therms in any given month—would have reflected higher costs for the delivery of natural gas.

I note that all of these savings take into account the increased revenue requirement for a 1-4 Family SC3 class that would have resulted if my proposal to end the implicit subsidy of the SC3 class by SC1 customers had been in effect in 2019. (Exhibit ___(WDY-01), 38) Had this not been the case, the savings to SC3 customers with usage less than or equal to 750 therms could have been greater.

Q. Why did you choose a tail block rate of $5.45645?

A. I set this rate intending to disincentivize unnecessary consumption of natural gas for heating, while providing sufficient offsetting revenue to allow for reductions in volumetric rates for conservation-minded low- to moderate-usage customers. Based on my analysis of 2019 heating usage among the Company's 1 - 4 family households, just 0.3 percent of bills accounted for 3.8% of consumption among what would be the remaining members of the class. I therefore conclude that the gas burned by the segment of 1 – 4 family customers who are individual households using more than 750 in any given month in 2019 caused disproportionate harm to the environment when compared to that of 1 – 4 family customers using 100 or less therms of gas in any given month. (Exhibit ___(WDY-01), 38).

Q. How many residential customers would have incurred the tail block rate in 2019?

A. It's not possible to determine the number of customers who would have been impacted in 2019 because the data represents individual bills. That said, if every 2019 bill represented a distinct customer (i.e., representing customers who only received one bill in 2019 for usage exceeding 750 therms), then the number of customers affected would be the sum of the bills. For the year, there were 9,335 Non-EAP bills and 98 EAP bills in this usage range for a total of 9,433 out of 3,389,111 residential heating bills. February had the greatest number of bills reflecting usage over 750 therms (2,805 Non-EAP and 34 EAP). In contrast, August had the least number of such bills (67 Non-EAP and 5 EAP). (Exhibit ___(WDY-01), 25, 28). However, it seems very unlikely that *every* customer who incurred a monthly bill sometime in 2019 reflecting usage exceeding 750 therms had such levels of usage for just one month.

Q. You indicated that there were 98 EAP bills reflecting usage exceeding 750 therms in 2019. How can it be that there would be <u>any</u> EAP bills in this usage range, given the income constraints of such customers?

A. It does seem counterintuitive. Based upon current average monthly billing data provided by the Company, the minimum monthly bill for EAP customers in that usage range would have been about $1,129.[51] For the very highest usage customers, the monthly bill would be approximately $10,700.[52] Importantly, these bills reflect the application (are net) of EAP discounts. (Exhibit ___(GRP-3) Schedule 3, 6).

At these levels of usage under the Company's current rate design, the energy burdens of the EAP participants involved would have been overwhelming. Just one <u>monthly</u> bill over 750 therms would have contributed a minimum of 5% (up to a maximum 48%) to the <u>annualized</u> gas energy burdens for the Con Edison low-income gas customers whose incomes in 2019 and 2020 based on ACS Microdata averaged only about $22,500. (Exhibit ___(WDY-01), 45 - 49) It is almost certain that multiple months of such billing would have overwhelmed the annual household finances of such EAP customers.

Q. Did Con Edison have any information that might explain this situation?

A. Yes. In its response to I/R PULP-48, the Company provided insight as to how some EAP customers could experience such high gas heating bills. It did so by distinguishing between individually metered 1 – 4 family ("residential") accounts and accounts for master-metered buildings with multiple units ("building accounts"):

> "***If the Social Security number of the customer of record for a building account*** taking service under SC-3 is matched with public assistance data from New York City Human Resources Administration or Westchester Department of Social Services, the building account is coded as EAP."
>
> (Exhibit ___(WDY-04), 3). (***Emphasis Added***).

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[51] Bill for usage at: 500 therms = $737.58; 1,000 therms = $1,521.21. ($1,521.21 + $737.58) / 2 = $1,129.40.
[52] Bill for usage at: 5,000 therms = $7,338.44; 10,000 therms = $14,045.12, ($7,338.44 + $14,045.12) / 2 = $10,69178.

This is one possible explanation for the occurrence of EAP monthly gas heating bills exceeding 750 therms, which accounted for just 98 (0.04%) of 236,211 EAP heating gas bills in 2019. (Exhibit ___(WDY-01), 42). I noted that 69 of these bills (70%) were for usage in the 751 – 1,000 therm range. I also observed that Attachment 2 to the Company's response to I/R DPS-263 showed that 54 of these bills (78%) were confined to the cold weather months of November through April 2019. (Exhibit ___(WDY-01), 28). These data suggest that at least some of the monthly EAP usage exceeding 750 therms may be attributable to landlords of 2 - 4 family accounts having provided gas heating that was included in their tenants' rent in 2019.

Q. Please describe your second scenario of an alternative rate design for 1 – 4 family SC3 gas heating customers that could incentivize conservation and provide savings to low usage households.

A. In this scenario, which can be found at Exhibit ___(WDY-01), 133 - 134, I modeled separate inclining block rate designs for the summer months of June through September 2019 and for the remaining eight months of the year.

During the summer, this scenario:

- Froze the monthly minimum charge;
- Lowered the per therm delivery rate for the second block 7.4% from \$1.25710 to \$1.16433, while lowering the upper limit of the block from 90 to 60 therms;
- Increased the per therm delivery rate for the third block from \$0.95620 to \$1.16433, while lowering the upper limit of the block from 3000 to 200 therms; and
- Increased the per therm delivery rate of the fourth block from \$0.73610 to \$5.45645 for consumption over 200 therms.

For the remaining eight months of the year, this scenario:

- Froze the monthly minimum charge;
- Lowered the per therm delivery rate for the second block 20.7% from \$1.25710 to \$0.99706, while increasing the upper limit of the block from 90 to 100 therms;
- Increased the per therm delivery rate for the third block from \$0.95620 to \$1.09509, while decreasing the upper limit of the block from 3000 to 750 therms; and

- Increased the per therm delivery rate of the fourth block from $0.73610 to $5.45645 for consumption over 750 therms.

The result would have been an average summer savings of 4% for SC3 customers with usage greater than 3 therms and less than or equal to 60 therms—who accounted for 87% of the summer bills for SC3 in 2019—compared to Con Edison's current rate design. A 3% savings would have been realized by customers with usage in the 61 – 200 therm range (7% of 2019 bills). Just 0.6% of bills—those of customers with usage over 200 therms in any given summer month—would have reflected higher costs for the delivery of natural gas.

Non-summer savings would have averaged 14% for SC3 customers with usage greater than 3 therms and less than or equal to 100 therms. These customers accounted for 47% of 2019's non-summer bills. A 2% savings would have been realized by customers with usage in the 101 – 750 therm range (41% of 2019 bills). Just 0.4% of bills—those of customers with usage over 750 therms in any given month—would have reflected higher gas costs.

Scenario 2 would have negatively impacted 213 EAP bills in 2019—121 more than the 98 EAP bills in Scenario 1. Importantly, however, 121 of these bills (57%) would have been for usage during the non-heating months of June through September, due to Scenario 2's $5.45645 summer tail block rate beginning at monthly usage over 200 therms. On the other hand, lower summer usage EAP participants—some of whom might be the very same customers negatively impacted during non-summer months—would have an opportunity to save much more during from June through September than would be that case in Scenario 1. The main beneficiaries of Scenario 2 in relation to Scenario 1 would be low-usage (4 – 100) non-summer customers, who would realize average savings of 14% instead of the 1 – 7% they would experience under Scenario 1. (Exhibit ___(WDY-01), 137 – 138).

As with Scenario 1, all of these savings consider the increased revenue requirement for a 1-4 Family SC3 class that would result if my proposal to end the implicit subsidy of the SC3 class by SC1 customers were to be adopted. (Exhibit ___(WDY-01), 38, 134) Had the SC3 revenue requirement not increased as a result of that proposal, savings to SC3 customers with usage less than or equal to 750 therms could have been greater.

Create a Customer Energy Solutions ("CES") Program That Funds the Individual Metering of High Usage 2-4 Family Gas Heating Customers Who Are EAP Participants

Q. You indicated earlier that—regardless of whether the parties and Commission were to adopt either of your rate design scenarios (or another alternative)—you also recommend that high usage EAP participants who are landlords of 2 – 4 family properties be provided with the necessary resources to individually meter each dwelling in their buildings. How do you propose that this recommendation be implemented?

A. I propose that Con Edison create a program within its Customer Energy Solutions ("CES") Group that would:

1. Identify each of its EAP SC3 1-4 family customers whose usage in any month during the past three years has exceeded 750 therms and determine if the account is for a building or buildings that currently provides gas heating for more than one of the units in the building(s); and
2. Provide 100% funding and contracting services for:
   a. Making these building(s) of each of these accounts ready for the individual metering of each unit; and
   b. Installing the individually meters for each unit.

Q. What would be the cost of such a program?

A. Using the $2,153 estimated cost per project of the CES Group's Heating Electrification Make Ready Program for the 1-4 family segment, I estimate that such a program would cost $210,994 for 98 customers (the maximum number of EAP participants who could have incurred a bill reflecting usage exceeding 750 therms in any given month in 2019). Of course, the scope of work would be different than that of the Heating Electrification Make Ready Program so variation in program costs is almost certain. However, even assuming that the cost per customer of such a program were to be double that amount, the total cost would be just 2.3% of the Heating Electrification Make Ready Program. (Exhibit___(CES-1), 2).

Q. What would be the benefits of such a program?

A. Owners of 2 – 4 family properties currently providing heating to their tenants as part of their rent would avoid the disproportionate bill impact they would experience otherwise at monthly usage levels above 750 therms. For example, a master-metered two family building using 849.26 therms in any given month under Scenario 1 would incur a delivery bill of $1,312.06, while separately metered dwellings each using 424.63 therms would each incur bills amounting to $419.12. The total monthly bill for the two households would equal $838.24, or 36% less than the cost had the landlord not individually metered each dwelling.

Among the other benefits of such a program, two are notable. Firstly, in situations in which landlords were to stop including gas heating in rent (instead requiring tenants to pay for their own gas), tenants would now have a greater incentive to conserve. How effective they could be at lowering their gas bills through conservation would of course depend on factors both in and out of their control. (For example, tenants living in buildings with poorly insulated building envelopes would have less control over their gas bills due to the inherent energy inefficiencies these types of buildings possess.) Still, any conservation measures are likely to have some favorable impact on bills and lower the greenhouse gas emissions of such buildings.

The second additional benefit of such a program would be that it would further increase the homogeneity of the 1-4 family gas heating class, which would in turn allow for further calibration of the class's rate design.

Q. Do you have any other proposals that would assist 1 – 4 family residential customers with monthly usage levels greater than 750 therms who would experience higher gas bills under this type of rate design?

A. Yes. Should such a rate design (or any other with potentially negative impacts on high usage EAP customers) be adopted, I propose that the Company conduct specific outreach to every EAP customer whose heating delivery bill in any month during the twelve months prior to October 31, 2022 (the "Prior Period") would have been at least 10% higher due solely to SC3 rate design changes taking effect January 1, 2023, had such changes been in effect during the Prior Period, explaining:

1. The changes in rate design and how they would affect SC3 customers;
2. Why the changes are to be made; and
3. What customers will be able to do to mitigate/eliminate any adverse bill impacts caused by the change in rate design.

I propose that communication with such customers commence within 30 days of the start of the first Rate Year. I recommend that Con Edison furnish Company, NYSERDA and other State provider contact information for energy efficiency and other services that could reduce and/or eliminate rate re-design bill impacts (including, at a minimum, telephone, website, and email contact information). I further propose that the Company furnish applicable collateral materials to these customers providing information about energy efficiency and other services that could reduce and/or eliminate rate re-design bill impacts.

Finally, I recommend that Con Edison create a page on its website dedicated to providing the above-described educational information, together with sample bill impacts for typical usage profiles, to all of its 1-4 family residential gas customers; and that a link to this page be included in of Con Edison's communications to EAP customers and also listed in any newspaper notice published at or near the commencement of the initial Rate Year, and any subsequent rate years that may result from a settled agreement in these proceedings.

Q. How would this outreach and education be funded?

A. I recommend that this outreach be covered by Con Edison's proposal for increased education and outreach funding (Customer Operations Panel Testimony, 94 – 96). As such, I do not anticipate that there would be any additional revenue required to implement my proposal.

Other Costs Not Included In These Proceedings Likely To Impact Con Edison Customers

Q. Are there any additional costs that the Company's residential customers are incurring, or are likely to incur in the future, on their Con Edison bills that are not being considered in these proceedings?

A. Yes. Ongoing proceedings that are likely to have additional incremental bill impacts for the Company's residential customers include, but are not limited to:

- Utility Energy Efficiency and Building Electrification (Case 18-M-0084)

  The Commission's January 16, 2020 *Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025* in Case 18-M-0084 indicates that it will conduct an interim review of utility initiatives on energy efficiency and heat pumps in 2022. This review will assess all meaningful aspects of "New Efficiency: New York" ("NENY") program design and administration, useful innovation, and governance oversight, as well as adjustment of targets and budgets as more becomes practicable. Critical inputs are expected to include guidance emerging from the CLCPA processes, potential studies and the like, in-field experience, and a new Performance Management and Improvement Process.[53]

  The Customer Energy Solutions ("CES") Panel indicates in its testimony that Con Edison will propose in Case 18-M-0084 to seek recovery of any additional NENY program budget authorization through a surcharge. (Customer Energy Solutions Testimony, 118).

- Transmission System Upgrades (Case 20-E-0197)

  On April 15, 2022, Con Edison filed a petition in Case 20-E-0197 requesting authorization to recover approximately $1 billion for construction of its proposed Brooklyn Clean Energy Hub, which would create sufficient interconnection capacity to inject 6,000 MW of planned offshore wind-generating electricity capacity through New York City.[54]

- Electric Vehicle Charging Make-Ready Programs (Case 18-E-0138)

[53] See: *Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025*, Case 18-M-0084, 5. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={06B0FDEC-62EC-4A97-A7D7-7082F71B68B8}.

[54] See: *Petition of Consolidated Edison Company of New York, Inc. for Approval to Recover Costs of Brooklyn Clean Energy Hub*, Case 20-E-0197, 18. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BFDD21F6-6ABF-4AC3-9751-DD79A4A3CB9A}.

On April 21, 2022, the Commission filed a notice in Case 18-E-0138 seeking comments regarding the establishment of a commercial tariff to facilitate faster charging for eligible light duty, heavy duty, and fleet electric vehicles. In particular, the Commission has solicited comment on the potential impacts to ratepayers from adoption of a rule change that would eliminate or change the traditional demand-based rate for commercial purposes.[55]

- Arrears Forgiveness (Cases 14-M-0565, 20-M-0266)

As I discussed earlier in my testimony, the EAP Working Group in Cases 14-M-0565 and 20-M-0266 is currently considering plans for the management and/or forgiveness of arrears for residential customers of all the investor-owned utilities in the New York State. Any resulting plan that includes arrears forgiveness is likely to have bill impacts on residential customers since forgiveness will entail write-offs of what will effectively be determined to be uncollectible arrears that that the utilities are entitled to recover. The degree of bill impacts on Con Edison residential customers will depend on several factors, including but not limited to the amounts to be forgiven, the level of any shareholder contribution provided for such forgiveness, and the recovery period determined for the share of forgiveness for which residential ratepayers will be responsible.

These examples, when also considered in the context of the broad range of initiatives likely to emerge from mandates under the CLCPA, are evidence that Con Edison ratepayers face the prospect of significant additional energy burdens beyond the costs associated with Con Edison's proposals in these proceedings.

[55] See: *Notice Soliciting Comments*, Case 18-E-0138, 1 - 3, Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={7F588A0B-FE7C-4B28-ABF3-9EA753506F44}.

PULP Customer Service Proposals

Increase Outreach and Education Activities In Line with the Company's Proposals, with a Particular Focus on Efforts to Increase EAP Enrollment, Language Access, and Residential Electric Coding for "Heat Related" Status

Q. Do you support the Company's proposal for increased spending on customer outreach and education?

A. Yes, however, I think there are three areas that should receive particular priority for increased outreach and education. The first and most urgent is to make payment-troubled residential customers of Con Edison aware of their ability to self-certify their eligibility for the Company's Energy Affordability Program ("EAP"). As required by the 2021 EAP Order, on February 7, 2022, Con Edison filed its Outreach & Education Plan for EAP Self-Certification in Case 14-M-0465.[56] The plan addresses the methods of outreach it intends to use to make customers aware of Con Edison's EAP and the ways in which self-certification can be accomplished.[57] An important new way that customers can accomplish self-certification is through their "MyAccount" customer portals, where they can complete an online form and upload the documentation necessary to verify their eligibility.

Customer awareness of Con Edison's EAP is critically needed due to multiple factors that threaten to damage the access and affordability of utility service for low-income households in the Company's service area during rate term it proposes. These factors include, but are not limited to, the following:

- The persistent arrears crisis that has engulfed almost 400,000 Con Edison residential customers since early 2020 includes households newly eligible for, but not enrolled in, EAP benefits. These households are missing out on discounts that would help them address their bill payment difficulties.

[56] See: *Outreach & Education Plan for EAP Self-Certification*, Case 14-M-0565. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={13477311-B17E-49F7-9D07-AA52E25A1F47}.
[57] See: JOINT UTILITIES' ENERGY AFFORDABILITY PROGRAM SELF-CERTIFICATION PROCESS AND TEMPLATE, Case 14-M-0565. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={13477311-B17E-49F7-9D07-AA52E25A1F47}.

- New York State's FY2022 - 2023 budget included $350 million of funding for COVID period arrears assistance directed to participants in utility energy assistance programs. Customers who are eligible for but not enrolled in the Con Edison EAP by the time arrears assistance funds are exhausted risk also missing out on this important benefit.
- Con Edison residential service terminations will most likely ramp up before commencement of the initial Rate Year. Customers who are eligible for but not enrolled in the EAP will have an inherently higher likelihood of service termination than they would if they were receiving discounts and arrears assistance.
- The HRA file matching program that identifies Con Edison customers who are eligible for EAP discounts no longer includes the identification of customers whose only eligibility-conferring benefit is Medicaid (although Medicaid remains a program that confers eligibility in the EAP). (Exhibit ___(WDY-03), 3) As discussed earlier, this appears to have reversed early Pandemic period increases in EAP enrollment and, due to widespread Medicaid enrollment in New York City, threatens to substantially decrease EAP participation in the future.
- The County of Westchester has not returned file matching data to Con Edison that identify customers who are eligible for EAP discounts for auto-enrollment since September 28, 2020.

Q. What is the second area that you think should be prioritized for increased education and outreach?

A. I believe that outreach to and education for households with limited English proficiency or who indicate that their preferred language is not English should also be prioritized. In its response to I/R UIU-84, the Company indicated that:

> "All customer outreach material is produced in both English and Spanish. Additionally, certain letters and postcards (regarding scam awareness, gas safety and other safety messages) and all email blasts, door hangers and drop cards include a language block which features Arabic, Chinese, Haitian-Creole, Korean, Polish, and Yiddish. Customer Outreach has also begun including language blocks on

brochures as space permits. As needed, the Company will produce outreach materials in the predominant language of a specific community. For example, when the Company experienced access issues during attempts to install smart meters in predominantly Jewish areas of Brooklyn, communications were translated into Yiddish. Finally, all written customer outreach material on the Company's website is available in English and Spanish and may be translated through Google Translate into Arabic, Chinese, Haitian-Creole, Hindi, Korean, Polish, Portuguese, Russian and Yiddish."

(Exhibit ___(WDY-04), 7).

Q. Do you suggest that the Company produce EAP outreach materials in the predominant language of specific communities as it did when it experienced access issues during attempts to install smart meters in predominantly Jewish areas of Brooklyn?

A. Yes. Given the affordability challenges faced by Con Edison's low-income residential households, coupled with the fact that only 49% of them are EAP enrolled, it is imperative that every effort be made to conduct outreach and education describing the ways in which a household can self-certify their eligibility for EAP enrollment and to do so in their predominant language. I recommend that the Company, at a minimum, follow the guidelines for language access most recently set by the City of New York with the 2017 passage of Local Law 30, which expanded to 10 the languages for which City agencies must provide language access services.[58] EAP enrollment needs are clearly an example on par with smart meter installation that warrant translation of communications in the predominant language of specific communities.

Q. Do you recommend that any other education and outreach materials be produced in the languages covered by New York City Local Law 30?

A. Yes. I recommend that Con Edison at a minimum strive to produce all its education and outreach materials in the languages covered by New York City Local Law 30, so it has the

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[58] See: *New York City Local Law 30*. Available at: https://www1.nyc.gov/assets/immigrants/downloads/pdf/Local_Law_30.pdf.

ability to target either by community (as it did with the Yiddish speaking areas of Brooklyn), or by virtue of the fact that—according to its 2022 *Con Edison Outreach and Education Report*—it asks customers their language preference at turn-on and whenever they contact the call center, and retains this information in their accounts.[59] At a minimum, the Company should furnish Home Energy Fair Practices Fair Practices Act ("HEFPA") required notices of customer rights and responsibilities to customers whose preferred languages is one of the ten covered under Local Law 30. (Con Edison indicates that, presently, these materials are only provided in English and Spanish.[60])

Q. What is the third area that you think should be prioritized for increased education and outreach?

A. I believe that significant outreach needs to be conducted to residential electric customers who use electrically powered equipment to provide heating to their dwellings because inadequate heat (i.e., "space heaters") is provided by their landlord or another third party who controls the primary heating system in their buildings. I discuss the need for this outreach in detail in the next part of my testimony.

Improve Safeguards Against Service Termination In Cold Weather Periods For Residential Customers Taking "Heat Related" Electric Service

Q. Earlier you discussed the risk of service termination during cold weather periods that residential electric customers who use electricity to operate heating equipment face if they can't pay their utility bills and haven't previously notified Con Edison that such equipment is needed because inadequate heat is provided by a third party who controls the primary heating system. Can you provide evidence of an example involving such customers?

A. Yes. Through a recent inquiry from a New York City elected official's office to PULP, I became aware of a situation in which a constituent indicated that units in his building had been misclassified by Con Edison as "Heat Included", whereas in fact the landlord does

[59] See: *Con Edison Outreach and Education Report*, Cases 19-E-0065, 19-G-0066, 6. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={830061A6-34E0-4A1E-8A49-826E08EA9794}.
[60] See: *Con Edison Outreach and Education Report*, Cases 19-E-0065, 19-G-0066, 32.

not provide heat to the tenants apartments, only "electric blower" systems for each apartment that tenants must plug into an outlet to operate, using electricity they pay for through their own accounts with Con Edison.

Q. Does Con Edison's coding of the units in this building also impact the level of Home Energy Assistance Program ("HEAP") grant that the tenants in this building are able to obtain?

A. It appears that way, although I was not able to determine in time for the filing of my testimony whether this is or is not the case. The level of HEAP grant that households receive is based largely on whether or not they pay for their own heat, but that determination is made by local departments of social services (in this case, New York City HRA). PULP's direct services team will inquire with the Company and HRA to ascertain whether there is interaction between the two that differentiates customers such as these tenants in the building as "Heat Included" electric customers. PULP expects to have further information on this matter available for submission of rebuttal testimony in these proceedings.

Q. How do you recommend protecting customers such as these from service termination when they can't afford to pay their utility bills?

A. I recommend that the Company provide written annual notice to all its residential electric customers that:

> "Heat-related service shall also include a safe, supplemental electrical heating device, provided the residential customer has informed the utility within the last 12 months in writing that such device is needed because inadequate heat is provided by a third party who controls the primary heating system."
>
> 16 NYCRR § 11.5(c)(1)

Such written annual notices should include a pre-printed letter with the customer's account information that can be signed and returned to Con Edison by those customers who wish to inform the Company that they use supplemental heating device(s) because inadequate heat is provided by their landlord or other third party who controls the primary heating system in their building; or who need to inform the Company that they are no longer using such equipment. Con Edison should then, upon the return of these letters, either re-code Non Heat Related customers as Heat Related, or vice-versa, as applicable.

I further propose that Con Edison should furnish the same notice to every residential electric customer receiving a final termination notice ("FTN") whose account is coded as "Heat Included" (non-heating). Upon return of such letters informing the Company of their use of supplemental electric equipment, these customers should then be re-coded as "Heat Related", thus affording them the special termination procedures for cold weather periods provided pursuant to 16 NYCRR § 11.5(c). Customer and field service representatives should follow up with customers who have not responded before the Company initiates any service termination.

Finally, Con Edison should also provide a similar capability for customers to inform the Company of their use of supplemental electric equipment for heating through the "MyAccount" customer portal.

In this manner, the growing number of customers who use supplemental electrical heating devices because inadequate heat is provided by their landlords or other third parties who control their building's primary heating system, can avoid service terminations that may occur because the Company is unaware of the fact that these customers would otherwise meet the "Heat Related" criteria for special procedures during cold weather periods but for the fact that they have not previously notified Con Edison that this is the case.

Make Six Years of Billing History Available Through MyAccount

Q. **What are your information technology-related customer service recommendations?**

A. In addition to my proposal that customers be given the opportunity through "MyAccount" to inform the Company of their use of supplemental electric equipment for heating, I have two recommendations for enhancements to Con Edison's customer service systems:

- Make six-years of billing data available to customers through "MyAccount"; and

- Include a data field for customer service representatives ("CSRs") to populate indicating situations in which customers identify themselves as victims of domestic violence.

Q. Please describe your proposal that Con Edison make six years of billing data available to customers through their MyAccount portals.

A. I propose that six years of detailed billing data be made available to residential customers as soon as they register for MyAccount. If "abeyance" amounts are more than six years old or the DVC period has lasted more than six years, billing history extending back to three months prior to the earlier of: the removal of arrears constituting abeyance amounts from customer bills; or the beginning of DVC periods should be provided.

Q. Why do you propose this?

A. Six years is, generally, the statute of limitations period for the recovery of utility bill amounts due in New York State.[61] But while the Company has full access to this data through its in-house systems, only two years of account data is provided to customers through MyAccount. Providing six years of billing data to MyAccount registered customers would substantially eliminate this imbalance of information that currently favors the Company. It would also help to reduce confusion and disputes that might otherwise lead to customers filing complaints with DPS.

Through its toll-free hotline, PULP frequently receives calls from Con Edison customers who dispute charges to their accounts that are more than two years old. In some cases, the charges are justified but PULP does not have ready access to the billing data that would confirm whether or not this is the case. Both the Company and customers would benefit by having the same data up front in such cases, avoiding unnecessary disputes that could escalate to customer complaints to DPS.

[61] See: CPLR Article 2 § 213. Available at: https://www.nysenate.gov/legislation/laws/CVP/213.

Include a Data Field For CSRs Identifying Customers Who Indicate They Have Been Victims of Domestic Violence

Q. Please describe your recommendation to include a data field for customer service representatives to populate indicating situations in which customers identify themselves as victims of domestic violence.

A. Since the Pandemic began, PULP has experienced an increase in calls and referrals by Con Edison customers who indicate that they have been victims of domestic violence. These circumstances are ones in which, for obvious reasons, extra care must be taken to preserve victims' confidentiality.

Con Edison's procedures involving customers indicating they have been victims of domestic violence allow such customers to have their names removed by joint accounts or to close accounts for which they are the sole holder. The procedures detail the steps for CSRs to follow to document the occurrence of domestic violence in such situations. (Exhibit ___(WDY-03), 08).

Prior to name-removal or account closing, customers in these situations remain at risk of having their personal information (e.g. whereabouts) disclosed to violent joint account holders or other parties. When more than one CSR interacts with any given victim, the chances increase that one or more of them will not be aware of the customer's "DV" status and may therefore disclose information to a violent person. To mitigate this risk, I recommend that the Company include a data field that CSRs can populate when customers indicating they have been victims of domestic violence first notify Con Edison. Thereafter, when CSRs call up such customers' accounts, pop-up alerts should appear indicating that special confidentiality measures must be observed to protect the victims' identities while the Company's procedures for documenting domestic violence status are proceeding. The Company has indicated that its systems support such functionality. (Exhibit __(WDY-03), 9).

Q. Are there any other scenarios involving victims of domestic violence that deserve special consideration by Con Edison?

A. Yes. An additional safety concern exists where survivors of domestic violence remain living in the unit they once shared with the abuser, but the utility account remains solely in the abuser's name. If the abuser leaves the unit, by choice or by Court order, the survivor is left unable to access the account providing utilities to the unit the survivor lives in. This type of scenario can result in microaggressions by the abuser against the survivor, ranging from refusing to close the account, threatening disconnection, or other forms of coercive control, either by not paying or the threat of closing the account. All of which can be extremely upsetting for the survivor who remains in the unit.

Q. What assistance do you propose the Company provide in such a situation?

A. I recommend that upon notification from the survivor that the abuser is no longer residing at the property that the account be closed with a new account opened in the survivor's name. No balance transfer should be initiated in such a situation. Instead, the debt should be pursued against the abuser through other means, including collections agencies. Finally, the survivor's new account should use the DV data field and note the reason for opening the new account in the survivor's name, and that the prior account was closed as it was the abuser's account, thereby providing a notification for additional protection for the survivor.

Suspend the Residential Terminations, Uncollectible Bills and Arrears Incentive Mechanism

Q. Do you support Con Edison's proposal to suspend the residential terminations, uncollectible bills, and arrears incentive mechanism?

A. Yes. I agree with the Company that the now expired moratoria on collections and termination activity for residential customers, together with the Company's slow resumption of residential collections activity in 2022, have distorted the data used to measure the performance for this metric, and that it is therefore not appropriate to continue this incentive mechanism during the upcoming rate period. The Company's proposal is also consistent with recent Commission Orders in other recent rate cases. (Customer Operations Panel Testimony, 125).

Modify the Commission Complaint Metric for All Utilities So That it is Based Upon the Outcome of DPS/Commission Determinations

Q. Do you support Con Edison's proposal to the Commission's complaint metric?

A. Not as proposed. Con Edison raises legitimate concerns that, given the unique attributes of the New York City part of its service area, the current structure of complaint metric *might* lend itself to the *possibility* that its escalated complaint rate and those of the State's other regulated electric and gas utilities may not be comparable. (Customer Operations Panel testimony, 117 – 118) The Company did not, however, provide any internal and/or external analyses, studies or other evidence that would support the Panel's position in this regard – either in its testimony or in response to I/R PULP-29 (which specifically requested such support). (Exhibit ___(WDY-03), 10).

That being said, I believe there is some need to address the Commission's complaint metric, in that it is based on the number of escalated complaints, without regard to DPS initial determinations or later reversals of DPS determinations through the informal hearing and/or Commission appeals processes. It is entirely possible, therefore, that the complaint rates of *any* of the State's regulated electric and gas utilities could be the result of distorted measures of actual customer service.

Q. What do you recommend instead?

A. I recommend that DPS consider modifying its complaint metric to only include escalated complaints in which:

- Initial determinations have been made in favor of customers, which have not been subsequently reversed in final adjudication at either the informal hearing or Commission appeal level, or;
- Initial determinations have been made in favor of the utilities, which have been subsequently reversed in final adjudication at either the informal hearing or Commission appeal level.

In this manner, a more meaningful complaint measure can be applied consistently to all of the State's regulated electric and gas utilities.

Continue Suspension of Residential Service Terminations During Extreme Heat

Q. What is Con Edison's current practice when it comes to extreme temperatures and residential service terminations?

A. In Con Edison's 2019 rate case, the Company agreed to modify its procedures for not terminating service for nonpayment when the heating index is 93 degrees or higher. Service will also not be terminated 1 calendar day before and 2 calendar days after the 93-degree day.[62]

Q. Do you recommend the continuation of this provision of the 2019 rate case?

A. Yes. Given the City of New York's recognition of the current and future extreme heat risks to its population, this provision of the 2019 rate case should continue. In this regard, it is notable that the City has forecast that the number of heat waves could increase from two to seven per year by 2050, and that the average annual number of days over 90°F could more than triple from 18 to 57 by 2050.[63]

Preventing service terminations during extreme heat is a public health, safety, and welfare issue,[64] one that has been complicated by the continued need of many persons to maintain social distancing during the COVID-19 Pandemic. These and other vulnerable customers must be able to rely upon electricity to operate their air conditioning units at home. I therefore recommend that this provision of the 2019 rate case be continued.

Q. Does PULP have any recommendations relating to modifying Con Edison's policy relating residential service terminations during extreme temperatures?

[62] Joint Proposal in Cases 19-E-0065, 19-G-0066, at 38.
[63] See: *New York City Assesses Extreme Heat Climate Risk*, Environmental Protection Agency. Available at: https://www.epa.gov/arc-x/new-york-city-assesses-extreme-heat-climate-risk.
[64] See, e.g., https://www.epa.gov/climate-indicators/heat-related-illnesses.

A. Yes. While the Company's current policy is a good step forward, it should be expanded to include days where the temperature hits 85 degrees (including not terminating 1 calendar day before and 2 calendar days after 85-degree days). PULP is advocating for lowering the extreme heat temperature from 93 degrees to 85 degrees because of the persistent issues with heat islands in NYC.[65]

Conclusion

Q. Does this conclude your testimony?

A. Yes.

[65] See, Heat Island Effect, "Structures such as buildings, roads, and other infrastructure absorb and re-emit the sun's heat more than natural landscapes such as forests and water bodies." https://www.epa.gov/heatislands#:~:text=Heat%20islands%20are%20urbanized%20areas,as%20forests%20and%20water%20bodies.

Exhibit 2
New York City Low-Income Energy Burdens
By Community District (2020)

Borough	Community District	Communities	Average												
			Income	Electric			Natural Gas			Deliverable Fuels			Total		
				Costs	Energy Burden	Margin of Error	Costs	Energy Burden	Margin of Error	Costs	Energy Burden	Margin of Error	Costs	Energy Burden	Margin of Error
Bronx	01, 02	Hunts Point, Longwood & Melrose	$20,206	$1,633	8.1%	0.6%	$209	1.0%	0.2%	$9	0.0%	0.0%	$1,850	9.2%	0.6%
Bronx	03, 06	Belmont, Crotona Park East & East Tremont	$20,993	$1,580	7.5%	0.4%	$133	0.6%	0.1%	$9	0.0%	0.0%	$1,721	8.2%	0.5%
Bronx	04	Concourse, Highbridge & Mount Eden	$22,201	$1,615	7.3%	0.4%	$174	0.8%	0.1%	$6	0.0%	0.0%	$1,795	8.1%	0.5%
Bronx	05	Morris Heights, Fordham South & Mount Hope	$21,725	$1,645	7.6%	0.5%	$188	0.9%	0.2%	$2	0.0%	0.0%	$1,835	8.4%	0.6%
Bronx	07	Bedford Park, Fordham North & Norwood	$22,591	$1,640	7.3%	0.4%	$200	0.9%	0.1%	$20	0.1%	0.1%	$1,860	8.2%	0.5%
Bronx	08	Riverdale, Fieldston & Kingsbridge	$23,262	$1,550	6.7%	0.5%	$241	1.0%	0.2%	$28	0.1%	0.1%	$1,819	7.8%	0.7%
Bronx	09	Castle Hill, Clason Point & Parkchester	$22,713	$1,876	8.3%	0.6%	$225	1.0%	0.2%	$41	0.2%	0.1%	$2,142	9.4%	0.7%
Bronx	10	Co-op City, Pelham Bay & Schuylerville	$21,627	$2,136	9.9%	0.8%	$457	2.1%	0.5%	$118	0.5%	0.3%	$2,711	12.5%	1.0%

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Bronx	11	Pelham Parkway, Morris Park & Laconia	$24,482	$1,756	7.2%	0.5%	$279	1.1%	0.2%	$72	0.3%	0.1%	$2,108	8.6%	0.5%
Bronx	12	Wakefield, Williamsbridge & Woodlawn	$22,305	$2,157	9.7%	0.8%	$518	2.3%	0.5%	$117	0.5%	0.2%	$2,792	12.5%	1.2%
Brooklyn	01	Greenpoint & Williamsburg	$22,830	$1,431	6.3%	0.4%	$528	2.3%	0.2%	$18	0.1%	0.1%	$1,977	8.7%	0.5%
Brooklyn	02	Brooklyn Heights & Fort Greene	$16,508	$1,205	7.3%	0.8%	$455	2.8%	0.5%	$17	0.1%	0.1%	$1,676	10.2%	1.2%
Brooklyn	03	Bedford-Stuyvesant	$20,678	$1,513	7.3%	0.6%	$640	3.1%	0.3%	$38	0.2%	0.2%	$2,191	10.6%	0.8%
Brooklyn	04	Bushwick	$21,122	$1,360	6.4%	0.5%	$509	2.4%	0.4%	$17	0.1%	0.1%	$1,886	8.9%	0.8%
Brooklyn	05	East New York & Starrett City	$23,645	$1,485	6.3%	0.4%	$763	3.2%	0.4%	$26	0.1%	0.1%	$2,274	9.6%	0.7%
Brooklyn	06	Park Slope, Carroll Gardens & Red Hook	$15,473	$1,194	7.7%	1.4%	$495	3.2%	0.7%	$80	0.5%	0.5%	$1,769	11.4%	2.0%

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Brooklyn	07	Sunset Park & Windsor Terrace	$27,360	$1,179	4.3%	0.2%	$632	2.3%	0.2%	$24	0.1%	0.1%	$1,834	6.7%	0.4%
Brooklyn	08	Crown Heights North & Prospect Heights	$19,606	$1,367	7.0%	0.5%	$476	2.4%	0.3%	$21	0.1%	0.1%	$1,864	9.5%	0.8%
Brooklyn	09	Crown Heights South, Prospect Lefferts, Wingate	$22,947	$1,280	5.6%	0.4%	$552	2.4%	0.4%	$20	0.1%	0.1%	$1,852	8.1%	0.7%
Brooklyn	10	Bay Ridge & Dyker Heights	$24,662	$1,193	4.8%	0.4%	$730	3.0%	0.3%	$64	0.3%	0.1%	$1,987	8.1%	0.5%
Brooklyn	11	Bensonhurst & Bath Beach	$25,938	$1,227	4.7%	0.2%	$748	2.9%	0.3%	$27	0.1%	0.1%	$2,002	7.7%	0.4%
Brooklyn	12	Borough Park, Kensington & Ocean Parkway	$26,759	$1,530	5.7%	0.3%	$807	3.0%	0.3%	$49	0.2%	0.1%	$2,386	8.9%	0.6%
Brooklyn	13	Brighton Beach & Coney Island	$21,275	$1,163	5.5%	0.4%	$497	2.3%	0.3%	$23	0.1%	0.1%	$1,682	7.9%	0.6%
Brooklyn	14	Flatbush & Midwood	$23,741	$1,192	5.0%	0.2%	$445	1.9%	0.2%	$17	0.1%	0.0%	$1,653	7.0%	0.4%

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Brooklyn	15	Sheepshead Bay, Gerritsen Beach & Homecrest	$23,103	$1,305	5.6%	0.4%	$781	3.4%	0.3%	$44	0.2%	0.1%	$2,130	9.2%	0.5%
Brooklyn	16	Brownsville & Ocean Hill	$17,836	$1,444	8.1%	0.7%	$496	2.8%	0.4%	$18	0.1%	0.1%	$1,958	11.0%	0.9%
Brooklyn	17	East Flatbush, Farragut & Rugby	$22,952	$1,461	6.4%	0.5%	$802	3.5%	0.3%	$43	0.2%	0.1%	$2,305	10.0%	0.7%
Brooklyn	18	Canarsie & Flatlands	$26,189	$1,658	6.3%	0.4%	$1,304	5.0%	0.4%	$37	0.1%	0.1%	$2,999	11.5%	0.6%
Manhattan	01, 02	Battery Park City, Greenwich Village & Soho	$15,010	$1,220	8.1%	1.0%	$90	0.6%	0.2%	$18	0.1%	0.1%	$1,328	8.8%	1.2%
Manhattan	03	Chinatown & Lower East Side	$16,558	$1,021	6.2%	0.5%	$171	1.0%	0.2%	$14	0.1%	0.1%	$1,207	7.3%	0.7%
Manhattan	04, 05	Chelsea, Clinton & Midtown Business District	$15,835	$1,087	6.9%	0.7%	$104	0.7%	0.2%	$34	0.2%	0.3%	$1,225	7.7%	0.9%
Manhattan	06	Murray Hill, Gramercy & Stuyvesant Town	$16,174	$1,101	6.8%	0.8%	$101	0.6%	0.3%	$0	0.0%	0.0%	$1,202	7.4%	0.9%

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Manhattan	07	Upper West Side & West Side	$16,051	$1,305	8.1%	1.1%	$164	1.0%	0.3%	$5	0.0%	0.0%	$1,473	9.2%	1.1%
Manhattan	08	Upper East Side	$17,193	$1,218	7.1%	0.8%	$133	0.8%	0.3%	$10	0.1%	0.0%	$1,360	7.9%	1.0%
Manhattan	09	Hamilton Heights, Manhattanville & West Harlem	$19,085	$1,417	7.4%	0.7%	$101	0.5%	0.1%	$16	0.1%	0.1%	$1,533	8.0%	0.8%
Manhattan	10	Central Harlem	$20,464	$1,373	6.7%	0.5%	$110	0.5%	0.2%	$6	0.0%	0.0%	$1,489	7.3%	0.6%
Manhattan	11	East Harlem	$19,638	$1,255	6.4%	0.6%	$164	0.8%	0.4%	$3	0.0%	0.0%	$1,422	7.2%	0.8%
Manhattan	12	Washington Heights, Inwood & Marble Hill	$22,424	$1,492	6.7%	0.4%	$136	0.6%	0.1%	$11	0.1%	0.0%	$1,639	7.3%	0.5%
Queens	01	Astoria & Long Island City	$23,000	$1,424	6.2%	0.5%	$457	2.0%	0.2%	$99	0.4%	0.2%	$1,980	8.6%	0.6%
Queens	02	Sunnyside & Woodside	$25,738	$1,224	4.8%	0.3%	$493	1.9%	0.3%	$27	0.1%	0.1%	$1,744	6.8%	0.5%

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Queens	03	Jackson Heights & North Corona	$27,897	$1,274	4.6%	0.2%	$688	2.5%	0.2%	$43	0.2%	0.1%	$2,006	7.2%	0.4%
Queens	04	Elmhurst & South Corona	$28,642	$1,261	4.4%	0.3%	$546	1.9%	0.3%	$15	0.1%	0.0%	$1,821	6.4%	0.5%
Queens	05	Ridgewood, Glendale & Middle Village	$25,552	$1,311	5.1%	0.3%	$740	2.9%	0.3%	$66	0.3%	0.1%	$2,117	8.3%	0.6%
Queens	06	Forest Hills & Rego Park	$19,094	$1,104	5.8%	0.7%	$416	2.2%	0.3%	$37	0.2%	0.2%	$1,557	8.2%	0.8%
Queens	07	Flushing, Murray Hill & Whitestone	$25,257	$1,516	6.0%	0.3%	$377	1.5%	0.2%	$64	0.3%	0.1%	$1,956	7.7%	0.4%
Queens	08	Briarwood, Fresh Meadows & Hillcrest	$25,863	$1,410	5.5%	0.4%	$583	2.3%	0.3%	$62	0.2%	0.1%	$2,055	7.9%	0.7%
Queens	09	Richmond Hill & Woodhaven	$27,598	$1,442	5.2%	0.3%	$850	3.1%	0.3%	$60	0.2%	0.1%	$2,353	8.5%	0.5%
Queens	10	Howard Beach & Ozone Park	$26,538	$1,740	6.6%	0.5%	$1,249	4.7%	0.6%	$141	0.5%	0.2%	$3,130	11.8%	1.0%

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				Costs	Energy Burden	Margin of Error	Costs	Energy Burden	Margin of Error	Costs	Energy Burden	Margin of Error	Costs	Energy Burden	Margin of Error
Queens	11	Bayside, Douglaston & Little Neck	$24,783	$1,923	7.8%	0.7%	$705	2.8%	0.4%	$147	0.6%	0.3%	$2,775	11.2%	1.1%
Queens	12	Jamaica, Hollis & St. Albans	$27,046	$1,695	6.3%	0.4%	$1,052	3.9%	0.3%	$95	0.4%	0.1%	$2,842	10.5%	0.6%
Queens	13	Queens Village, Cambria Heights & Rosedale	$26,994	$2,035	7.5%	1.2%	$1,160	4.3%	0.6%	$221	0.8%	0.3%	$3,416	12.7%	1.1%
Queens	14	Far Rockaway, Breezy Point & Broad Channel	$27,576	$1,516	5.5%	0.6%	$830	3.0%	0.5%	$37	0.1%	0.1%	$2,383	8.6%	0.9%
Staten Island	01	Port Richmond, Stapleton & Mariner's Harbor	$23,155	$1,676	7.2%	0.7%	$1,017	4.4%	0.4%	$94	0.4%	0.1%	$2,786	12.0%	1.0%
Staten Island	02	New Springville & South Beach	$26,370	$1,777	6.7%	0.6%	$1,197	4.5%	0.6%	$110	0.4%	0.3%	$3,084	11.7%	1.2%
Staten Island	03	Tottenville, Great Kills & Annadale	$24,523	$1,966	8.0%	0.7%	$1,284	5.2%	0.5%	$37	0.2%	0.1%	$3,288	13.4%	1.0%
New York City Average			$22,796	$1,476	6.5%	0.1%	$506	2.2%	0.0%	$41	0.2%	0.0%	$2,022	8.9%	0.1%

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 372 Res. No. ________

☐ in favor ☐ in opposition

Date: 6/30/22

(PLEASE PRINT)

Name: Steven Ettannani

Address: 42 Broadway 8FL

I represent: NYC Dept. Consumer & Worker Protection

Address: ________

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 6/30/2022

(PLEASE PRINT)

Name: Seth Berkman

Address: 253 Broadway, 14th fl

I represent: Mayor's Office of Climate & Env. Justice

Address: 253 Broadway, 14th fl.

Please complete this card and return to the Sergeant-at-Arms