February 2, 2024

To: The Assembly Committees on Ways and Means Environmental Conservation, Energy, Corporations, Commissions and Authorities and the Senate Committees on Finance, Environmental Conservation, Energy and Telecommunications, and Corporations

From: Ian Donaldson, Communications and Policy Associate and Laurie Wheelock, Executive Director and Counsel of the Public Utility Law Project of New York

Re: Written Testimony for the SFY 2025 New York State Environmental Conservation Budget Hearing

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Good afternoon, Members of the Joint Legislative Budget Hearing on Environmental Conservation The Public Utility Law Project of New York ("PULP") appreciates the opportunity to provide written testimony today.

I. INTRODUCTION

For over forty years, PULP has acted as New York's premier advocate and information resource for New York's low- and fixed-income utility consumers. Our focus encompasses a range of utilities, including electric, gas, water, internet, cable and phone services. Our commitment lies in educating and empowering these households, alongside robust consumer advocacy and legal intervention in utility-related issues.

The Executive Budget includes one new appropriation that seeks to address energy affordability needs for low-income New Yorkers, and PULP is thankful to Governor Hochul for her continued commitment to assisting utility customers during these difficult times. In the context of this year's budget negotiations, PULP believes it's imperative to consider the broader landscape of energy affordability in New York State. The introduction of this appropriation aligns with the need for a comprehensive review of existing programs and the exploration of innovative strategies to ensure equity and a just energy transition, particularly for low- and fixed-income households. As we delve into an analysis of this proposal, we also turn our attention to other budgetary elements and legislative initiatives that could significantly influence energy affordability in the state.

II. DISCUSSION

A. NEW YORK STATE HAS AN ENERGY AFFORDABILITY CRISIS

1. The Amount Owed by Residential Households Behind on Their Electric and Gas Bills Remains Far Above Pre-Pandemic Levels

On a monthly basis, each of New York's electric and natural gas investor-owned utilities files a report with the Department of Public Service ("DPS") that details how many residential customers are at risk of a service termination and how much they collectively owe in electric and natural gas arrears.[1] As of December 2023, over 1.4 million households, or about one in six New Yorkers, are sixty-days-or-more behind on their energy bills and collectively owe more than $1.5

[1] *See*, Case 91-M-0744, which contains energy utility monthly collections reports (AKA "CARS" reports).

billion.[2] PULP monitors these figures closely, as they provide an insightful perspective into how ratepayers are coping with their utility bills and help us to identify broader trends in economic hardship and energy affordability within the state.

PULP once again applauds the Legislature's efforts to secure a historic $250 million appropriation in the SFY 2023-24 Enacted Budget for utility debt relief. Those funds were leveraged into a $567 million program that provided immediate relief to more than 300,000 identified Energy Affordability Program ("EAP") participants of all their unpaid bills accrued through May 1, 2022.[3] Although this program was tremendously helpful to households enrolled in their utility's EAP, there was widespread recognition that non-EAP households and small businesses needed relief too. PULP and other stakeholders reconvened to develop a proposal for a second phase of debt relief,[4] which was ultimately adopted by the PSC in January 2023. Credits began to hit some 478,000 residential households and 56,000 small businesses starting in February of 2023—totaling $672 million.[5]

Even after the application of Phase I and Phase II debt relief, the State projected approximately $1.2 billion left over in unpaid electric and gas utility arrears.[6] PULP has compiled Exhibit A, attached to this testimony, which demonstrates how statewide energy utility debt has grown since the onset of the COVID-19 pandemic (Chart 1) and how each of the utility's customers are faring currently (Chart 2). The truth of the matter is that, since the application of Phase II debt relief, utility consumer debt has ballooned 33% and is quickly approaching the levels seen prior to the implementation of this relief.

2. *An Overview of Recent Delivery Rate Increase Requests, PSC Approvals, and Their Impact on Ratepayers*

In recent years, New Yorkers have witnessed a concerning trend of increasingly substantial rate increase requests submitted by utilities. PULP believes that this pattern, coupled with the Commission's recent approval of sizable rate increases despite the increases being spread out over multi-year settled rate plans, is significantly contributing to the deepening energy affordability crisis in this state.

For example, the Commission approved a Joint Proposal ("JP") for Consolidated Edison ("Con Edison"), in July of 2023. The approved agreement authorizes Con Edison to collect an additional $1.7 billion in new delivery revenues over three years, costing the average non-low-income residential household $17 more per month for their electric delivery bill (a 24%

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[2] Id.
[3] *See*, PSC Order Authorizing Phase 1 Arrears Reduction Program, at https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={EEE28022-DBFA-4BCE-9DB9-542B33E2D668.
[4] *See*, Phase 2 Arrears Relief Report in 14-M-0565, at https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={9133934D-B4E6-414C-BB80-A8AC47FEF0D7}.
[5] *See*, PSC Order Authorizing Phase 2 Arrears Reduction Program, at https://dps.ny.gov/system/files/documents/2023/02/phase-2-arrears-reduction-program-1-19-23-order.pdf.
[6] *See*, Attachment E, Phase 2 Arrears Relief Report.

cumulative increase), $41 more per month for heating gas service (28% higher), and $6 per month more for their non-heating (cooking) gas bills (19% higher).[7]

Then, at their October 2023 session, the Commission approved another double-digit rate increase for two upstate utilities: New York State Electric and Gas ("NYSEG") and Rochester Gas and Electric ("RGE"). Under the approved agreement, NYSEG is authorized to collect an additional $535.6 million and RGE can collect $233.5 million in new delivery revenues over the next three years. This translates to a significant increase in delivery rates for their customers. By the end of this rate plan, NYSEG customers will see their delivery rates increase by 58% on the electric side and 17% on the gas side respectively. Similarly, RGE electric customers will face a 34% increase in their delivery rates, and gas customers a 32% increase.[8, 9]

Among the ongoing energy rate cases, National Grid and Central Hudson are also both seeking double-digit delivery rate increases. National Grid, in its April 2023 filing for its downstate operations, proposed a one-year increase in delivery revenues of $450 million for New York City ("NYC") and $272 million for Long Island. This translates to a monthly rate increase of $34 (29%) for the average residential heating gas customer not enrolled in EAP in NYC, and $35 (31%) on Long Island, with non-heating customers facing increases of $14 (38%) and $18 (36%) respectively.[10] In the Hudson Valley, Central Hudson is seeking a $139.5 million increase (29.8%) in electric delivery revenues, and a $41.5 million increase (29.2%) in gas delivery revenues for a one-year period.[11]

In summary, there is a disturbing pattern of substantial rate increase requests by utilities and the subsequent approval of joint proposals. Although the final increases usually end up less than the rate initial filing, spreading the increase out over multiple years, they are still significant and ultimately approved. PULP sees this pattern as a stark illustration of the growing energy affordability crisis in New York State. The authorized double-digit rate increases for Con Edison, NYSEG, and RGE, along with potential similar hikes in National Grid's and Central Hudson's ongoing cases, exacerbate New Yorkers' financial burdens amid rising costs for housing, groceries, medication, and other essentials. This unfortunate trend directly translates to

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[7] *See*, Electric Rate Summaries and Estimated Bill Impacts for Rate Years 1 To 3, Cases 22-E-0064 et al., at PDF 4 and PDF 236. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={60CF9E86-0000-C738-8BDD-5F89699944B4}.

[8] *See*, Joint Proposal, Cases 22-E-0317 et al., Appendix CC, Schedule B-2 at 1 (PDF 384), Schedule B-6 at 1 at 1 (PDF 436), Schedule C-2 at 1 (PDF 463), Schedule C-6 at 1 at 1 (PDF 519); and Appendix EE, Schedule B-2 at 1 (PDF 566), Schedule B-6 at 1 at 1 (PDF 588), Schedule C-2 at 1 (PDF 598), Schedule C-6 at 1 at 1 (PDF 620). Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={80D9BA88-0000-CB3C-80B6-F31ED57C8C08}.

[9] *See*, Corrections and Updates Testimony of the Rate Design Panel, Case 23-G-0225, Exhibit ___(RDP-4CU), Schedule 4 at 2 (PDF 213) and Schedule 4 at 4 (PDF 215). Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={50E60C89-0000-CF1B-8CD8-EA03EEDD872A}.

[10] *See*, Corrections and Updates Testimony of the Rate Design Panel, Case 23-G-0226, Exhibit ___(RDP-4CU), Schedule 4 at 2 (PDF 210) and Schedule 4 at 4 (PDF 212). Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={E0EB0C89-0000-C81B-8BEB-56BE09B76F8B}.

[11] *See*, Rate Case Filing Cover Letter, Case 23-E-0418 et al., at PDF 5. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={3070AD89-0000-C215-81CB-D556DC53AF00}.

real financial challenges for countless households, particularly for the low- and fixed-income families that often seek out PULP's assistance, and further underscores the urgent need for the Legislature's continued and enhanced support to address the energy affordability crisis.

B. PULP'S ONGOING EFFORTS NECCESSITATE ENHANCED LEGISLATIVE SUPPORT

1. A Review of PULP's Efforts in 2023 and 2024

First and foremost, PULP would like to thank the Legislature for its continued support of our vital work. Last year's Enacted Budget appropriated $1.4 million, an increase of $50,000 from SFY 2023, which allowed us to hire one additional part-time staff member.

In 2023, PULP's small but dedicated team navigated an unprecedented workload heightened by the pandemic's impact on rate case timelines. We engaged in seven cases, including those referenced in the last section, and worked diligently to elevate the voices of the financially vulnerable and disadvantaged and avert harmful rate increases. In the completed Con Edison and NYSEG/RGE proceedings, PULP's efforts led to reduced costs on consumers and stronger shutoff protections during periods of extreme heat.[12] Currently, those efforts continue in the ongoing National Grid (downstate), Central Hudson, National Fuel Gas, Liberty Water, and Veolia Water cases. Notably, PULP is working to see the establishment of the State's inaugural low-income bill discount for water customers within Veolia's service territory.[13]

Moreover, litigation recently began in the Central Hudson rate case, a track that is quite rare for a rate case and one that demanded a significant amount of PULP's time and focus. During the end of January into early February 2024, PULP and other parties had the opportunity to cross-examine the Company extensively on their rate filing. PULP will shift shortly to working on our brief opposing the rate increase as we expect the Commission to vote on the rate plan later this spring.

In the midst of the escalating energy affordability crisis, our work extended far beyond rate cases to providing hands-on support and guidance to low- and fixed-income residential consumers. In 2023, calls for assistance to our hotline grew by nearly 20%, and that does not include the additional emails received through the organization's intake process daily. This influx led to a significant increase in our workload, with a 55% year-over-year growth in the number of individual cases PULP took on in 2023. PULP's dedicated direct services team has been tremendously successful at intervening to prevent service termination and, in cases where someone has been turned off, working quickly to help get service restored.

In 2023, PULP also proudly partnered with numerous Senators, Assemblymembers, and local officials to host over a dozen utility relief workshops across the state. At these events, we

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[12] ConEd agreed not to terminate customers for nonpayment when it's 90 degrees out (one day before and two days after) as PULP argued concerns about heat island effects in NYC; NYSEG/RG&E agreed to not terminate customers in their territory when it's 85 degrees or hotter.
[13] *See*, Joint Proposal and Appendices, Case 23-W-0111, at 41-42. Available at https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={403BD68C-0000-C21D-81D1-B7E02A42D4D1}.

collaborated with key stakeholders, including local Departments of Social Services, DPS, utilities, and regional Clean Energy Hubs, to provide residents with practical assistance. Our team helped attendees navigate and apply for essential programs like the Energy Affordability Program (EAP), the Home Energy Assistance Program ("HEAP"), and EmPower, among others. Especially critical during the high-bill winter months, these sessions not only aid in managing utility costs but also demonstrate PULP's dedication to hands-on support and building collaborative efforts for the betterment of our communities.

2. PULP Respectfully Requests an Appropriation of $2.25 Million in the SFY 2025 Budget

As we examine the trend of escalating utility bills, PULP's work to advocate for fair and equitable utility services for all, especially the most vulnerable, is more vital than ever. However, our commitment to championing the rights of utility consumers in New York has reached a pivotal moment, necessitating increased legislative support. The growing volume of direct service cases, along with the critical role we play in rate case and policy proceedings, particularly for the Climate Leadership and Community Protection Act's ("CLCPA") implementation, demands a significant expansion of our team.

An appropriation increase of **$850,000** would enable the hiring of at least five additional staff members, including four specialized attorneys and one researcher. The increase in staff would allow PULP to better handle the rising caseload of direct service requests and enable us to allocate more staff resources to policy proceedings before State agencies, particularly in relation to the implementation of the CLCPA. This amount would be used for salary, along with providing benefits, including health/vision/dental insurance so that our organization can remain competitive with New York State's Agencies. With such funding, we can continue to deliver the level of service and advocacy we have come to expect and effectively address the evolving challenges in utility consumer advocacy.

It's important to note that PULP was one of the many stakeholders who would have benefited from your Intervenor Funding legislation, S.405 (Parker)/A.7165 (Solages), which passed both houses in 2022 and 2023 but was ultimately vetoed by the Governor both times.[14] The Assembly and Senate can bolster its support for our essential work here by supporting an increase in our line item and including us in their One-House Budgets.

C. THE CODIFICATION OF DATA MATCH LEGISLATION NECESSITATES INCREASED SUPPORT FOR THE STATE'S ENERGY AFFORDABILITY PROGRAM

1. Background on New York State's Energy Affordability Policy

In May 2016, New York State took an important step towards energy affordability when it established a policy that no low-income utility consumer should spend more than 6% of their

[14] *See*, Veto No. 64 (2023) and Veto No. 161 (2022).

monthly household income on their energy bills.[15] In its Order, the PSC directed each regulated electric and natural gas company to develop a monthly bill discount for customers that have been identified as low-income. The discount is based on Census data and typical utility bills, not on an individual household's financial circumstances. As a result, once a customer is enrolled in the EAP, they receive credits designed to ensure that the "average" household is not spending more than 6% on their monthly energy bill.

The EAP overall has proven incredibly beneficial to the households that are enrolled in their utility's low-income discount program. For instance, National Grid NYC customers who heat with gas can receive anywhere from $40 to $89 off their monthly bills depending on their income tier.[16] However, PULP estimates that up to 1.1 million households statewide are eligible for, but do not receive, the benefit. Moreover, not every household currently enrolled in the EAP receives the correct benefit amount to lower their energy burden to 6%. PULP estimates that these enrollment discrepancies have led to a $1.75 billion affordability gap that comprises all low-income households, whether or not they are enrolled in the EAP.[17]

PULP would like to thank the Legislature once again for its support of utility data matching, which passed both houses and was signed into law by the Governor in December 2023.[18] This law, which will replicate a process already used by the NYC Human Resources Administration ("HRA"), directs the State Office of Temporary and Disability Assistance ("OTDA") to identify eligible households and "data match" with the utilities to automatically enroll low-income customers in the EAP, without the need for them to submit a burdensome application and prove enrollment eligibility. Once implemented in 2025, this program will represent a significant advancement in our shared goal of ensuring equitable access to essential utility services for low- and fixed-income New Yorkers. PULP believes that the State's utility data match program will be successful and as a result, the State should prepare for the enrollment of new customers into their electric and gas utility companies' low-income programs by the start of 2025.

Currently, the EAP program is implemented by the Commission Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued and effective August 12, 2021) in Case 14-M-0565 (the "Order").[19] To date, the program has been funded entirely by ratepayers. Essentially, each utility sets an annual budget for the program that is no more than 2% of its revenues. The utilities then use the Commission's ordered formula to calculate the EAP credits that will be offered for the year based on the type of service the customer receives, and

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[15] *See*, Case 14-M-0565, Order Adopting Low Income Program Modifications and Directing Utility Filings, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers (May 20, 2016) at 8.
[16] National Grid NYC's current EAP levels for heating customers, https://www.nationalgridus.com/NY-Home/Bill-Help/Energy-Affordability-Program?regionkey=nymetro&customertype=home; income tier is parallel to the HEAP tiers established by OTDA.
[17] *See*, 14-M-0565, June 2022 EAP Quarterly Reports; PULP's estimates are a compilation of all the utility data for enrollment as of June 30, 2022, EAP Quarterly Reports and the U.S. Census Bureau's 2021 American Community Survey.
[18] *See*, Chapter 764 of the Laws of 2023.
[19] *See*, generally, Case 14-M-0565, Order Adopting Low Income Program Modifications and Directing Utility Filings, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers (May 20, 2016)

their Tier Level.[20] As we understand the program, once a utility has hit their 2% budget cap, there is no more room to continue to add people to the program without lowering the monthly credit amount, to ensure the proper allocation of the maximum budget allowed under the cap.

It is also PULP's understanding, based on meetings with the EAP Working Group, that many if not most of the investor-owned electric and gas utilities are at or near their 2% budget caps. For the purpose of gauging how many household might be auto-enrolled into EAP come 2025, PULP monitors OTDA's monthly "Temporary and Disability Assistance Statistics" reports, which are filed on OTDA's website.[21] As of October 2024, there were 603,333 recipients of Temporary Assistance in New York State.[22] While some of the recipients of Temporary Assistance may already be enrolled in their utility company's EAP, PULP is unaware of any database that exists that would allow us to further deduce the eligibility pool. As such, we encourage the State to use this figure as it determines how many households could become eligible for EAP when automatic data matching occurs in early 2025.

PULP is concerned that the influx of new low-income customers without a plan to support their enrollment will ultimately result in a decrease in the EAP credits for all enrolled customers. This situation could prove detrimental as it would diminish the financial relief long-standing beneficiaries have come to rely on and also dishearten newly enrolled customers who may receive less than the anticipated full benefit.

2. *PULP Respectfully Requests the Legislature Appropriate $250,000,000 to the Energy Affordability Program and Codify the Program in Law*

PULP believes that the most effective strategy to safeguard the existing EAP is to codify the program into law, paired with a dedicated line item through the NYS budget. Specifically, we advocate for an allocation of $250,000,000 to ensure the program's stability as data matching introduces new enrollees in early 2025. We maintain this proactive measure is crucial to mitigate any potential benefit reductions and uphold the EAP's integrity and effectiveness when the influx of new participants begins to be added to the program. In doing so, the State can preserve the programs current effectiveness but also guarantee that the enhanced enrollment does not compromise the quality of assistance.

Furthermore, codifying the EAP will provide a consistent framework for utility bill assistance across the state and pave the way for a seamless integration of future State funds, such as those from the New York Cap and Invest Program. Over the long term, we also recommend that the EAP be evaluated annually to ensure its adaptability and sustained impact in the face of evolving challenges and opportunities.

3. *A Note on the Expansion of the EAP Program to Moderate-Income Households ("Expanded EAP")*

[20] Most of the investor-owned utilities have 4 EAP Tiers which are based on factors determining HEAP grant levels.
[21] *See*, OTDA's Temporary and Disability Monthly Statistics, available at: https://otda.ny.gov/resources/caseload/
[22] *Id.* at October 2023 Report, Table 2 at 6, available at: https://otda.ny.gov/resources/caseload/2023/2023-10-stats.pdf

Last year's SFY 2024 Enacted Budget created an expanded EAP benefit to include residential electric and gas customers with household incomes below the state median, and PULP supported this program aimed at assisting moderate income customers[23] Moreover, the SFY 2024 Enacted Budget also included an additional one-time appropriation of $200 million for "prompt assistance to utility customers related to the costs of utility affordability programs…."[24] Unfortunately this year, it remains unclear whether there will be direct funding for this new, Expanded EAP benefit.

Given these uncertainties, PULP herein also advocates for the codification of the Expanded EAP. We believe this legislative action is crucial to provide guardrails in the development of the program's framework and ensure its establishment and long-term sustainability amidst the changing economic landscape. Moreover, we maintain that any language should include a clear funding mechanism for the upcoming year to safeguard against any potential financial shortfalls.

Further, to enhance transparency and accountability, the legislation should also mandate a comprehensive annual report from the Department of Public Service. We believe this report could serve as an important tool for the Legislature to monitor the program's implementation progress and its eventual progress. Such a requirement would ensure ongoing, data-driven reviews and facilitate continuous improvement and adaptation to meet the evolving needs of New York's residents.

D. PULP SUPPORTS DEDICATED FUNDS TO THE ENERGY AFFORDABILITY GUARANTEE

The SFY 2024 Enacted Budget also provided a one-time capital project appropriation of $200 million to create the EmPower Plus Program, which is administered by the New York State Energy Research and Development Authority ("NYSERDA").[25] In our budget testimony last year, PULP expressed support for the first iteration of the EmPower Program, and also support for this newer iteration aimed to help low-income households make modifications to their home to electrify it and/or make it more energy efficient.

Last year, Governor Hochul proposed a benefit tied directly to the EmPower Plus Program, the Energy Affordability Guarantee ("EAG"), which would cap any participating household's electricity bill at no more than 6% of their monthly household income, provided they fully electrify their homes. PULP expressed its support of this program, but raised numerous questions and posed several recommendations on how to strengthen the proposed language. Specifically, we noted how the $200 million appropriation for "prompt assistance to utility customers related to the costs of utility affordability programs…" also included language to direct the EAP Working Group to establish this new benefit, without any dedicated funding stream.[26]

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[23] ***See***, PULP Testimony Before the Joint Legislative Budget Committee on Environmental Conservation, February 14, 2023, at 5.
[24] ***See***, Chapter 53 of the Laws of 2023, at 1189.
[25] ***See***, Chapter 54 of the Laws of 2023, at 140.
[26] ***See***, Chapter 53 of the Laws of 2023, at 1189.

In our direct services work, PULP regularly refers households to EmPower Plus Program and has witnessed firsthand its effectiveness in reducing energy costs and fostering more sustainable homes across the state. We are therefore excited to see a dedicated line item in the amount of $50,000,000 to be appropriated to the EAG.[27]

E. THE EXECUTIVE BUDGET SUPPORTS THE ELIMINATION OF THE "100-FOOT" RULE

Through our work in rate cases, PULP consistently encounters an inherent tension. On the one side, there are traditional utility service obligations like the "100-Foot" rule, which compels gas corporations to provide service to new customers within a 100-foot distance from the main and distribute these costs among all rate payers. On the other side, the ambitious decarbonization mandates of the CLCPA lead New York efforts in curbing its greenhouse gas emissions and steers us toward our renewable energy transition goals. This dichotomy presents a clear conflict: one law promotes the expansion of natural gas infrastructure and fosters an increased reliance on fossil fuels, while the other champions a significant shift away from fossil fuels.

Moreover, the financial aspects of maintaining and expanding gas infrastructure also frequently emerge as contentious issues in utility rate cases. For example, PULP sees friction in proposals related to leak-prone pipe replacement and other infrastructure investments. These proposals are often framed as crucial for maintaining safety and reliability, yet they also entail significant new capital investments and extend the life of natural gas infrastructure. Typically, the costs of these investments are recouped from ratepayers over extended periods of time through depreciation and rate adjustments. Further, the looming risk of these gas assets becoming "stranded" as we pivot away from natural gas poses profound financial implications for utilities and ratepayers alike. This complex tension and interplay of infrastructure investment, safety, reliability, and the state's environmental commitments underscores the need for a thoughtful, balanced approach to energy policy, rate structures, and energy affordability.

Overall, PULP views the Governor's Executive Budget proposal to abolish the "100-Foot" rule[28] and revise other restrictive provisions in the State Public Service Law as a pivotal shift in how we discuss and consider moving our state's energy policy in a more sustainable and environmentally conscious direction. We maintain this alignment is crucial as the state moves towards a sustainable energy future. However, we note it also brings to the forefront the complexities involved in utility rate structuring and infrastructure investment. As such, PULP strongly warns against proceeding without concurrently devising a clear and detailed strategy to ensure energy affordability.

We note that Senator Krueger and Assemblymember Fahy's Home Energy Affordable Transition ("HEAT") Act, which was first introduced in 2022, and reintroduced and amended in 2023, specifically includes specific provisions relating to energy affordability protections.[29] By integrating the Affordable Gas Transition Act into her Executive Budget, the Governor has

[27] *See*, S8303/A8803, at 922.
[28] See, TED Part P, S8308/A8807, at 84.
[29] *See*, generally, S2016-B (Krueger) / A4592-B (Fahy).

afforded the Legislature and the public an opportunity for deeper public discussion through the budget process. A conversation about energy affordability is one PULP sees as essential.

The HEAT Act and the Governor's budget language also both propose to add "cooling" to the law ensuring access to the energy New Yorkers need for both heating and cooling.[30] PULP sees this addition as an important consumer protection as extreme heat becomes a growing concern for public health and safety.[31]

1. *Affordability and Equity Must be at the Forefront of Any Discussions of the Energy Transition*

PULP appreciates the sustained focus on the tenets of energy affordability and equity in the public discourse around these issues. While we recognize the potential advantages of the Governor's strategy to streamline the energy transition, we approach the delegation of substantial rulemaking power to the Department and the PSC with caution, particularly in the absence of clear guidelines to uphold affordability and equity. We believe that without guardrails and ongoing oversight, involvement, and discussion by the Legislature and consumer and environmental watchdogs, this approach could lead to unintended outcomes or inaction. Consequently, PULP advocates for a prescriptive approach, more akin to the HEAT Act, that requires the Commission to act and consider the crucial topic of energy affordability in a public setting. This will ensure a transparent, accountable process that encourages active participation from the public.

Further, PULP recommends that the State ensure regular oversight and consistent reporting of all affordability measures and programs, not limited to those for low-income households, to confirm their proper operation and effectiveness. We also note that existing low-income programs, such as the Home Energy Assistance Program ("HEAP"), will need to modernize along with the CLCPA to better assist households who heat with electric. Essentially, OTDA should review its annual HEAP allocations and provide more assistance to customers who heat with electricity. Currently, OTDA provides a HEAP base grant of $900 to households who heat with oil, kerosene, or propane, whereas the base grant for households who heat with electricity or natural gas is only $400.[32] In this context, the HEAP cooling benefit, which facilitates the purchase of air conditioners during the summer for low-income households, also requires reevaluation, especially as electricity costs are expected to rise.

PULP also advocates for a comprehensive and integrated approach to energy assistance programs. We once again emphasize the need to codify the Energy Affordability Program, under the oversight of the DPS, and provide it with consistent financial support through the State budget process and other funding streams like New York Cap and Invest. Alongside this, programs such as EmPower Plus and Solar for All under NYSERDA, as well as the Department's Energy Affordability Guarantee, will play a pivotal role in helping low-income households transition off fossil fuels. And while the prospects of an Expanded EAP that extends into the middle-income bracket remain uncertain, PULP supports innovative strategies to enable

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[30] See, TED Part P, S8308/A8807, at 84; S.2016B/A.4592 at 3.
[31] FEMA, Extreme Heat available at: https://community.fema.gov/ProtectiveActions/s/article/Extreme-Heat
[32] Available at: https://otda.ny.gov/programs/heap/

broader access to benefits and assistance during the state's energy transition. With that said, we maintain it's crucial that these discount and energy efficiency programs undergo regular evaluation and performance tracking.

Additionally, with various programs in different stages of development or implementation, PULP believes that the State plays a critical role in ensuring households can "stack" the benefits afforded to them. This will involve monitoring how low- and moderate-income households are handling their energy burdens while facilitating inter-agency coordination and public education and messaging to streamline support to eligible households. For instance, low-income households who utilize EmPower Plus to transition off fossil fuel heating and electrify their homes shouldn't just receive the Energy Affordability Guarantee. They should also be eligible for an electric heating HEAP grant and EAP credits through their electric utility supplier. This coordinated approach ensures that households have comprehensive access to essential benefits and programs, thereby fostering a more inclusive, efficient and just energy transition.

As such, PULP strongly recommends that the State produce an annual affordability study update, building off of the climate affordability study that was released in 2023.[33] This report will help the public, the Legislature, and the Governor better assess energy affordability on a statewide level and help determine the necessity for adjustments to current programs or the introduction of new initiatives to support New York's rate payers.

Please note that these comments represent a preliminary review of these proposals and that we anticipate offering a more detailed perspective upon completion.

F. PULP SUPPORTS THE STATEWIDE EXPANSION OF NYSERDA'S SOLAR FOR ALL PROGRAM

PULP is interested in the Governor's plans for a statewide "Solar for All" program, which would provide monthly credits to low-income New Yorkers thanks to community solar projects located in their area. Currently, NYSERDA offers a limited, or pilot type "Solar for All" program in parts on New York State.[34] PULP would appreciate being provided more details about the plans surrounding expanding the program statewide. However, we were unable to locate any specific language in the Governor's proposed budget bills or appropriations.

Finally, PULP wanted to share that we have heard from administrators of Community Choice Aggregation ("CCA"), questions and concerns about how a statewide "Solar for All" program would interact with communities also exploring or who already have CCAs. PULP encourages the CCAs to elevate their questions and concerns in this budget process as our organization does not have familiarity with how the two programs could operate at the same time.

[33] The December 2023 final report "Climate Affordability Study - Distributing the New York Cap and Invest Program's Consumer Climate Action Account ("CCAA") Benefit" was prepared for the New York State Energy Research and Development Authority (NYSERDA) and the New York State Department of Environmental Conservation (NYSERDA DEC).

[34] NYSERDA's website, "Solar for All." Available at: https://www.nyserda.ny.gov/All-Programs/NY-Sun/Solar-for-Your-Home/Community-Solar/Solar-for-All.

G. THE EXECUTIVE BUDGET INCLUDES A PROVISION TO MOVE THE ORES FROM THE DOS TO THE DPS

PULP acknowledges the Executive is seeking to transfer the Office of Renewable Energy Siting ("ORES") from the Department of State ("DOS") to the DPS as part of the Renewable Action Through Project Interconnection and Deployment ("RAPID") Act.[35] The ORES, which was established through the Accelerated Renewable Energy Growth and Community Benefit Act, was initially created to expedite and standardize the regulatory review and permitting process for the siting of major renewable energy facilities and transmission infrastructure.[36] Since ORES's creation in 2021, it has approved 15 large-scale renewable energy projects totaling 2.3 gigawatts.[37]

While the intent behind the establishment of ORES appears to be the ability to streamline renewable energy projects and support the state's climate goals, PULP insists on a meticulous examination by all stakeholders to determine the necessity of the Office's transition to DPS. The consolidation of permitting processes and the shift of oversight responsibilities demand a transparent evaluation to ensure that this move does not compromise the original objectives of ORES or adversely affect the financial well-being of the state's ratepayers. Moreover, while the siting process currently mandates consultation with affected municipalities, PULP emphasizes the importance of extending this consultation to include considerations for Native American and tribal lands, ensuring that their rights and interests are also respected and integrated into the decision-making process.

PULP is currently in the process of thoroughly reviewing this proposal and looks forward to providing a more detailed perspective once we have fully assessed its implications and potential impacts.

H. THE EXECUTIVE BUDGET PROPOSES A FIVE-YEAR EXTENSION OF FINANCING FOR UTILITY OVERSIGHT THROUGH UTILITY ASSESSMENTS

1. *PULP Cautions Against a Five-Year Extension of This Authority*

In a departure from previous practice, the Executive Budget proposes to extend the financing authority for utility oversight through utility assessments from a one-year to a five-year term. PULP is concerned that this change will eliminate the annual process that fosters a transparent and accountable review. We recognize that a longer-term extension may offer stability and predictability for the State's Agencies, but caution that it's crucial to balance this against the benefits of a robust stakeholder engagement and scrutiny process that better aligns with the public need.

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[35] *See*, TED Part O, S8308/A8807, at 65.
[36] *See*, FY 2021 Enacted Budget, TED Part JJJ, S7508-B/A9508-B (2020), at 103.
[37] *See*, "Governor Hochul Announces Approval of Solar Facility in Franklin County", Press Release, dated December 8, 2023.

2. Intervenor Funding for Participation Before the PSC Should Also Be Reconsidered

PULP notes that this extension simply mirrors how the DPS currently finances itself –through assessments on public utility companies, pursuant to PSL §18-a– a cost ultimately borne by ratepayers. However, this approach contrasts sharply with Governor Hochul's position for the second consecutive year, as she vetoed legislation aimed to enable nonprofits and individual groups to seek reimbursement for reasonable costs incurred during participation in utility rate cases and other policy proceedings before the Commission.[38]

PULP believes that the discrepancy between the state's readiness to finance its own Agencies' involvements in these processes –while denying similar support to nonprofits and public groups– undermines the principles of equitable participation in these proceedings. This imbalance is further demonstrated by the fact that New York's investor-owned utilities were allowed to bill their customers nearly $19 million to cover expenses for lawyers, consultants, and expert witnesses in their last round of rate cases alone.[39]

For the PSC's regulatory process to function effectively, it's crucial to ensure robust and independent consumer representation, separate and apart from the regulatory bodies themselves. However, the length, cost, and complexity of these proceedings often pose significant challenges to grassroots organizations and consumer advocates. PULP herein emphasizes the need for a more balanced and inclusive approach to funding participation in these critical regulatory processes, ensuring that all voices are heard and adequately supported.

I. THE FUTURE OF THE LONG ISLAND POWER AUTHORITY

Finally, PULP notes that the Legislative Commission on the Future of the Long Island Power Authority ("LIPA Commission") released its Final Report on the Establishment of a Public Power Model for the Operation of the Long Island Power Authority on November 17, 2023. The LIPA Commission, established pursuant to Chapter 55 of the Laws, was charged with holding public hearings and drafting a report that laid out the operational, legal, and legislative steps necessary to transition LIPA into a public power provider. PULP provided comments on the Draft Report, renewing our earlier calls for greater transparency, accountability, and customer-friendly practices to serve as foundational principles for any future governance model of LIPA.

PULP acknowledges that legislation was recently introduced in both houses to facilitate the transition of LIPA into a full public power model.[40] We recognize the significance of this move and view it as a catalyst for a more efficient, transparent, and community-responsive electricity provider on Long Island. Moreover, we believe that the timing of its introduction aligns well with discussions of the state budget process. With that said, PULP is still currently in the process

[38] *See*, Veto No. 64 of 2023; also, Veto No. 161 of 2022.
[39] *See*, "The Great Utility Ratepayer Divide," AARP-NY, October 12, 2022, https://aarp-states.brightspotcdn.com/8c/db/df624d0845a8888eed76832e8470/the-great-utility-rate-payer-divide-10-12-22.pdf
[40]

of reviewing the details and implications of this legislation and our organization will follow up with the Legislature following our review and initial comments.

III. CONCLUSION

PULP appreciates the opportunity to provide written testimony at today's Joint Budget Hearing on Environmental Conservation. We thank Governor Hochul for raising energy affordability in the Executive Budget and encourage the Legislature to consider the recommendations and questions PULP has raised in our testimony. Thank you.

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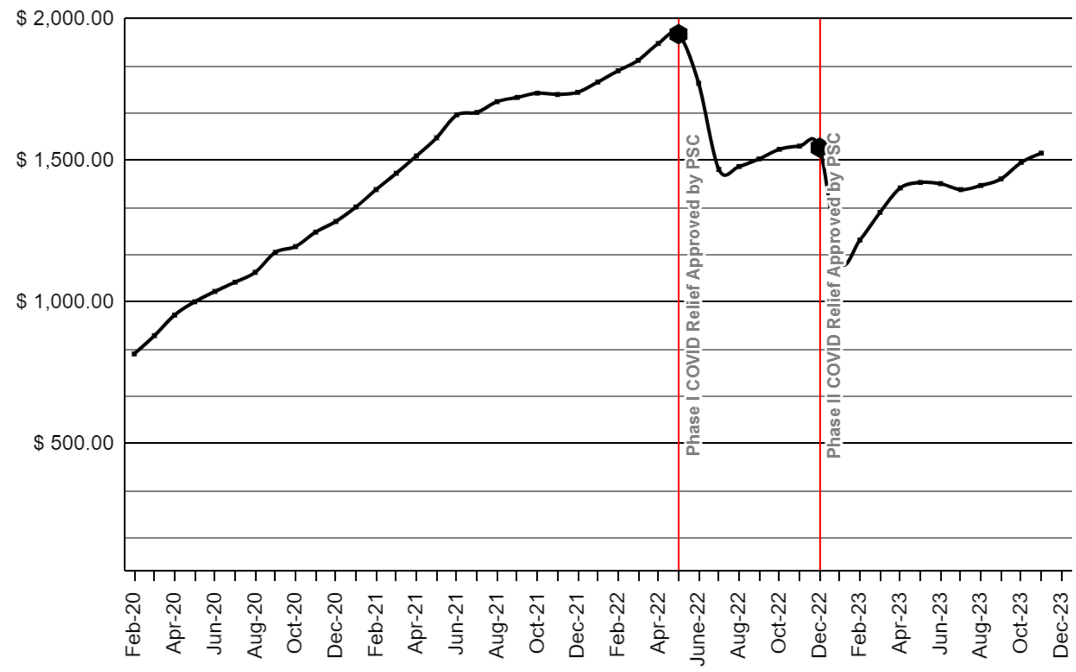
Exhibit A

Chart 1 - Amount Owed by Residential Electric and Natural Gas Customers Statewide (in millions of dollars)



Source: Collections Activity Reports filed by the utilities in Case No. 91-M-0744.

Chart 2 - Arrearages at Investor Owned Utilities as of December 2023

Company	December 2023	
	Accounts in 60+ arrears	$$$ Amount Owed
CHGE	64,851	$117,869,958
Con Edison	487,593	$700,177,750
KEDLI (Grid LI)	48,560	$35,915,724
KEDNY (Grid NYC)	190,056	$130,160,820
National Fuel Gas	58,524	$32,784,525
NYSEG	113,289	$75,955,828
NiMo (Grid Upstate)	243,408	$275,814,707
O&R	15,485	$10,923,884
PSEG-LI*	120,317	$80,111,716
RG&E	70,413	$66,054,812
TOTAL ALL	1,412,496	$1,525,769,724