

January 28, 2026

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 Manager and Laurie Wheelock, Executive Director and Counsel of the Public Utility Law Project of New York

Re: Written Testimony for the SFY-2027 New York State Environmental Conservation Budget Hearing

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-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 last year proved particularly difficult for our small but mighty organization. Federal policy changes, including delays in vital financial assistance and the threat of new tariff policies, created significant uncertainty and financial instability for utility customers, especially low- and fixed-income households. Growing utility debt, combined with delivery rate increases, remain a persistent and worrisome trend. Ultimately, PULP is proud of the work we have done in 2025 and the progress we made on behalf of consumers. At the same time, we recognize that achieving true energy affordability is a long-term effort that will require sustained commitment and investment by NYS.

We appreciate the opportunity to provide the following testimony. Please note, some of PULP’s budget testimony below pulls from other prior testimony submissions made to the NYS Legislature, including the NYS Senate’s hearing on PSC Oversight, and the Assembly hearing on AI Data Centers.¹

¹ *See*, PULP’s Testimony, NYS Senate’s Hearing to Conduct Oversight of the Public Service Commission’s Process Related to Rate Case and Generic Proceedings, and to review the Department of Public Service’s Efforts to Implement and Achieve the Goals of the Climate Leadership and Community Protection Act, Sept. 30, 2025; *see also*, PULP’s Testimony, NYS Assembly Hearing on Protecting Residential Ratepayers from Certain Increased Energy Costs, Oct. 22, 2025.

II. DISCUSSION OF PULP BUDGET PROPOSALS

A. BACKGROUND ON NEW YORK STATE’S ENERGY AFFORDABILITY CRISIS

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

New York’s electric and natural gas investor-owned utilities file monthly reports 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.² This data is helpful how residential customers are doing generally, the number of termination notices sent on a monthly basis, and how many customer accounts were disconnected for nonpayment.

Unfortunately, the end of the year review of these reports does not paint a happy picture. As of December 2025, over 1.28 million households are behind on their energy bills by 60 days-or-more, collectively owing more than \$1.84 billion.³ By comparison, prior to the pandemic in December 2019, only approximately 929,000 customers owed \$742 million. At the same time, utilities have also relied on service terminations as arrears grow. For example, between April and June 2025, Con Edison disconnected nearly 70,000 residential customers for nonpayment.⁴ Taken together, these trends reflect a sustained increase in utility debt and terminations that cannot be ignored during this budget process.

The fall to winter months of 2025 proved particularly difficult for low-income New Yorkers due to the federal shutdown, which left thousands of households struggling with food, childcare, and heating costs. With arrears continuing to grow, delivery rates increasing, and the active attacks on essential financial assistance by the federal government, PULP urges New York State to learn from these experiences and prioritize energy affordability in this year’s state budget. PULP appreciates submitting the following requests for consideration.

B. PULP’S ONGOING EFFORTS NECESSITATE ENHANCED LEGISLATIVE SUPPORT

1. A Review of PULP’s Efforts in 2025

First and foremost, PULP thanks the Legislature for its continued support of our vital work. Our organization currently employs 14 full-time staff members, up from 10 at this time last year, and is actively interviewing for two additional positions. This growth reflects an \$600,000 increase included in the FY-2024-25 Enacted Budget. Last year, the Legislature appropriated \$2.5 million for PULP, representing an additional \$500,000 increase. Once these funds become accessible through our contractor New York State Energy Research & Development Authority (“NYSERDA”) in March or April 2026, PULP expects to hire

² *See*, Case 91-M-0744, which contains energy utility monthly collections reports (AKA “CARS” reports).

³ *Id.*

⁴ *Id.*

approximately 3-5 more staff, while also managing rising health insurance costs. These annual investments have proved instrumental in strengthening PULP's operations and enabling us to meet the growing need for our services.

The demand for PULP's assistance continues to grow each year. In 2025, PULP's hotline and info@utilityproject.org email received over 1,800 contacts for help. Of these, 781 were emergency cases, which PULP defines as situations where the customer is currently without utility services, at imminent risk of being disconnected due to nonpayment, or where loss of service could be dangerous to a household member. This represents an increase of nearly 150% compared to 2024, when PULP handled 320 emergency cases. A closer look at the data highlights the severity of the crisis. Nearly half (47.5%) of emergency contacts reported a serious medical condition or disability of someone in the household. Additionally, 58.8% of emergency contacts were in a disadvantaged community ("DAC"). And among these households, the average time without utility service before contacting PULP was approximately 5.75 days.

In 2025, PULP's team navigated an unprecedented workload. We engaged in four rate cases, where we worked diligently to elevate the voices of the financially vulnerable and disadvantaged and avert harmful rate increases. Notably, PULP's participation in the Central Hudson and Consolidated Edison ("ConEd") rate cases was instrumental in the creation of many new customer service enhancements. In Central Hudson, the company agreed to produce Spanish bills before the end of 2025, while increasing efforts to monitor the diverse languages being used by their customers. Language access proposals will help customers better communicate with their utility, and PULP believes it will lead to better and safer results for these customers.

In our ConEd testimony, PULP elevated the difficulty customers, including low-income households, have had once their heat has been switched to electric. Through our direct service experience, we learned some customers missed out entirely on the Winter 2024 Home Energy Assistance Program ("HEAP") grant due to ConEd's delays in updating customer accounts to show that electricity was the heating source. In other situations, ConEd customers were coded as having heat included in rent, leaving them with only \$40 in HEAP monies. Unfortunately, those customers could have received \$400 under HEAP had their account been coded properly. Fortunately, ConEd will be working to improve their ability to update accounts to show that the customers now have electric heating. PULP is hopeful the attention and work in the rate case will result in faster and better outcomes for ConEd customers.

On an annual basis, PULP's work extends far beyond rate cases to policy proceedings at various state agencies. However, we are most proud of the hands-on support and guidance we provide to low- and fixed-income residential consumers. In 2025, PULP staff also partnered with numerous community-based organizations, Senators, and Assemblymembers to host utility workshops, clinics, and trainings across the state. At these events, we collaborated with key stakeholders, including local Departments of Social Services, DPS, utilities, and the 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"), 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 \$2,750,000 Million in the SFY 2025 Budget

As we examine the trend of escalating utility bills and the attacks on vital financial assistance programs at the federal level, PULP's work to advocate for fair and equitable utility services for all, especially the most vulnerable, is more vital than ever. However, 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, requires further expansion of our team and necessitates further legislative support.

An increase of PULP's funding by **\$250,000 to a total of \$2.75 million** would allow our group to hire 1-2 additional full-time staff members and afford the expected 20% increase to our small group health insurance through CDPHP. With such funding, we can continue to deliver the level of service and advocacy the Legislature has come to expect from us and effectively address the evolving challenges in utility consumer advocacy. The Assembly and Senate can bolster its support for our essential work here by supporting a \$250,000 increase in our line item and including us in their One-House Budgets.

C. NEW YORK STATE SHOULD CREATE AN OFFICE OF ENERGY AFFORDABILITY TO PROTECT AND TRACK PROGRAMS

PULP proposes the establishment of a standalone Office of Energy and Equity to oversee and coordinate all of New York's energy affordability programs. This Office would ensure that all eligible households have equitable access to available programs, streamline their administration, and align resources to maximize support for low-income households across the state. The Office, in tandem with the NYS Comptroller's office, could also help audit and track funding streams for all the energy affordability programs currently operating in the state, including NYSERDA's EmPower + Program, the utility companies' Energy Affordability ("EAP") and Enhanced EAP ("EEAP") Programs, weatherization programs under the Division of Housing and Community Renewal ("HCR"), and HEAP under the Office of Temporary and Disability Assistance ("OTDA"). This Office could also issue annual reports to provide greater transparency on how the programs are operating, the amount of funding used, and more.

PULP recognizes that Assemblymember Barrett recently introduced A.9621, which seeks to create such an Office. As such, PULP recommends the inclusion of that bill as Article VII language in the Assembly and Senate one-house budgets. We believe that this Office would be helpful in assisting with the implementation of some of the Governor's own Executive Budget proposals, like the Annual Affordability Report, the creation and tracking of the Affordability Index, and any efforts to increase enrollment to the EAP.⁵

⁵ *See*, TED Part P.

D. NEW YORK STATE SHOULD PRIORITIZE PROTECTING HEAP BY CREATING AN ENERGY AFFORDABILITY FUND.

The HEAP program had a difficult start to the 2025-2026 winter season. HEAP is a vital federally funded program, which provides grant assistance to low-income households for heating costs and is a crucial lifeline during the cold winter months. Looking back at the past year, there was significant uncertainty around the funding of the program. For instance, on January 21, 2025, the Regular HEAP grant closed suddenly without notice. PULP thanks the Governor, OTDA, and Department of Budget (“DOB”), for allocating an additional \$35 million to reopen the program on January 24, 2025. The program then closed once funds ran out on April 7, 2025. Shortly thereafter, the staff for the federal LIHEAP office were let go by the Trump Administration, leaving the public deeply concerned about the future of the program.

Starting on October 1, 2025, the federal government shutdown for 43 days. The shutdown affected several federal programs, including HEAP, the Supplemental Nutrition Assistance Program (“SNAP”), and Head Start. Here in New York, HEAP was supposed to open on November 3, 2025, but OTDA had to delay the opening of applications indefinitely until the shutdown ended. Even once the federal government reopened, there were delays in releasing the funds to the states. Ultimately, HEAP did not open until December 1, 2025, one month after it was expected to open in November.

Entering the fall and winter months without HEAP was difficult for the 1.5 million households who rely on it to help keep them warm. NYS was able to direct households to other programs in the meantime to try and help, including the utilities’ EAP’s and emergency energy assistance (“EEA”) through the County Departments of the Social Services. Unfortunately, none of these programs are an exact match to HEAP, which provides direct assistance to pay utility bills and safeguards an account from shutoff for 30 days. PULP urges the state to learn from the experiences over the last year and take creative and proactive measures to support low- and fixed-income households, strengthen protections, and address the growing energy affordability crisis.

For these reasons, PULP respectfully requests the Legislature create a \$400 million revolving fund to ensure HEAP can open on-time in the event a future federal shutdown delays or disrupts New York’s ability to release these essential dollars. PULP anticipates these funds could be replenished once the federal funds are provided to NYS and notes that a framework for such a fund is included in Assemblymember Barrett’s Office of Energy and Equity legislation, A.9621. As such, PULP recommends including this proposal in the Senate and Assembly one-house budgets.

In practice, PULP believes that the Energy Affordability Fund could be financed through a combination of redirected NYSERDA funds and support from the general fund. PULP notes that some NYSERDA programs appear to have “surplus program funds” such as those in the CES,⁶ which we believe warrants review when identifying resources to support the effort the state’s essential energy affordability programs. Besides an appropriation from NYSERDA, the

⁶ *See, generally*, 15-E-0302- Petition Regarding Proposed Year 2025 Clean Energy Standard Funding and Reconciliation of Year 2023 Admin Costs

state could also use the general fund, thereby ensuring a mix of resources is able to support the effort. PULP notes that such a fund could generate interest, which could then be reinvested to support other energy affordability programs administered by DPS, NYSERDA, and other relevant agencies. The Comptroller's Office can also decide to hold funds for the following program year, depending on the total in the fund at the end of the HEAP program year.

Moving forward, PULP believes that the Office of Energy and Equity could assist by offering their own targeted numbers for each program for each annual budget cycle, based on their detailed work and oversight of all energy affordability programs. However, currently, PULP generally recommends the following target appropriations for this budget cycle, noting that each program is funded by a range of sources, from federal dollars to state funding, and also ratepayers.

- Prioritizes \$400 million for HEAP
- \$200 million for EAP and EEAP
- \$200 million for EmPower + and the EmPower + Guarantee
- \$200 million for the GAP Fund
- \$75 million in Weatherization Assistance

PULP firmly believes that NYS must learn from the lessons the federal government shutdown taught us. This includes finding financial reserves for emergencies, and efforts to fully protect and adequately fund all of our energy affordability funds. Doing so will provide consistency for low-income families who rely on and need these services.

E. NYS SHOULD AUTHORIZE THE DEPARTMENT OF TAX AND FINANCE TO HELP CONNECT RESIDENTS TO THE STATE'S ENERGY AFFORDABILITY PROGRAMS.

PULP urges NYS to consider the expansion of data matching across agencies, such as OTDA, NYSERDA, the Department of Health, and the Department of Taxation and Finance, to create a fully integrated enrollment process. PULP envisions that households would automatically receive all affordability, energy efficiency, and weatherization benefits for which they qualify. Adopting a "no wrong door" approach, whereby participation in one program automatically triggers eligibility for related supports, would significantly reduce administrative burden and help stabilize struggling households. PULP believes that this can be achieved through efforts such as producing a standard application for all programs, and by authorizing more data matching. PULP is specifically interested in authorizing the Department of Tax and Finance to conduct data matching.

In December 2023, Governor Hochul signed into law legislation that authorizes OTDA to identify eligible households and share that information 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.⁷ Although program implementation has been slow, PULP is hopeful that EAP enrollment will increase significantly statewide once fully online.

⁷ *See*, Chapter 764 of the Laws of 2023.

PULP believes that data matching is a win-win for the NYS government and the households it serves as it will alleviate financial strain by helping individuals access all of the programs, they are eligible for, while limiting administrative burdens through the submission of multiple applications and proof of income documentation. Enhancing data matching will help streamline processes and create better end results for affordability and climate purposes. With the NYS Department of Tax and Finance having access to annual filings, PULP believes that they are the appropriate entity to focus on next by allowing them to pursue data matching.

PULP imagines that Tax and Finance could implement this program by simply adding a box onto the state tax filings directly asking individuals if they consent to have their state income tax information used for data matching purposes. If the individual affirms, Tax and Finance could then generate lists broken out by income tier and share that information with other state entities to match individuals to a variety of assistance programs, from EAP/EEAP, to EmPower + and beyond. Additionally, PULP does not believe there is a need to disclose specific financial information for privacy purposes.

F. NYS SHOULD ESTABLISH INTERVENOR FUNDING.

PULP recommends the Legislature appropriate \$1 million and including Article VII language to create a utility intervenor funding program in their one-house budgets. This funding would enable nonprofit organizations and community groups to participate effectively in utility proceedings, ensuring equitable representation and advocacy for residential households. The \$1 million would act as seed funding to start the program and allow individuals and organizations to begin accessing the program in 2026. Providing intervenor funding will help level the playing field in rate cases and policy proceedings, which will help produce stronger outcomes that will benefit the overall public. PULP deeply appreciates the Senate for including \$5 million in their one-house budget last year. With intervenor funding being vetoed three times, PULP recommends its inclusion in the Assembly and Senate's one-house budgets, since it's an easy way to create equity in the rate case and generic proceeding process.

Several other states have recognized that financial barriers limit meaningful participation in regulatory proceedings and have created intervenor funding programs to address them. California offers one of the most robust models, whereby stakeholders who make a "substantial contribution" to a proceeding can be compensated for their work.⁸ Although the program is ratepayer-funded through small surcharges on customer bills,⁹ it operates in a transparent and accountable manner. The Compensation Program Guide details the process, including forms and instructions, and clearly categorizes the types of participants, the various levels of expertise, and the corresponding compensation. Additionally, the California Public Utility Commission conducts a market rate study to establish rates that are accurate and considerate to education, experience, location, and an adjustment for benefits (social security, retirement, disability, sick time, etc.) and overhead costs (rent, supplies, staff, etc.).¹⁰

⁸ *See, Intervenor Compensation Program Guide*, California Public Utilities Commission.

⁹ *See, Hourly Rate Chart*, California Public Utilities Commission.

¹⁰ *See, Market Rate Study*, California Public Utilities Commission.

Illinois has also established an intervenor funding system to support residential customers and nonprofit organizations that represent consumer interests.¹¹ To qualify, these parties must demonstrate meaningful participation through testimony, briefs, or arguments on significant issues that affect utility rates or services. They must also demonstrate that their participation in the proceeding would cause financial hardship. Compensation is provided if the Commission determines that their involvement substantially contributed to the proceeding.

Lastly, in 2020, Oregon ran a pilot program that has since evolved into what's known as "Justice Funding." This program is specifically designed to enhance participation by groups that advocate for environmental justice issues and low-income communities.¹² Justice Funding comes in two forms: case funding, where applicants can receive up to 50% of their costs up front for a specific docket, and pre-certification grant funding, where groups that expect to participate in multiple proceedings can apply once but receive support up to five times throughout the year.¹³ This approach recognizes that intervenor compensation provides agency and removes barriers for organizations who represent communities who are historically excluded from regulatory proceedings by providing financial support to meaningfully engage in decision-making.

G. NEW YORK SHOULD ESTABLISH AND FUND INDEPENDENT UTILITY CONSUMER ADVOCATE.

PULP believes that creating a truly independent Office of the Utility Consumer Advocate ("UCA") will help result in better public outcomes. Utility rate cases are long, costly, and legally complex, making it unrealistic for households and many nonprofits or community-based organizations to engage on equal footing without a dedicated advocate. An independent UCA with the expertise and authority to intervene in these cases would correct this imbalance and help ensure that residential customers are represented as zealously as utilities and other major stakeholders in decisions that directly affect their household budgets and access to essential utility services.

Although prior veto messages have suggested that creating an independent UCA would be duplicative of existing state entities, PULP believes this critique is misplaced.¹⁴ Both DPS and the Department of State's Utility Intervention Unit ("UIU") are charged with representing *all* utility customers, both residential and commercial. These dual mandates are inherently in conflict, since the interests of residential and commercial customers often diverge. Additionally, DPS staff are also explicitly tasked with protecting the financial health of utilities, a responsibility that also often directly conflicts with affordability for consumers. Meanwhile, the UIU is administratively subordinate and lacks the statutory independence to act solely in the interests of residential customers.

¹¹ *See*, ICC, "Consumer Compensation Fund," 2023, <https://icc.illinois.gov/informal-processes/Consumer-Intervenor-Compensation-Fund>

¹² *See*, "Intervenor compensation programs can level the regulatory playing field", Emily Piontek, Energy News, 2021, available at: <https://energynews.us/2021/09/24/commentary-intervenor-compensation-programs-can-level-the-regulatory-playing-field/>

¹³ *See*, "Intervenor Funding," Oregon Public Utility Commission, available at: <https://www.oregon.gov/puc/filing-center/pages/intervenor-funding.aspx>

¹⁴ *See*, Veto No. 60 of 2025; Veto No. 55 of 2021; *see also*, Veto No 259 of 2019.

By contrast, an independent UCA, established through Assemblymember Dinowitz's A9548, would be appointed to a six-year term and tasked exclusively with representing residential customers. Far from duplicating existing efforts, it would fill the structural gap that has left households underrepresented for decades. PULP believes this independence matters, as the UCA would be able to intervene in cases without having to reconcile competing commercial interests, without deference to other state agencies, and without the obligation to weigh the financial outcomes for utilities against the affordability of service for consumers.

Lastly, the experience of other states demonstrates the value of such an office. In California, for example, the Public Advocates Office secured nearly \$2.3 billion in savings in the San Diego Gas & Electric and Southern California Gas rate cases,¹⁵ as well as \$532 million over three years in four major water utility cases.¹⁶ These outcomes illustrate the powerful impact an independent consumer advocate can achieve, delivering billions in savings while safeguarding the affordability and reliability of essential utility services. Even if New York only achieved a fraction of these results, the substantial benefit for consumers far outweighs the modest resources required to maintain such an office.

III. DISCUSSION OF PROPOSALS IN THE GOVERNOR'S EXECUTIVE BUDGET

PULP appreciates the Governor's attention to utility affordability in her budget proposals, which cover a broad range of topics, from funding for EmPower +, to rate case procedural changes, and even consumer protections that will protect tenants from utility terminations when the building's owner falls behind on payments. PULP provides the following comments and recommendations for consideration in the budget process.

A. AFFORDABLE UTILITIES OMNIBUS LEGISLATION - (TED PART N)

1. Tying executive pay to affordability metrics.

PULP appreciates the Governor's interest in making utility rates more affordable. This part proposes to compare CEO salaries to average workers and benchmark ratepayer funded salary increases and bonuses to a new "affordability index." PULP believes this is an interesting concept, one which we support with modifications. To be effective, PULP recommends modifying the proposal's language so that "other management position" clearly includes high-level employees such as officers, vice presidents, and trustees. Utility companies often have several high-level employees besides the CEO, who are on staff with large salaries.

For example, when you review the attached ConEd 2024 annual report, each executive has a line item on both pages. The CEO appears on Line 1 on each page, and on the second page, all the way on the right, you can see the total compensation is \$14,984,212. To the right of that is the "Estimated amounts paid by ratepayer," which is over \$4 million. However, PULP notes there are 70 other officers, directors, and trustees listed after ConEd's CEO. PULP believes that

¹⁵ *See*, 2024 Annual Report, the Consumer Advocate at the California Public Utilities Commission, at 9, <https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/annual-reports/2024-public-advocates-office-annual-report.pdf>.

¹⁶ *Id.*, at 16.

this information could be re-produced in Con Ed's filing, with totals. In addition, there could easily be added a separate line below for the equivalent median information for non-executive/director/trustee employees, essentially creating a basis for comparison using public information. In summary, PULP believes that there is an existing data base that can be used to form the process for implementing this proposal.

PULP also appreciates the effort to link energy affordability metrics to the utility company's Return on Equity ("ROE"), the primary mechanism through which utilities earn profits. We believe tying performance to ROE has the potential to meaningfully influence utility behavior, since it will align financial incentives with outcomes that matter to customers and therefore encourage the utility to prioritize decisions that reduce overall energy burdens for residential households. However, for this proposal to be effective and fair, it is critical that the metrics focus on factors within a utility's control. For instance, DPS should ensure that utilities are not penalized for components of energy burden that they do not control, such as commodity supply costs or gas-related energy burdens in electric service territories where another utility provides gas service (like downstate in the ConEd and National Grid service areas). PULP also recommends clarifying how the actual mechanics of this metric will work in practice in the Article VII language, as it's currently unclear whether noncompliance would result in negative revenue adjustments, bill credits, or another enforcement mechanism.

Along with the Governor's proposal, PULP is also supportive of reform around the ROE itself. In particular, we recommend that the Assembly and Senate include in their one-house budgets Senator Mayer and Assemblymember Barrett's legislation to require utilities to return all revenues in excess of their authorized rates of return on equity to ratepayers (S.7693/A.8150).

2. Eliminating "gold-plated" rate cases.

PULP also appreciates the Governor's proposal to require the utility companies to file a budget-constrained option when requesting new rates. Utility companies will oftentimes file for large 1-year rate increases, only for the Public Service Commission ("PSC") to approve a multi-year joint proposal and issue a press release announcing the large cuts made during the rate case process. This pattern of behavior leaves the public to wonder just how padded the rate requests are when they then see the company often end up somewhere in the middle. PULP is hopeful this new information will help establish a floor in rate cases.

PULP recommends modifying the "budget-constrained" option to specify that the filing be broken out for operating, capital, and programmatic/policy expenditures in such a way that, in total, the revenue increase requested does not exceed the rate of inflation. In this scenario, PULP imagines the utility would be allowed to have individual line-items in excess of the inflation rate, so long as they are offset by others. Additionally, if the utilities determined that such a budget might sacrifice safety and reliability, they could explain which line items had to be cut in such a way to comply with the overall budget constraint. A prime example might be where property taxes comprise a significant part of the revenue requirement. As we saw recently in ConEd, the Company has little to no control over this, and therefore they would likely need to cut some other line items to achieve this new mandate, potentially including projects that involve safety and reliability. Ultimately, all of this can then be adjudicated during the rate case process.

PULP also believes that the Governor’s proposal would benefit from a side-by-side comparison following the conclusion of a rate case that shows the company’s original filing, the "Budget Constrained" filing and the final amounts approved by the PSC. This summary should be broken down further by line item and posted publicly in an easily accessible place, without the need to sift through all of the exhibits, appendices, etc. on the DPS’s DMM.

3. Removing hidden fees like advertising, fines, and certain legal fees.

PULP appreciates the Governor’s proposal to review the “standards and procedures used to ensure that inappropriate utility expenses, including certain classes of advertising and legal fees and any fines or penalties imposed are not charged to ratepayers.” PULP supports this proposal but would like to see it broadened to allow for a full review of costs and expenses. We believe there are likely other types of costs or expenses that are inappropriate that DPS could identify and prohibit recovery of, such as human resource related settlements, superfund cleanup costs, and more.

One specific example worth reviewing involves a settlement between Attorney General Letitia James and ConEd, which involved a pervasive pattern of workplace discrimination¹⁷~~[[OBJ]]~~. The settlement included a number of requirements, including, a \$750,000 fund to assist 17 aggrieved employees. In addition, it required the Company to hire an independent consultant to oversee its compliance with equal employment opportunity policies, recommend improvements to its investigative procedures, train Office of Diversity and Inclusion investigators on effective investigation techniques, how to make proper credibility determinations¹⁸. Although it was reported in the news that ConEd was not seeking recovery of these costs¹⁹ PULP recommends a full review by DPS to ensure that no extraneous or tangential costs relating to the settlement are being covered by ratepayers.

At the same time, PULP recognizes that ultimately, this type of spending should not be happening to begin with. DPS’s role as a regulator is to ensure that the utility companies comply with all applicable laws, rules, and regulations. As a result, PULP recommends including broader language to allow DPS to look for “other” potentially inappropriate costs being covered by ratepayers that should not be. Further, there should also be publicly available reporting requirements for utilities, noting any findings of “questionable” uses of ratepayer funds that DPS staff find during their reviews. This report will help the lawmakers, DPS, and the public better understand what other costs should be deemed uncollectible under the law.

B. REQUIRING AI DATA CENTERS TO PAY THEIR FAIR SHARE

PULP appreciates the Governor’s interest in providing stronger oversight and regulation of AI data centers. Unfortunately, PULP did not locate any Article VII bill language or

¹⁷ See, <https://ag.ny.gov/sites/default/files/settlements-agreements/consolidated-edison-company-of-new-york-inc-assurance-of-discontinuance-2025.pdf>

¹⁸ *Id.*

¹⁹ See, <https://www.lohud.com/story/news/ny-news/2025/03/26/con-edison-allowed-sexual-harassment-at-work-ny-attorney-general-report/82670546007/>

appropriation language specifically around “Energize NY Development.” In general, PULP is supportive of including all major budget initiatives in Article VII language, as we believe that this provides transparency and the ability to engage in project planning from the start. PULP also believes that when it comes to AI data centers it’s important to memorialize efforts in the law to protect New York from potential legal challenges during implementation.

PULP recognizes that while data centers have been around for decades (“traditional data centers”), it is the boom in AI data centers, with their unprecedented energy density and extremely volatile load requirements, that we focus on in our testimony. PULP calls for extreme caution and fast action when it comes to protecting ratepayers from the various costs associated with the operation of AI data centers and cryptocurrency facilities.

At a high level, these costs typically fall into two categories: (1) supplying reliable electricity to power these facilities and (2) how the utilities recover the costs of delivering that power. Carnegie Mellon University estimates that electricity demand due to AI data center and cryptocurrency mining growth is projected to rise up to 350% by 2030.²⁰ Since these facilities draw massive amounts of electricity, they often require significant interconnection and infrastructure investments in the grid itself, costs that are ultimately passed on to customers through the delivery side of their utility bill.²¹ There are also growing concerns that utility costs on the supply side of the utility bill will be higher due to wholesale market prices.²² As these facilities drive up electricity demand, utilities may need to purchase additional supply from the wholesale market at a higher price to meet the grid’s increased need. These higher procurement costs are ultimately reflected in customer rates and compound the delivery-side cost impacts. Together, these pressures place the public at significant risk of paying higher utility bills.

PULP is supportive of including Assemblymember Barrett and Senator Gonzalez’s “Accountability for Data Centers” bill (A9039-A/S8540), which would create a separate utility service classification for large energy use facilities and assign the full costs of serving these facilities to that classification. Effectively, the legislation would ensure that the substantial infrastructure upgrades and other costs associated with these high-demand loads are borne by the facilities that create and benefit from them. PULP believes this structure would help reduce undue rate impacts on residential households and support more transparent and equitable grid planning. It is important to note that the ACDC Act does not block any new projects or stall economic development; it simply ensures that growth in this sector does not undermine energy affordability for the public. PULP recommends adding A.9039-A/S.8540 into the Assembly and Senate one-house budgets.

²⁰ *See, Data Center Growth Could Increase Electricity Bills 8% Nationally and as Much as 25% in Some Regional Markets*, Michael Blackhurst, the Open Energy Outlook Initiative, July 2025, available at: <https://www.cmu.edu/work-that-matters/energy-innovation/data-center-growth-could-increase-electricity-bills>.

²¹ *See, Big Tech’s A.I. Data Centers Are Driving Up Electricity Bills for Everyone*, Ivan Penn & Karen Weise, N.Y. Times, Aug. 14, 2025, available at: [https://www.nytimes.com/2025/08/14/business/energy-environment/ai-data-centers-electricity-](https://www.nytimes.com/2025/08/14/business/energy-environment/ai-data-centers-electricity-costs.html#:~:text=It%20is%20difficult%20to%20predict,who%20leads%20Microsoft's%20energy%20procurement)

[costs.html#:~:text=It%20is%20difficult%20to%20predict,who%20leads%20Microsoft's%20energy%20procurement](https://www.nytimes.com/2025/08/14/business/energy-environment/ai-data-centers-electricity-costs.html#:~:text=It%20is%20difficult%20to%20predict,who%20leads%20Microsoft's%20energy%20procurement)
²² *Id.*

C. MODERNIZING UTILITY REGULATION TO PROTECT CONSUMERS - (TED PART O)

PULP generally supports the Governor's proposals with modifications. Specifically, the Governor's proposals seek 1) to extend the statutory time frame of a rate case from 11 months to 15 and 2) allow litigated rate cases to result in a 2-year rate plan, when they currently result in only a 1-year rate plan. PULP encourages the State to use this budget process to have productive and broad discussions about the entire rate case process, from filing, to participation, and beyond.

In New York, the PSC uses an evidentiary process in rate cases to evaluate rate change requests from utilities. Each rate case begins when a utility company files a petition with the Commission to modify its delivery rates. Under the existing Public Service Law, rate case proceedings are supposed to run for a statutory maximum of 11 months,²³ though extensions are possible –and common– through “make whole” provisions, which permit utilities to recover approved increases retroactively. If a rate case goes to litigation, parties end up with a 1-year rate plan. If the rate case goes to settlement, parties typically end up with a multiple year rate plan, often being 3-years. The Governor's proposals seek to modify these timeframes.

While PULP supports the Governor's proposals with modifications, we recognize that there are several other reforms necessary to enhance the rate case process, everything from access to intervenor funding to the creation of publicly accessible guides and templates to help parties participate in the process. Additionally, it would be helpful to standardize the use of Administrative Law Judges during settlement. Overall, PULP is encouraged that the following proposals open the door for honest and helpful discussion on how to reform the rate case processes.

1. Extending the statutory time frame of a rate case from 11 months to 15 months.

PULP is supportive of extending the rate case process itself from 11 to 15 months, with modifications. For a variety of reasons, rate cases often extend beyond the 11-month statutory timeline. When parties wish to continue negotiations past that deadline, utilities must agree to request an extension. Under current practice, DPS and the Public Service Commission apply a “make whole” agreement that allows utilities to retroactively recover rates for the additional time. Unfortunately, this has become routine practice, resulting in rate compression for captive utility customers. For example, in the 2022 NYSEG/RG&E rate case, the process took approximately 15-months. In the 2022 Con Ed rate case, the process took approximately 18 months to complete.²⁴ While the height of the COVID-19 pandemic was likely a factor in some of the exceedingly long rate case processes, in general, even more recent rate cases are taking 12-13 months to complete.

²³ *See*, PSL 66(f)(12).

²⁴ *See*, Case 22-E-0064 et al., 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.

Given these realities, PULP believes reform of the make-whole process itself is warranted. While the Department and Commission have traditionally granted full make whole agreements, there is no explicit requirement for them to do so under the law. There should also be legally mandated guardrails set over the make whole process to protect the public from retroactive increases that are no fault of their own. Spreading out the risk of settlement with the utility adds fairness to the process, while still allowing recovery for those rate cases that go beyond the rate period set by statute. For all of these reasons, PULP has previously supported Senator Mayer and former-Assemblymember Mamdani's bill A6951/S5593,²⁵ which extends the statutory rate case period to 13 months and reforms the application of make whole provisions as a whole to disincentivize utilities from allowing settlement to drag on.

PULP recommends modifying the Governor's proposal by taking the make whole reform provisions from Senator Mayer's bill and including them in the Senate and Assembly one-house budgets, as they will serve as a strong deterrent against exceeding the 15-month time-period. Moreover, PULP also recommends having a structured process where there are regularly scheduled time checks with parties participating in the rate case process to ensure that they are moving at the appropriate speed so that they don't go past the 15-month window. PULP worries that without these guardrails, rate cases will drag on past 15 months, ultimately defeating the purpose of this provision and causing rate compression.

Finally, PULP feels compelled to note that in the Governor's bill memo, part of the rationale for needing more time for the rate case process is "due to the increased complexity and stakeholder engagement involved in rate cases." In PULP's experience, a rate case is only as good as the filing itself. In some instances, utility companies have filed data and materials that require a great degree of review and questioning through the rate case process, which can result in delays on its own. The burden of proof to demonstrate why utility investments are necessary falls on the utility alone. For this reason, PULP generally also supports reforms that seek to standardize filing and require more specifics about the data being offered at the time of filing.

2. Allowing litigated rate cases to result in a 2-year rate plan.

PULP supports amending the Public Service Law to allow the Commission to set rates for more than one year when rate cases are litigated, with modifications. Under the current statute, litigated cases are limited to one-year outcomes, whereas confidential settlement negotiations routinely produce multi-year rate plans. We believe that this limitation ultimately discourages litigation and creates unnecessary uncertainty for ratepayers, as utilities can file for new rates almost immediately after a litigated case concludes. A recent example of this is Central Hudson's 2023 and 2024 rate cases. From PULP's perspective, the litigation process ultimately strengthened accountability, allowing for a full vetting of the utility's proposals and delivering a fairer outcome for customers. Unfortunately, less than two weeks after the Commission approved the Company's 1-year rate plan following litigation,²² Central Hudson filed a new rate case request.

As such, PULP is interested in exploring the setting of litigated rate plans for up to no more than 3-years, with appropriate guardrails and protections to maintain balance for rate

²⁵ *See*, S.7328A, available at: <https://www.nysenate.gov/legislation/bills/2025/S5593>.

payers and the utility investors. PULP does not support going beyond three-years. The truth is that while rate cases are incredibly complex and require significant time and labor, they also provide some of the greatest transparency into the inner workings of the utility. We maintain that having them stay out of the utility process for too long is dangerous to the public and customers. Moreover, the longer the utility's rate plan, the more likely certain financial data and projections will not be as accurate, leaving rate payers at greater risk. As a result, we are proponents of efforts to refresh data when possible, especially those projections relating to capital projects. We believe that even after a rate case is finalized, data can be updated and monitored for transparency and accuracy purposes. We would recommend considering these as modifications to the Governor's proposals.

D. REVITALIZING EMPOWER+

PULP strongly supports the Executive Budget's proposed \$50 million investment in the EmPower+ Program.²⁶ Deep energy efficiency improvements and electrification efforts to New York's aging housing stock are incredibly costly. For many households, these upgrades are unfortunately out of reach without financial support. EmPower+ directly addresses this need and has proven to be one of the state's most effective tools available to reduce energy consumption and energy burdens and for income-eligible households. Since the program's launch, it has delivered measurable bill savings, reduced emissions, and improved home comfort for tens of thousands of households across the state. Additional state funding will allow this highly successful program to reach an estimated 10,000 more low-income households.

PULP also notes that EmPower+ is currently designed to serve both low- and moderate-income households. This recognizes that rising utility bills and the high upfront costs of energy efficiency and electrification upgrades affect a much broader income range of New Yorkers than traditional low-income programs alone. While the Executive Budget appropriation language references only residential low-income energy efficiency, PULP maintains that it's crucial to preserve the program's existing structure. Under the current program design, moderate-income households can still receive no-cost home improvements, albeit at lower per-project caps than those available to low-income households. For this reason, PULP encourages the Legislature to clarify that existing program design will not be altered by the Executive Budget's appropriation language.

Overall, the proposed investment recognizes the scale of need among eligible households and is in alignment with the recently approved State Energy Plan.²⁷ It will also support the recent expansion of the program approved by the Public Service Commission, which now allows for the use of State Median Income or Area Median Income, whichever is higher, to determine eligibility.²⁸ PULP maintains that as eligibility expands, it is crucial that program funding scales with it to meet the increased demand without delays or service constraints for participating households.

²⁶ *See*, Capital Projects Bill.

²⁷ *See*, 2025 State Energy Plan, Volume II, Chapter 8 Buildings, Sector 4.1. Available at: <https://energyplan.ny.gov/Plans/2025-Energy-Plan>.

²⁸ *See*, Case 25-M-0249, Order Authorizing Low-To-Moderate Income Energy Efficiency and Building Electrification Portfolio for 2026-2030, issued and effective May 15, 2025, at 74.

E. EXCELSIOR POWER PROGRAM

PULP has serious concerns with the proposed Excelsior Power Program, as outlined in the Executive Budget. While the stated goal of leveraging new technologies like smart thermostats for demand response and providing bill credits to enrolled households is laudable in concept, there are many unanswered program design questions that need clarification before such a program is enacted. For instance, PULP notes that the Executive Budget's \$33 million appropriation simply authorizes the provision of bill credits or benefits to eligible customers, seemingly leaving all aspects of implementation to the administrative process. Moreover, the appropriation does not reference smart meters, thermostats, or technology generally, despite those home features being essential based on the program description in the Governor's State of the State book and Executive Budget briefing materials.

Furthermore, PULP also questions whether the scale and structure of the proposed investment will meaningfully advance the program's stated grid and affordability objectives. It is estimated that this appropriation would support an estimated 110,000 households through bill credits in the amount of \$25 for one year. It remains unclear whether that level of participation is sufficient to materially reduce peak electricity demand or whether the program would need to be geographically targeted to achieve measurable grid benefits. We note that the Executive Budget provides little clarity on how participation would be prioritized geographically and how the program would be marketed and evaluated to ensure that system-level savings are realized. Lastly, PULP has concerns around the protection of customer data and household privacy, the feasibility of DPS developing and operating a statewide technology platform, and the risk that participation will skew only toward customers who already have and or are comfortable with "smart" technologies.

Given the lack of detail and the significant unresolved questions regarding program design, PULP strongly urges the Legislature to closely scrutinize this proposal and provide clearer statutory direction through Article VII language to protect enrolled households. We offer the following recommendations for the Legislature's consideration.

1. Excelsior Power should be opt-in only.

PULP maintains that participation in this program must be truly opt-in, with plain-language consumer education provided prior to enrollment. Customers need to receive clear information about what data will be collected, how their thermostat or other smart devices may be adjusted, and the duration and frequency of any adjustments. Moreover, enrolled households, particularly those with medical vulnerabilities, should retain the ability to override thermostat adjustments at any time without penalty. There should also be requirements for advanced notice before anticipated extreme heat or cold events, with those communications explicitly stating that thermostat adjustments may occur because the customer elected to enroll in the program. Finally, the customer should be able allowed to exit the program quickly if they decide that they no longer want to participate.

2. The Legislature should clearly define the parameters of this program.

PULP also urges the Legislature to more clearly define the scope of this program. Currently, it is unclear whether demand response efforts would be limited to high load days, such as during extreme heating events, or a year-round endeavor. We also question whether these load management efforts would be extended past thermostats to other “smart” appliances like electric furnaces, water heaters, or heat pumps. Additionally, residential customers should be treated as a last resort for load reduction. Utilities and the state should be required to establish a clear framework that prioritizes load reductions from large non-residential users such as AI data centers, cryptocurrency mining operations, and unoccupied commercial spaces before residential households are impacted. We maintain that the burden of maintaining grid reliability during peak load events should not fall disproportionately on residential customers, especially those living in DACs or urban heat islands.

3. Strong data protection is necessary to protect vulnerable customers.

Energy usage and device-level data can reveal highly sensitive information about occupancy and household routines. Without clear statutory limits, PULP is worried that household data could be misused in ways unrelated to energy affordability or grid reliability. For this reason, utilities and any third-party technology providers should be strictly prohibited from sharing or selling data collected through the program without the customer’s explicit, informed consent. Moreover, these entities should be required to clearly and publicly disclose what data is collected and how it is being used. No customer should be required to trade control over their personal data in exchange for modest utility bill relief.

PULP has conducted research into other states that have operating programs like what we believe the Governor is proposing here.²⁹ The Environmental Protection Agency (“EPA”) has their own Energy Star ratings for programmable thermostats, with EPA-provided software to protect privacy and proprietary information.³⁰ Due to the current federal environment, PULP recommends NYS adopting similar standards for thermostats that EPA has currently. Moreover, the smart thermostat providers should also be tasked with explicitly ensuring data security and privacy, and alerting customers if there are any breaches.

4. There must be reporting requirements attached to this program.

To evaluate progress, PULP believes there should be reporting requirements placed on utilities to monitor enrollment, opt-out rates, and the proportion of program benefits received by low-income customers and DACs. This data will be essential to identify gaps, refine strategies, and ensure that the program is effective, equitable, and aligned with the State’s energy affordability and grid modernization goals.

²⁹ *See*, Arizona, Illinois, Massachusetts, and California are some of the states with similar programs.

³⁰ *See*, ENERGY STAR Smart Thermostats FAQs for EEPs, at: https://www.energystar.gov/products/heating_cooling/smart_thermostats/smart_thermostat_faq.

F. INCREASING UPTAKE OF ENERGY ASSISTANCE PROGRAM

PULP appreciates every effort by NYS to boost enrollment in the utility companies EAP. Unfortunately, PULP was unable to locate any Article VII language or Appropriation language that addresses this proposal. As such, PULP generally supports the Governor's plan with modifications. This proposal, as included in the State of the State's briefing book, hopes to utilize existing energy assistance programs to help reduce costs. The highlighted programs are EAP, EmPower +, and WAP. The proposal suggests to increase outreach and awareness and streamline how these programs are implemented. PULP recommended a "no-wrong door approach" in our comments for the 2025 State Energy Plan. To help ensure success, all of NYS' affordability programs should be amplified with every NYS agency, even those who do not directly work on utilities, including Department of Health, Department of Labor and more.

PULP believes that this proposal can be stronger by including the following modifications. To begin, the state can propose that programs such as EAP and EEAP have dedicated state funding to support the program, so there are meaningful reductions to the bills especially as rates have progressively increased. Programs like EmPower+ needs more monitoring to ensure the program is having the impact it should. Centralization of energy efficiency resources is key to avoid customers having to contact several agencies and complete several applications to access resources. This proposal can also be aligned with the Mitigating Energy Cost Burden section located in TED Part N, as this will provide the state data from the utilities on what are the energy burdens to determine how we can best help customers access the resources that will drive costs down. PULP also elevates our recommendations above to create the Office of Energy and Equity, and to authorize data matching using the Department of Tax and Finance, as other important considerations. These creative efforts together can increase EAP enrollment, while also connecting households with important programs.

G. PROTECTING TENANTS FROM UNFAIR UTILITY SHUT-OFFS - (TED PART Q)

PULP fully supports this proposal as is. In 2025, PULP was in communication with Assemblymember Rosenthal and Senator Kavanagh, who have bill A.8712/S.8118, which seeks to prevent electric and gas utilities from terminating utility service to multiple dwellings when the owner/landlord falls behind on paying the account. Instead of allowing a service termination, the bill allows utility companies to seek a lien in court. The Governor's proposal as found in TED Part Q is similar, with the addition of a water arrears section that authorizes municipalities to commence an action against nonpaying owners. For the following reasons, PULP recommends adoption of this proposal in the budget.

Over the past several years, PULP has repeatedly assisted tenants across New York State who had their electric or gas services disconnected because their landlord fell behind on their utility payments. In these situations, tenants are effectively powerless and left with little recourse under the law to maintain these essential services. Utility companies cannot discuss the landlord's arrears with tenants due to confidentiality rules, and tenants are unable to access financial assistance programs because the account is not in their name. While current law allows tenants to form a tenants' association and assume responsibility for payment, the numerous

logistical barriers render this option largely illusory. In practice, PULP has never seen this remedy successfully implemented.

In our testimony for the Con Edison rate case, PULP highlighted that more than 3,500 multiple dwelling accounts were eligible for service disconnections in the service territory as of March 2025.³¹ In the NYSEG and RG&E rate case, the companies identified that multiple dwelling accounts had accumulated nearly \$8.8 million in arrears through July 2025. In that same month, NYSEG issued 5,939 termination notices to multiple dwelling accounts in arrears, while RG&E issued 890.³² When tenants cannot pay arrears or create a tenants' association, their only remaining option is housing court, an avenue that is often times inaccessible to low-income tenants who lack legal representation and support. In the NYC region, tenants are typically directed to contact the NYC Housing Preservation & Development ("HPD") so that violations and fines can be issued against negligent landlords. Unfortunately, in practice, many landlords already carry extensive violations and fines that do little to prompt restoration of service. Outside of NYC, tenants are often directed to local code enforcement offices, where reporting unsafe conditions may expose them to the risk of eviction.

Both the Rosenthal/Kavanagh bill and the Governor's proposal intend to allow utility companies, electric, gas, and water, as well as municipalities to pursue recovery of arrears through a lien, which would prevent the sale or transfer of the building without resolution of outstanding utility debt. PULP supports this simple change, as it will provide utilities with a lawful and ethical means of recovery that holds tenants harmless, address arrears that might otherwise be deemed uncollectible and socialized across the rate base, and replace the existing approach that unfairly burdens tenants who have no control over the account and risk the loss of essential utility services.

H. MITIGATING ENERGY COST BURDEN - (TED PART P)

PULP also supports the Governor's proposal on mitigating energy cost burden with modifications. PULP applauds the addition of this proposal, which has the potential to greatly benefit energy affordability for residential customers. However, more clarity is necessary on how this program will be implemented.

To begin, PULP has been including energy cost burden analysis in our rate case testimony for over a decade. We are grateful that other parties, including Alliance for a Green Energy Economy ("AGREE") have also begun to include similar analyses in their rate case

³¹ See, 25-E-0072 et. al., *Testimony of William D. Yates, CPA for the Public Utility Law Project of New York*, at 85. Available at: [https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={909C2297-0000-C67A-A438-27D68B2FCD91}&DocTitle=Testimony%20of%20William%20D.%20Yates,%20CPA%20-%20Cases%2025-E-0072,%2025-G-0073%20\(Final\).](https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={909C2297-0000-C67A-A438-27D68B2FCD91}&DocTitle=Testimony%20of%20William%20D.%20Yates,%20CPA%20-%20Cases%2025-E-0072,%2025-G-0073%20(Final).)

³² See, Case 25-E-0375 et. al., *Testimony of William D. Yates, CPA for the Public Utility Law Project of New York*, at 144-145. Available at: <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={502D609A-0000-CF2E-A8A6-D1F2EABF3558}&DocTitle=Testimony%20of%20William%20D.%20Yates,%20CPA%20-%20Cases%2025-E-0375%20et%20al.>

testimony, including National Grid Upstate.³³ Granular energy burden analysis is a powerful tool to examine energy burdens and the affordability situation statewide, regionally or even by census track. Since 2016, NYS has had the goal that no low-income household spend more than 6% of their income on their utility bills. This is a powerful goal and one that is a good benchmark for affordability.

In general, as one's income goes up, their energy burden will go down, as they have more financial resources to afford their bills. However, PULP recognizes that rising delivery and supply rates effect all ratepayers, and there are growing concerns about energy costs from all income levels. With that said, PULP believes that the affordability index and related affordability filings by utilities when they submit a rate request, as well as the ability to tie this index to metrics, will be helpful in engaging in important conversations about utility costs. Having this information provided by the utilities at the start of a rate case would give all parties and the public, the chance to review energy burden data from the very beginning, rather than later in the process.

While PULP is supportive of this proposal, we recommend using the Article VII language to provide greater detail on how these proposals should work. For instance, PULP would recommend more granularity and clarity around income tiers for residential customers, as that is an important factor when calculating energy burden. PULP also recommends requiring the utility to gather information on what the source is for the increased energy burdens (ex. lack of energy efficiency, increased rates, wrongful billing, etc.). This information is vital and aligns with other proposals in the SOS like PSC reform. The data and information gathered should also be made public, where able, as this helps other intervenors and advocates understand energy burdens in the state.

PULP also appreciates the proposal to authorize the PSC to install an Independent Affordability Monitor at no cost to customers within utilities when energy burdens exceed an established threshold of 3% by service. PULP believes that what's meant by this proposal is 3% electric and 3% gas, for a combined 6% energy burden, but we recommend seeking clarification during the budget process. This tool has the potential to enhance transparency and accountability by providing the PSC with independent, on-the-ground insights into the utility's operations, spending decisions, and management practices that ultimately contributes to rising customer bills. However, as drafted, PULP has concerns that the monitor would be largely reactive, triggering oversight only after customers experience higher bills. For this reason, PULP recommends that the Legislature clarify how the monitor's findings will be addressed, whether utilities or the Commission are required to respond, or how the identified cost drivers would inform future utility spending authorized in rate cases. We believe these amendments would strengthen the proposal and better align it with the longer-term goal of preventing unaffordable utility bills. Moreover, PULP recommends that any findings made, if and when the monitor is installed, shall be made public for transparency purposes.

³³ See, AGREE, Energy Burden Panel & Exhibits, Case: 24-E-0322 et. al., Sept. 26, 2024, available at: <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={90B73392-0000-CC29-9677-8609EE1A8029}&DocTitle=13.%20Energy%20Burden%20Panel%20Exhibit%2046%20-%20NiMo%20Response%20to%20AGREE%20Interrogatory%20131,%20attach.%203>.

IV. 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.

Ian Donaldson
Communications and Policy Manager
The Public Utility Law Project

Laurie Wheelock, Esq.
Executive Director and Counsel
The Public Utility Law Project