BEFORE THE NEW YORK PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service.	**Case 13-E-0030**
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.	**Case 13-G-0031**
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service.	**Case 13-S-0032**

INITIAL BRIEF OF THE PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.

I. Overview

Much has been said in this case about major storms and the chaos they create for customers who lose their gas and electric service. Hurricane Sandy brought home to New Yorkers in a powerful way the dislocation that service interruption brings. Low-income customers of Consolidated Edison face not only the same disruption as the average customer during storm outages, but they also experience an ongoing "Quiet Blackout." Exhibit NB-2. Quiet because it is a matter of routine, and does not draw headlines. But a blackout nonetheless for affected customers. Consolidated Edison disconnected 185,000 customers in the last two years as a bill collection measure. On average, every month 7,000 Con Edison households go without electric service because of inability to pay on time and in full. Testimony of Nancy Brockway, Exhibit NB-2. As much as work needs to be done to anticipate and mitigate severe weather events, work also needs to be done to reduce the number of times low-income families are threatened with disconnection, and actually suffer outages as a result of inability to pay.

It is the policy of New York State that continuous provision of electricity and natural gas service to residential customers "without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest." N.Y. Pub. Serv. Law § 30. The legislature recognized in passing HEPFA that there is not only a duty to ensure residents have access to necessary utilities, but that society as a whole faces significant costs from unsafe and unhealthy living situations caused when residential utility service is cut off.

As Staff testified, energy costs represent a substantial financial burden on low income families. Staff Consumer Policy Panel, Direct at 6. Low income families typically must trade off among food, shelter, medicine and energy, and substitute less safe sources of light, such as candles, which pose fire risks. For heating customers, loss of the primary heat source presents serious health and safety risks, on account both of the potentially fatal effects of cold weather and of the fire and health hazards resulting from using unsafe alternative heating sources. Low income families also tend to live in energy-inefficient housing, inreasing their energy burdens.

As Staff's Consumer Policy Panel testified, Direct at 8, there are additional reasons why low-income programs should be supported :

> First, helping low income customers pay their gas and electric bills helps utilities and their customers. [Uncollectible expenses, collection costs and working capital] costs can be reduced with

> the effective implementation of a low income program. …Second, the continuation of a low income program is consistent with Commission practice over the past several years. The Commission has authorized the implementation of low income programs for each of the major energy utilities in the State."

Many New Yorkers cannot afford gas and electricity today, even before Con Edison's proposed rate increases. To address these challenges, PULP provided evidence in this docket of the need to reform the Con Edison low-income rates and programs, in order to make them more effective, to reduce hardship, and to reduce the number of times low-income families suffer an income-related utility outage.

Con Edison has low-income "programs" that provide a fixed amount of bill reductions to all participants. However, these programs are designed by starting with an arbitrary budget, which limits how many customers can be helped and to what extent. Bill relief is cut back or denied entirely in an effort to keep within the pre-determined level of aggregate bill reductions. The electric program has a mechanism that reduces discount levels if participation exceeds certain levels. Whether or not such a mechanism is in place, limitation on the scope is achieved in practice by adjustment of the bill relief, the outreach, and the eligibility provisions of the programs.

Addressing the problem of unaffordable bills should not start with a target rate relief "budget" and work backwards, squeezing whatever benefits are offered into that amount. Rather, there should be a low-income rate, a rate that is available to all who qualify financially, and a rate that is designed to reduce hardship and ideally make essential gas and electricity affordable to all New Yorkers. N.Y. Pub. Serv. Law § 30. At the same time, Con Edison must revisit its credit and collection policy to lower the number of disconnection notices it sends out, and the number of low-income customers whose utility service is shut off. When service is shut off, the customer consumes no utility service, and notmally, meters would not advance and the company would receive no compensation while service is off. But with the advent of Revenue Decoupling Mechanisms, the utility is made whole, *ceteris paribus*, for any diminution in usage. The RDM is intended to stabilize revenues when customers reduce through energy efficiency and conservation measures, not to pay the utility for service witheld or service not provided when it is wanted. For this reason, PULP proposes that the Revenue Decoupling Mechanism should be amended to provide Con Edison with stronger financial incentives to reduce deliberate outages for bill collection purposes.

As it stands now, with regard both to storm-related outages and to service interruption for bill collection purposes, there are no performance metrics for outages longer than 24 hours, and the RDM unfairly shields the Company from financial consequences when meters do not run during outages and deliberate service interruptions. The financial risk of such outages and disconnections is unreasonably shifted to the customers, without an effective tool for ensuring that such outages and their ensuing direct costs and indirect costs to society are prevented or minimized. Revenue decoupling mechanisms should be realigned to discourage the interruption of service, speed restoration of service, and foster the safe provision of continuous service. Also, further attention must be given to low-income efficiency, so that the Commission is assured that all opportunities to lower bills cost-effectively are harvested.

In the meanwhile, PULP recommends that the present low-income programs be retained and improved, pending discussions of how to optimize the Company's low-income credit, rate and collection policies. PULP witness Brockway testified that it would be reasonable to expand the low-income rate reductions to *further* improve their affordability, in the event of a decrease in overall revenue requirements resulting from this case. *Id.* UIU has proposed just such an adjustment to increase the reduction in customer charges for Con Edison low-income electric customers to $10.50 per month. Collar Direct at 19. PULP supports this proposal.

In either case, availability of the low-income rates should not be arbitrarily limited. The Company should not be permitted to eliminate receipt of Medicaid as an income-based program participation which demonstrates that the customer has the very low-income for which discounted rates are made available. If it is important to have consistency in availability clauses between the electric and gas low-income rates, as Staff asserts, Staff Customer Service Panel Direct at 13, the better solution will be to add Medicaid as a qualifying income-based program. To the extent there is any target "budget" which places a ceiling on the rate reductions to eligible customers, it should not be shifted around to divert the bill relief for low-use gas customers to higher usage gas customers.

Rate reductions should continue off for cooking-only gas customers. Similarly, the target aggregate rate reduction should reflect the actual number of customers taking and likely to take service under these rates, not an earlier and lower figure that happens to fit within the "budget" for low-income rates set in the last rate proceeding.

The Company should pay the small amount needed for the service the City and County agencies provide to it, matching customers and those participating in income-limited programs, as part of its allowable operating costs. Participation lists should be matched twice a year, to ensure that more eligible customers are enrolled in the low-income program, who might otherwise be missed due to "churn" in the population of customers receiving aid in the eligibility-conferring public aid categories.

While properly designed low-income affordability programs are the priority in this case for PULP, PULP also recommends additonal steps to aid in improving the affordability of rates for low-income customers, as well as other customers. PULP also endorses providing low-income and other residential consumers with transparent and complete information they need to evaluate the offerings of ESCOs and the potential impacts of individual metering in multi-family buildings.

There is one area in which PULP can fully support the Company's approach. Con Edison appears to be taking a deliberate and careful approach to advanced metering infrastructure ("AMI") investments. The Company has already harvested the major operational savings provided by remote meter reading, mainly through the elimination of meter reader positions, where it has installed AMR metering. The long term sustainability of demand response from time-varying rates promised by advanced metering proponents has yet to be demonstrated, other problems remain, and such investments are expensive. The Company is right not to jump into advanced metering infrastructure investments at this point. Doing so will definitely put more stress on bill affordability, without assuring the benefits exceed the costs for all customers.

II. Sales Revenues …

c. Revenue Decoupling Mechanisms

Con Edison and the Commission should revisit credit and collection policy and practices with the goal to lower the number of disconnection notices sent and the number of low-income customers whose utility service is shut off. See Testimony of Nancy Brockway, pages 40 and following. For this reason, the Revenue Decoupling Mechanism should be amended to provide ConEdison with incentives to reduce outages it creates for bill collection purposes. As it stands now, the RDM unfairly shields the Company from financial consequences when meters do not run during major outages over 24 hours, and deliberate service interruptions for bill collection purposes. Further, with regard both to storm-related outages and to service interruption for bill collection purposes, there are no performance metrics for outages longer than 24 hours. The financial risk and costs of such outages and disconnections is unreasonably shifted to the customers through the RDM, without an effective tool for ensuring that such outages and their ensuing direct costs and indirect costs to society are prevented or minimized. Revenue decoupling mechanisms, if continued, should be refined to discourage the interruption of service and to encourage the safe provision of continuous service.

II. Sales Revenues

c. Revenue Decoupling Mechanisms

Testimony of PULP witness Nancy Brockway demonstrates the need to reform Revenue Decoupling Mechanisms to avoid the present unreasonable shift of responsibility for revenues lost under disconnection-for-nonpayment outages, and outages over 24 hours, to customers, as summarized above in the Overview section. Nancy Brockway Direct Testimony at pp. 30 and following.

X.e.i. AMR/AMI

The Environmental NGOs want the Company to stop installing AMR, and instead work to transition the meters to an advanced metering installation (AMI), in order to introduce dynamic pricing. Direct Testimony of Paul Centolella, at 26, 28-29. The ENGOs do not present up-to-date evidence of the value of dynamic pricing of service to residential customers. Rather, they cite reports dating from 2007, for example. At that time, there was a major push among many policy makers to move to AMI and dynamic pricing. That push has diminished considerably by now. The federal economic stimulus funding that paid for half of the costs of several AMI pilots and programs around the country was fully committed, and Con Edison did not get funding to pursue AMI with a view towards instigating dynamic pricing.

Even with stimulus funding, some Commissions began to rule that the risks of AMI and the large expenditure it represents were not necessarily outweighed by the alleged benefits. E.g. Maryland Public Service Commission Order 83410, in Case 9298, Baltimore Gas and Electric's request for authority to install AMI. Even more recently, the Maine Public Utilities Commission opened an investigation to determine why the AMI program it had approved based on an estimated positive benefit/cost ration was now reported to be on track to lose the Company and its customers $85 million. *Central Maine Power Company Annual Price Change Pursuant to the Alternate Rate Plan*, Docket No. 2010-00051 (Phase II), Order Initiating Management Audit (June 17, 2013). Voluntary critical peak pricing, using smart meters, has been available in the service area of Pacific Gas & Electric for many years, and still has attracted less than 1% of the customers to whom it is available. Brockway Direct at 46. AMR already provides Con Edison's customers the efficiency benefit of reduced meter reading costs. As PULP witness Brockway testifies, the Company is to be commended for taking a deliberate and cautious approach to such an investment. Brockway Direct at 46.

IX-e-ii. Low Income Programs

At issue in this docket are hundreds of millions of dollars for storm hardening. There is a great deal of testimony about major storms and the potential chaos they may create for customers who lose their gas and electric service. "Superstorm" Sandy brought home to New Yorkers in a powerful way the dislocation of everyday life that utility service interruption brings. Low-income customers of Consolidated Edison face not only the same disruption of storm outages as the average customer, but they also experience an ongoing “Quiet Blackout.” Exhibit NB-2. Low-income customer service disconnection is a quiet storm, because it is a matter of routine, and does not draw headlines. But similar to a blackout nonetheless for affected customers. Consolidated Edison disconnected 185,000 customers in the last two years. On average, every month 7,000 Con Edison households go without electric service because of inability to pay on time and in full.

So while work needs to be done to anticipate and mitigate severe weather events, and more expense incurred to avoid the inconvenience and hardship of mass loss of service, work also needs to be done to reduce the number of times low-income families are threatened with disconnection, and actually suffer outages as a result of inability to pay. It is the policy of New York State that continuous provision of electricity and natural gas service to residential customers “without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest.” N.Y. Pub. Serv. Law § 30.

The legislature recognized in passing HEPFA that there is not only a statutory duty to ensure access to necessary utilities, but that society as a whole faces significant costs from unsafe and unhealthy living situations caused when residential utility service is cut off. Compliance with the minimum notice and other procedural protections of HEFPA, while necessary, should not be the end of the inquiry into whether service interruptions for bill collection purposes can be reduced in order to advance the goal of continuous service to all. As Staff testified, energy costs represent a substantial financial burden on low income families. Staff Consumer Policy Panel, Direct at 6. Low income families typically must trade off among food, shelter, medicine and energy, and substitute sources of light, such as candles, pose fire risks. For heating customers, loss of the primary heat source presents serious health and safety risks, on account both of the potentially fatal effects of cold weather and of the fire and health hazards resulting from using unsafe alternative heating sources. Low income families also tend to live in energy-inefficient housing.

As Staff's Consumer Policy Panel testified, Direct at 8, there are additional reasons why such programs should be funded by utility customers:

> First, helping low income customers pay their gas and electric bills helps utilities and their customers. [Uncollectible expenses, collection costs and working capital] costs can be reduced with the effective implementation of a low income program. …Second, the continuation of a low income program is consistent with Commission practice over the past several years. The Commission has authorized the implementation of low income programs for each of the major energy utilities in the State."

Many New Yorkers cannot afford gas and electricity today, even before Con Edison's proposed rate increases -- and even with the reductions proposed by Staff. To address these challenges, PULP has provided evidence of the need to reform the Con Edison low-income rates and programs, in order to make them more effective, to reduce hardship by improving affordability, and by reducing the number of times low-income families suffer threatened or actual utility outages due to bill collection measures.

The Con Edison has gas and electric low-income "programs" that provide a fixed amount of relief through modest rate reductions to all participants. However, these programs are limited by starting with an arbitrary "budget", which in practice limits how many customers can be helped and to what extent. Addressing the problem of unaffordable bills should not start with a target "budget" and work backwards, squeezing whatever benefits are offered into that amount. The "budget" for low-income rates, of course, does not actually involve any incremental utility expenditure or additional outlay and it does not affect the overall revenue requirement. Rather, the "budget" is simply the amount agreed upon which limits the shift of burdens from low-income customes to others. The program should be designed instead to move toward a goal of making essential gas and electricity affordable to all New Yorkers. While impacts on other customers are of course a matter of concern, much more can be done to alleviate the burden of Con Edison rates on the poor than is being done now with low-income rates constrained by arbitrary "budgets". In the meanwhile, PULP recommends that the present low-income programs be retained and strengthened, pending further collaborative discussions of how to optimize the Company's low-income credit, rate and collection policies. In any case, availability of the low-income rates should not be arbitrarily limited.[1]

The target aggregate amount for the rate reductions should reflect the actual number of customers taking and eligible to take service under these rates. The programs should not be designed to a target "budget" of total bill reductions, to be allocated to participants. Estimates of program participation should not be based some earlier and lower figure that happens to fit within the "budget" for low-income rates set in the last rate proceeding. Program bill relief should not be determined as a residual of the "budget" and expected participation.

Medicaid shold be included as a qualifying program for the electric low-income program, not removed from the qualifying programs for the gas low-income program.

[1] PULP also recommends that further attention be given to low-income efficiency programs, so that the Commission is assured that all cost-effective opportunities to lower bills cost-effectively are harvested.

Reductions of the rate for cooking-only gas customers should continue and not be phased out. Similarly, as part of its allowed ratepayer funded operating expenses, the Company should pay the small amount needed for the service the City and County agencies provide to it, for matching customers and those participating in income-tested utility programs. Participation lists should be matched twice a year, to ensure that more eligible customers are enrolled in the low-income program.

Specific Program Proposals

The Company is proposing to continue at least through the rate year (2014) the electric low-income rate program offered under Section K of the Joint Proposal approved by the Commission in Case 09-E-0428. The Company also proposes to extend the gas low-income rate program through the rate year. The Company has proposed or supports a number of adjustments to these programs. As described by the Electric Customer Operations Panel, for electric customers, the rate is available to the following qualifying customers:

> Customers qualifying for the Low-Income Program ("Qualifying Customers") must be receiving assistance for the payment of utility bills under Direct Vendor or Utility Guarantee programs, receiving benefits under Supplemental Security Income[2], Temporary Assistance to Needy Persons/Families,[3] Supplemental Nutrition Assistance Program,[4] or have received a Home Energy Assistance Program ("HEAP") grant in the preceding twelve (12) months ("Qualifying Programs".

In the gas program, Medicaid is also a qualifying program.

Con Edison uses an automatic enrollment process that matches Company records with

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[2] SSI is a federal program with some state funding to provide monthly cash amounts to persons who are blind or disabled or elderly, and whose income and assets are below a prescribed amount.
[3] TANF is a monthly cash benefit with federal and state funding. When people refer to "welfare," they often are thinking of TANF.
[4] SNAP was formerly known as Food Stamps.

records from the New York City Human Resources Administration and the Westchester County Department of Social Services (the Agencies), to identify and automatically enroll customers receiving any of the Qualifying Programs. Currently, customers in the electric program receive a reduction of $8.50 on the customer charge and a one-time waiver of a portion of the reconnection fee if their service is terminated for non-payment. The revenue shift associated with this program is reconciled in the Revenue Decoupling Mechanism.

Under the Commission's order in Docket 09-E-0428, approving a Joint Proposal of the parties for settlement, in the electric program there is a bandwidth around the target amount of the total of customer charge reductions and reconnection fee waivers. Under Section K of that Joint Proposal, if the cost of the electric Low-Income customer charge reductions is less than or greater than a range of 5% on either side of the target amount, the Company will adjust the program value to participants by increasing or decreasing the $8.50 reduction by no up to 50 cents. Joint Proposal Section K.2. If such adjustment does not bring the estimated cost of the program into a bandwidth of 20% around the three-year total cost, the parties agreed to meet to discuss adjustments for the next year. *Id.* Over- and under-recoveries are reconciled through the Revenue Decoupling Mechanism. Joint Proposal Section K.4.

In the instant rate case, the Company has proposed to continue the Low Income program for electric customers as set out in the Joint Proposal, Section K, with some adjustments. Customer Operations Panel at 64. The Company proposed that the target amount for the rate year in this docket be set at one/third of the three-year total from Docket 09-E-0428. *Id.* at 66. This amount equals $38.25 million for the customer charge reduction, and $0.5 million for the reconnection fee component. *Id.* The Company also proposed to continue the gas low-income program, perpetuating the revenue shift cap of $6.4 million. Con Edison has agreed with some adjustments proposed by Staff and intervenors. There is no bandwidth with allowed adjustments under the gas low-income program.

The Company proposes to restore the reconnection fee waiver for both gas and electric programs to 100% of the reconnection fee; it had been reduced early during the rate period when the Company estimated the three-year total would be exceeded if customers received the full waiver. *Id.*, at 64-65.

The Company develops the dollar level of the bill reductions by first setting a "budget", then estimating the numbers of participants, and dividing the predetermined target by the assumed number of participants. Using the same dollar budget for the electric low-income program as in the prior three-year rate case, $38.25 million, the Company initially developed a customer charge reduction for low-income participants of $8.50, based on an assumption of participation by 375,000 customers. Customer Operations Panel – Electric, at 8-9.

In rebuttal, the Company proposes to diminish the amount of the customer charge reduction to $7.40. Customer Operations Panel – Rebuttal/Update, Electric and Gas, at 9. The Company explains that it has proposed reducing the dollar level of electricity affordability benefit so that it may retain the same annual budget of $38.25 million for the electric program, while recognizing that the enrollment of the program has increased to 430,000 participants since the $8.50 reduction was developed in the last rate proceeding. *Id.*, at 9-10.

Staff, UIU and PULP submitted proposals for alternatives to the Company's proposed program designs. The City of New York raised a difficulty with administration of the customer matching aspect of the program, discussed below, and the Company, Staff and Intervenors had different proposed solution to this administrative problem.

Size of Programs, Amount of Bill Reductions

The Joint Proposal in Case 09-E-0428 was approved at a target level of $38.25 million for low-income electric participant customer charge reductions. This dollar level and the associated customer charge reduction was based on the assumption of 375,000 electric program participants. The earlier assumed participation was much lower. However, successful outreach efforts such as the matching process identified over 150,000 eligible customers who had not previously been enrolled. Direct Testimony of Gregg C. Collar, at 21. This expansion of the program to as many eligible customers as possible is precisely the outcome the Commission wanted. In approving the Joint Proposal, the Commission praised the Consumer Protection Bureau (predecessor of the UIU) for identifying additional eligible customers and advocating for the matching and other methods to ensure the fullest possible participation:

> The audit and investigation in this case concluded that a large number of intended recipients did not receive the available discount to the customer rate. The CPB is to be commended for bringing forward issues related to the low-income program. It is CPB's prefiled testimony which identified that the program is currently *undersubscribed because many eligible customers were not automatically enrolled…* As a result, the Joint Proposal's terms provide a *significant enhancement* to the low-income program, to *correct its deficiencies* and *to ensure that no intended program beneficiaries are excluded.*

Order Establishing Three-Year Electric Rate Plan, Cases 09-E-0428 and 08-M-0152, March 26, 2010, at 28. (*Emphasis supplied*). After moving with considerable success to effectuate Commission's policy for inclusion of eligible customers, however, the Company proposes to keep the starting total dollar figures for its low income programs at exactly the same level that was used three years ago with fewer participants. Indeed, it proposes to do so while acknowledging that the number of eligible participants for the programs has increased since the target caps were determined in 2010. The electric program saw a significant increase, and gas program participation increased at a smaller but still substantial rate. Customer Operations Panel – Electric and Gas/Rebuttal and Update ("{Customer Operations Rebuttal"), at 8. Forecast electric participation is now 435,000 low-income customers, according to the Staff Consumer Policy Panel. Tr. 1864. Forecast gas program participation is now estimated at 30,000. Tr. 1837. Applying the existing bill reductions to this increased number of customers would require greater revenue shifts to other customers. The Company, the Staff, the City, UIU and PULP have different proposals for how to manage this question. With respect to the electric low-income program, the Company proposes to maintain the same 2010 budget, Tr. 1870. Originally the Company proposed to keep the existing $8.50 monthly per participant customer charge reduction. On rebuttal, proposed that the monthly reduction for electric low income program participants be reduced to $7.40, Customer Operations Rebuttal, at 10, based on the increased estimates of participation. Tr. 1871. The City of New York did not propose any changes in the bill relief, but did argue that the budgtet for the electric program should be raised to $45.9 million. Noel Direct Testimony at 9. UIU proposed an increase in the electric low-income bill reduction to $10.50 per month. Collar Direct at 19. PULP argued that low-income customers should at least be held harmless in the amount of individual rate reductions, , that there should be no aggregate "budget" to which program benefits are limited, Brockway Direct at at 25, that the full complement of estimated low-income participants be included in program planning, and that additional reductions (such as that proposed by Mr. Collar) were reasonable. Brockway Rebuttal at 9.

The evidence presented in this case, including evidence put forward by Staff, shows that the need is there for an electric program as large as 435,000, and perhaps larger. The evidence also shows that low income electric customers could manage their bills better if their bills were reduced by $10.50 per month. The increase in the expected revenue shift in the 2014 rate year for the electric program (roughly $7.1 million) represents only an small addition to the revenue requirements of non-low-income customers (0.16% of Staff's proposed distribution revenue requirement). Brockway Rebuttal at 9. Weighing this tiny adjustment in the rates of non-low-income customers against the significant benefit of designing the electric program to better address affordability of electric service for economically vulnerable New Yorkers, it is clear that the Commission's intention for broader participation also requires expanding the anticipated revenue shift, and the aggregate electric bill reductions.

On the gas side, a similar phenomenon is at work. Despite increases in the expected participation level, each proposes to design the program against an assumed cap in revenues to be shifted to non low-income customers. Both the Company and the Staff suggest reductions in the low-income rate program, with the express purpose of keeping the revenue shift from the program capped at the same level estimated in 2010, $6.4 million. Customer Operations Rebuttal at 10; Tr. 1860. Staff proposes to get to this cap by eliminating the eligibility of all non-heating low-income customers, and transferring an amount equal to the added revenue from those customers over to the S3 gas heating customers, in the process increasing the volumetric discount for such participants. Staff Consumer Policy Panel at 13.[5]

[5] Con Edison proposes to reduce the SC 1 discount as well as the SC 3 discount, to maintain the $6.4 million cap. Nancy Brockway Direct Testimony, at 23.

The Company estimates that about 150,000 low-income SC 1 customers are eligible for participation. Customer Operations Panel – Gas, at 50. Under Staff's proposal, these customers would simply be kicked off the program with no personal notice of their termination. Tr. 1853.[6] Staff's proposal to push 150,000 low-income gas customers out of the low-income program, in order to keep the "budget" at the same amount pegged in 2010, and in the face of increasing numbers of eligible gas customers, is outrageous. Staff's approach demonstrates the very problem of designing a low-income program to a target budget, rather than estimating the need and seeing how to get there without overburdening other customers. Brockway Rebuttal Testimony, at 2.

PULP's witness, former Commissioner Brockway, analyzes Staff's claim that the $1.50 customer charge reduction for low-income SC 1 customers does not provide a "meaningful" benefit. Brockway Rebuttal, at 6, referencing Staff Customer Service Panel, at 13. She points out that increasing low-income SC 1 customers customer charge by 8% per month would be meaningful to them, given their constrained income situation. She contrasts that impact on low-income customers with the cost to spread the associated revenue reduction to non-low-income customers. If Staff is correct that very low-income families could absorb an increase in gas bills of $1.50 per month, it is all the more clear that the same increase for customers who are not income-constrained would be easy to absorb. *Id.* at 7.

Rather than eliminating SC 1 customers, or reducing the dollar value of gas low-income program benefits, the target "budget" for the program should be expanded to address

[6] Note that, by contrast, the Staff supports the expenditure of $38,000 in 2014 to provide information to the 600 plug-in-electric vehicles in the state. Tr. 1850-1852. Given that such customers are early adopters, they are likely to be well-informed, and need that education and outreach less than do the low-income customers whose life-giving utilities are at stake.

the needs of the consumers.

Medicaid as a Qualifying Program

A similar problem comes up with the proposal to eliminate Medicaid as a qualifying program from the gas low-income program. The determination of the Commission to ensure that no intended program beneficiaries are excluded should also resolve the question of whether to remove Medicaid as a qualifying program for the gas program, so as to conform the eligibility requirements of the two programs. Medicaid is not presently a qualifying program for the electric program. It should be added to the list of qualifying programs for the electric low-income program. Instead, the Company proposed to stop allowing new gas customers to qualify for the low income gas program solely on the basis of their participate in Medicaid. Gas Customer Operations Panel, at 51. Existing Medicaid-qualified participants would be grandfathered. The Staff supported that proposal. Staff Consumer Policy Panel, at 14.

PULP opposes this idea.[7] Medicaid should be added as a qualifying program for the electric low-income program. Rebuttal Testimony of Nancy Brockway, at 12-13. City of New York does not, but says the Company should not drop Medicaid as a qualifying program from the gas low-income program. Direct Testimony of Cecile Noel,at 11-12.

Staff argues that the elimination of Medicaid as a qualifying program in the gas low-income program would help to meet the goal of conforming the eligibility criteria for the electric and gas. *Id.* Staff also suggests that eliminating Medicaid as a qualifier for the gas low-income program would help to “further moderate gas program participation levels.” *Id.* Neither of these rationales bears examination. The goal of conforming the eligibility requirements of

[7] The City of New York also opposes the Company’s proposal to grandfather existing customers who have been qualified as a result of Medicaid participation. *Id.*

the two utility low income programs could just as easily be met by adding Medicaid to the list of qualifying programs for the electric side.[8]

Based on this record, we do not know the number of gas customers who have or would qualify for the gas low-income program solely on the basis of Medicaid participation. On the one hand, the City of New York asserted that "there are millions of Medicaid recipients in New York City," and including Medicaid for the electric low income program "could increase the size of the program substantially." Testimony of Cecile Noel at 13. The Company testified that, based on "comments by those that are in a better position to know [the numbers of electric customers receiving Medicaid], our understanding is that the [electric program population] would increase significantly" if it were to add Medicaid to the qualifiers for the electric low income program. Tr. 1879. The Staff stated that if you add Medicaid to the list of qualifiers for the electric low-income program, you would "put the electric program at a huge number." Tr. 1860-1861. At the same time, the Company opined that "99.9% of Medicaid customers qualify for one of the other qualifying programs," Tr. 1829. The Company asserts that as a result, eliminating it as a qualifying program for gas would not mean such customers would be eliminated from the gas low income program. *Id.* These assertions are internally inconsistent. If "99.9%" of Medicaid recipients qualify for another qualifying program, then te fact that there are millions of Medicaid recipients in the Con Edison service territory does not translate to saying the electric low income program would be increased substantially. For the same reason, adding Medicaid to the electric program should not "put the electric program at a huge number." The Company cannot have it both ways.

[8] In fact, given the need to notify Medicaid-only gas customers that they are being dropped from the favorable rate, Tr. 1856, it is administratively simpler to add Medicaid to the list of electric program qualifiers.

The Company relied on the agencies to estimate the number of possible eligible customers. Tr. 1879. Ms. Noel testified that she did not know the correct percentage of Medicaid recipients who participate in one or more of the other qualifying programs. Tr. 1977 and 1978. The Company, Staff and the City are recommending a policy the effect of which they cannot say, but which would contravene the Commission's intentions for the low income programs. To fulfill the Commission's intent that "no intended [low income] program beneficiaries be excluded," Order Establishing Three-Year Electric Rate Plan, Cases 09-E-0428 and 08-M-0152, March 26, 2010, at 28, Medicaid should be added to the list of qualifying programs for the electric low-income program.

Issues with Matching Agency Lists

The use of a budget cap produces a similar problem in the outreach for these programs. Annually, Con Edison provides the Agencies with a list of residential customers, and the Agencies use a matching process to advise customers enrolled in programs overseen by the Agencies that they qualify for the low-income program or programs. The administrative difficulty with the program revolves around this matching process. Once a match is identified, a letter is sent to the customer notifying them that they would be put on the rate unless they opted out. By past practice, the costs of this mailing have been born by the agencies who maintain the information on which persons are participants in qualifying programs. The cost of the mailing for the City is estimated at $50,000. *Id.* at 17. Presumably the cost for the mailing in Westchester County is at or below that amount. The City and Westchester County have both said they cannot afford to continue to pay the mailing costs. Noel Direct at 14.

Staff recommended that if the customer matching problem were not solved, the program be limited to those qualifying customers whom Con Edison can identify using its own resources.

> At a minimum, the Company can identify customers for whom it receives HEAP, and those who are on a utility guarantee or direct voucher with the Agencies, as those are defined in the Social Services Law. As it does now, the Company can also enroll individual customers, who may be recipients of any of the other Qualifying Programs, upon customer application with appropriate documentation.

Staff Consumer Policy Panel, at 18. PULP oppose the staff suggestion. The matching is done as a service for the Company, to help it administer its low-income program. The opt-out letter that is generated by the match has the purpose of advising customers of the terms of the tariff of the Company. It is part of the administration of the terms of the program. ConEdison would not be “giving out money for this match to other agencies,” contrary to the suggestion of Staff’s Consumer Policy Panel. Tr. At 1844. Staff’s only reason for arguing that Con Edison not be required to pay for the opt-out letter generated as part of the matching and enrollment process is that staff counsel advised the Panel that “the Commission would not have the legal authority to direct another agency of what to do with money given.” Tr. At 1845. Staff counsel may have given that advice, and it may well be accurate, but it is beside the point. If Con Edison enters into an agreement with the Agencies for the Agencies to take the Con Edison customer lists, match them with lists of persons participating in the Qualifying Programs, and send an opt-out letter to preserve the person’s privacy and autonomy, it will not be *giving* the money to the Agencies, and the Agencies will not be performing those tasks at the direction of the Commission. In effect, Con Edison would be engaging the services of the Agencies to fulfill a utility obligation. Just as with private police traffic patrols for utility road work, it would be no gift and no order. It would be a mutual agreement that Con Edison has available to further the success of its low income program. The amount in question is pitifully small compared to the overall revenues of the Company, and the other rate case items at issue. The Commission should direct Con Edison to make the necessary arrangements for the matching program if the agencies are willing and this should be treated as an allowable item of cost of operations.[9] As Staff's Consumer Policy Panel testified, Direct at 8, there are a number of reasons why low-income programs should be funded by utility customers:

> First, helping low income customers pay their gas and electric bills helps utilities and their customers. Utilities carry uncollectible expenses that are paid for by all customers as a cost of doing business. Collection costs and working capital on the unpaid bills of low income customers impose additional costs on the utility business. Collection costs and working capital on the unpaid bills of low income customers impose additional costs on the utility and its customers. These costs can be reduced with the effective implementation of a low income program. Savings include reductions in costs associated with credit and collection, arrears and bad debt, deposit maintenance, repeated payment plan negotiations, credit agency fees, diversion of revenue from arrears to reconnection fees and diversion of revenue resulting from forced moves. Second, the continuation of a low income program is consistent with Commission practice over the past several years. The Commission has authorized the implementation of low income programs for each of the major energy utilities in the State.

Unless the programs are well-designed to meet the needs of low-income customers, these benefits will be foregone.

…

[9] PULP also supports the concept of doing two matches with associated mailings a year, and timing them with a view towards identifying the most eligible customers. The idea that the mailings should be timed to correspond with a rate year, Tr. 1842, has no practical foundation. Both Ms. Noel for New York City and Con Edison's Customer Operations Panel testified that it would not be a burden to do two matches a year. Tr. 1877, 1960.

vi. Retail Access Online Calculator

For retail access to work, shoppers must have information to be able to compare offers, and shop intelligently. As PULP witness Brockway notes, Direct at pp. 27 and following, ESCOs have not fulfilled the promises of competition, in that their rates are often higher than Commission-approved default rates for Con Edison default service. This reality exposes many low-income customers to hardship, threats of service interruption, and actual disconnection. ESCOs also often have confusing and potentially misleading advertising and terms and conditions and provide lower quality customer service. Con Edison's promotion of ESCO service and collection of excessive charges for ESCO service on Commission-regulated bills should be curtailed until and unless these deficiencies are corrected. Con Edison should provide a comparison on the bills it issues for ESCO receivables with the charges a customer would pay for Con Edison's bundled service. It should not simply be a point in time, but should take into account the "fine print" of ESCO offers over a contract period.

vii. Service Terminations

The Commission should adopt measures to reduce the number of service terminations for collection purposes. See prior discussion.

g. Smart Grid

See discussion under AMR, above.

CONCLUSION

For the foregoing reasons, PULP's recommendations should be adopted.

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Respectfully submitted,

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