STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

CASE 14-M-0101 - Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision.

REPLY COMMENTS

AARP and

PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.

ON

DEVELOPING THE REV MARKET IN NEW YORK:
DPS STAFF STRAW PROPOSAL ON TRACK ONE ISSUES

October 24, 2014

**INTRODUCTION AND OVERVIEW**

AARP, a nonprofit organization, helps people over the age of 50 to exercise independence, choice, and control in ways beneficial to them and to society as a whole. AARP members, many of whom live on low or fixed incomes, need affordable, reliable utility service. Millions of AARP members reside in New York State.

The Public Utility Law Project of New York, Inc. ("Utility Project") is a not for profit organization representing the interests of low-income persons in utility and energy matters.
In preparing these Reply Comments we have been assisted by Barbara R. Alexander, Consumer Affairs Consultant,[1] who has a national practice on consumer protection regulation of public utilities and alternative energy suppliers.

These Reply Comments are intended to respond to several themes reflected in the Comments submitted by other participants in this proceeding. Our Reply Comments focus primarily on the policy issues and recommendations that conflict with or that fail to recognize the concerns and recommendations reflected in our Comments submitted in this proceeding.

Prior to our response to the Initial Comments submitted by other parties and participants, AARP and the Utility Project offer the following broad and over-arching concerns with the Initial Comments in general. First, it is clear that the various entities submitting Initial Comments are primarily interested in promoting specific initiatives and programs that these organizations see as vital to their own interests. This is not a criticism, but this observation is provided because we urge the Commission to take this point into account when considering proposals for reform. Each of the proposed initiatives and programs will have a significant impact on the <u>affordability of essential electric service</u>, a focus that does not appear to have been the basis for many of these

[1] Ms. Alexander's expertise in this area is a reflection of over 30 years of professional experience in consumer protection policies and programs, both with respect to consumer credit transactions, public utility regulatory policies, and regulation of retail competitive markets.

recommendations.

Second, AARP and the Utility Project urge the Commission to compare the Staff's Straw Proposal for Track 1 Issues to the recommendations of the 2014 New York State Energy Plan. This proposed plan is still pending before the State Energy Board after a lengthy comment period that ended in May 2014. As a result, this State Energy Plan has not yet been adopted. Nonetheless, the Staff's Straw Proposal and many of the initiatives reflected in the REV proceeding appear to be derived from recommendations in this draft State Energy Plan. However, missing from the Staff's Straw Proposal as well as the Initial Comments of other parties is any emphasis on a key aspect of this Draft Energy Plan relating to the affordability of energy services for New York's low-income households. The first recommendation of this Draft Plan is that New York's implementation will focus on "improving energy affordability."[2] Specifically, the Draft Plan recommends:

> **Initiative 01**
>
> Realign energy efficiency policies to work with and through markets in order to accelerate the pace of energy efficiency deployment while fostering continued economic growth in New York State.
>
> a. DPS, NYSERDA, and other agencies to create a portfolio of energy efficiency programs with a State commitment through 2020 that achieves high customer value for public investment, reduces customer confusion, streamlines application and delivery processes, promotes broad and deep uptake of efficiency measures across all fuels, and strategically addresses market barriers and gaps to maximize deployment. The State's approach to energy efficiency will operate in accordance with the following guiding principles:
>
> - Develop and provide rate and economic incentives to encourage utility investments in energy efficiency that will reduce the amount of capital required to maintain the grid and will improve overall system efficiency.
> - Focus State resources on energy efficiency projects that may be economic but face addressable barriers to increasing market penetration, with the goal of animating markets. The role of ratepayer funds will be to accelerate these investments through the combination of grants and financial products.
> - Facilitate greater access and support for energy efficiency opportunities in low-income and underserved communities to provide those who are most vulnerable to increasing energy prices and least able to invest in clean energy with access and means to reduce their energy costs.[3]

[2] New York 2014 Draft Energy Plan (printer friendly version) at 7.
[3] Ibid., at 7 (emphasis added).

Furthermore, the Draft Plan recommends that the following metrics be tracked to ensure the improvement in Energy Affordability:

> • Keep New York residential customer electric bills as a percentage of household income at or below the national average (% of median household income)
> • Reduce the percentage of household income devoted to energy bills for low-income New Yorkers (% of low to moderate household income)
> • Improve competitiveness of industrial customer electric rates—maintain below national average
> • Decrease number of customers relying on oil or propane for heat
> • Increase energy efficiency resource deployment (MW, MWh, DTH, $/resource)
> • Decrease electric system peak demand (MW)
> • Improve utilization of existing electric infrastructure—increase load factor (average load compared to peak load) (MW capacity and the total GWh energy requirement [i.e. "sendout"]).[4]

These recommendations and concerns about energy affordability are reflected in Volume II of this Draft Plan. The Appendix references the concerns with respect to the impact of advanced metering and its associated dynamic pricing on low-income households:

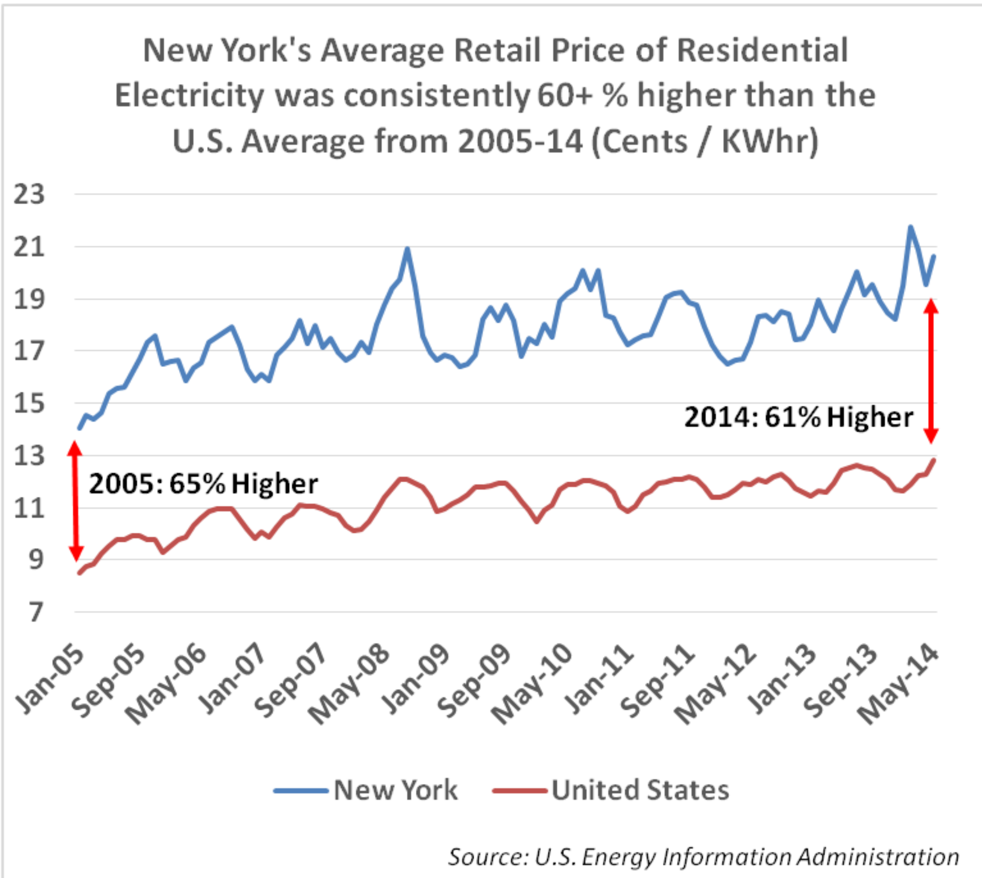
> Certain Smart Grid technologies have raised concerns amongst advocates for the poor, because of concerns that the improved metering that will enable "dynamic pricing" will have regressive impacts on low-income households that are unable to shift their usage away from periods of peak load. "Smart" metering for electricity consumers is intended to dramatically improve communication between utilities and customers by conveying "real time price signals" to residential customers based on short term or spot market prices, leading to improved demand response and load shifting away from peak price time periods.
>
> Large households with young children and/or elderly, or households with individuals who are temporarily or chronically housebound may not be able to shift their usage away from high-cost, peak demand time periods for health and safety reasons. In addition, many very low-income customers are renters who live in older, energy inefficient structures and often rely on older and less energy efficient appliances. These households are the least able to take cost saving actions in response to the price signals provided by smart metering.[5]

In addition, this Volume documents the stark reality of New York's high energy prices and their impact on household income, as well as the lack of robust bill payment assistance programs:

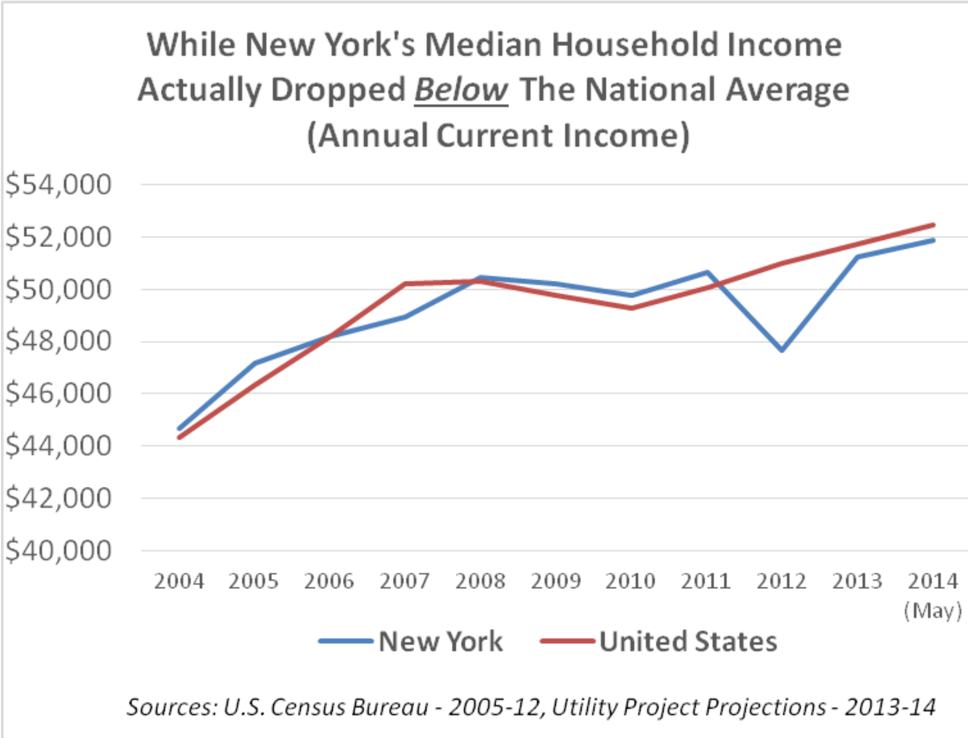
> New York's households with incomes below 50 percent of the Federal Poverty Level pay more than 40 percent of their annual income for home energy, whereas households above 150 percent of the Federal Poverty Level pay more than 6 percent.[6]

[4] Ibid., at 16 (emphasis added).
[5] 2014 Draft Energy Plan, Vol. II, at 113.
[6] Ibid., Vol. II, at 113.

The footnote accompanying these statements notes that New York ranks second in the nation in terms of residential cost and that the State's electric cost—at 18.26 cents per kWh—is much higher than the national average—11.58 cents per kWh—citing data from the Energy Information Administration, which is more graphically presented in the following Chart that is derived from the EIA data:




What makes this price disparity even more disturbing is that New York's median household income level has dropped below the national average:




As stated further in Volume II of the Draft Energy Report:

> In the U.S., there are more than 25 million households with annual combined incomes of $25,000 or less. This income level comports with the federal housing policy definition of "very low-income" and is approximately equivalent to 50 percent of the national median income and 150 percent of the federal poverty level for a family of three. Since 1998, home energy costs have increased 33 percent for very low-income households, far outstripping any increase in income. Families eligible for federal home energy assistance spend one-fifth of their income on home energy bills – six times more than the level other income groups spend.
>
> Very low-income households are often forced to make desperate tradeoffs between heat or electricity and other basic necessities. Research has found that 47 percent of households that received federal home energy assistance over a five-year period went without medical care, 25 percent failed to fully pay their rent or mortgage, and 20 percent went without food for at least one day as a result of home energy costs. These numbers starkly illustrate the vulnerability of these households to acute and gradual rises in the direct and indirect costs of energy, especially within the context of the relative energy inefficiency of their homes.[7]

Because the cost of energy has a regressive impact on lower income households, special care must be taken to protect these households from any direct and indirect negative impacts caused by spiking energy prices. Currently, in New York, lower income households receive bill credits to offset the costs of energy. The amount of credits available to lower income households vary from utility to utility. The variation often depends on the inclination of the utility and how the issue is approached in PSC rate cases. Establishing a more substantial bill discount, such as California's 20 percent, uniformly throughout the State would help protect

[7] Ibid., Vol. II, at 116. Footnotes omitted.

lower income households from the economic burden of energy prices.[8]

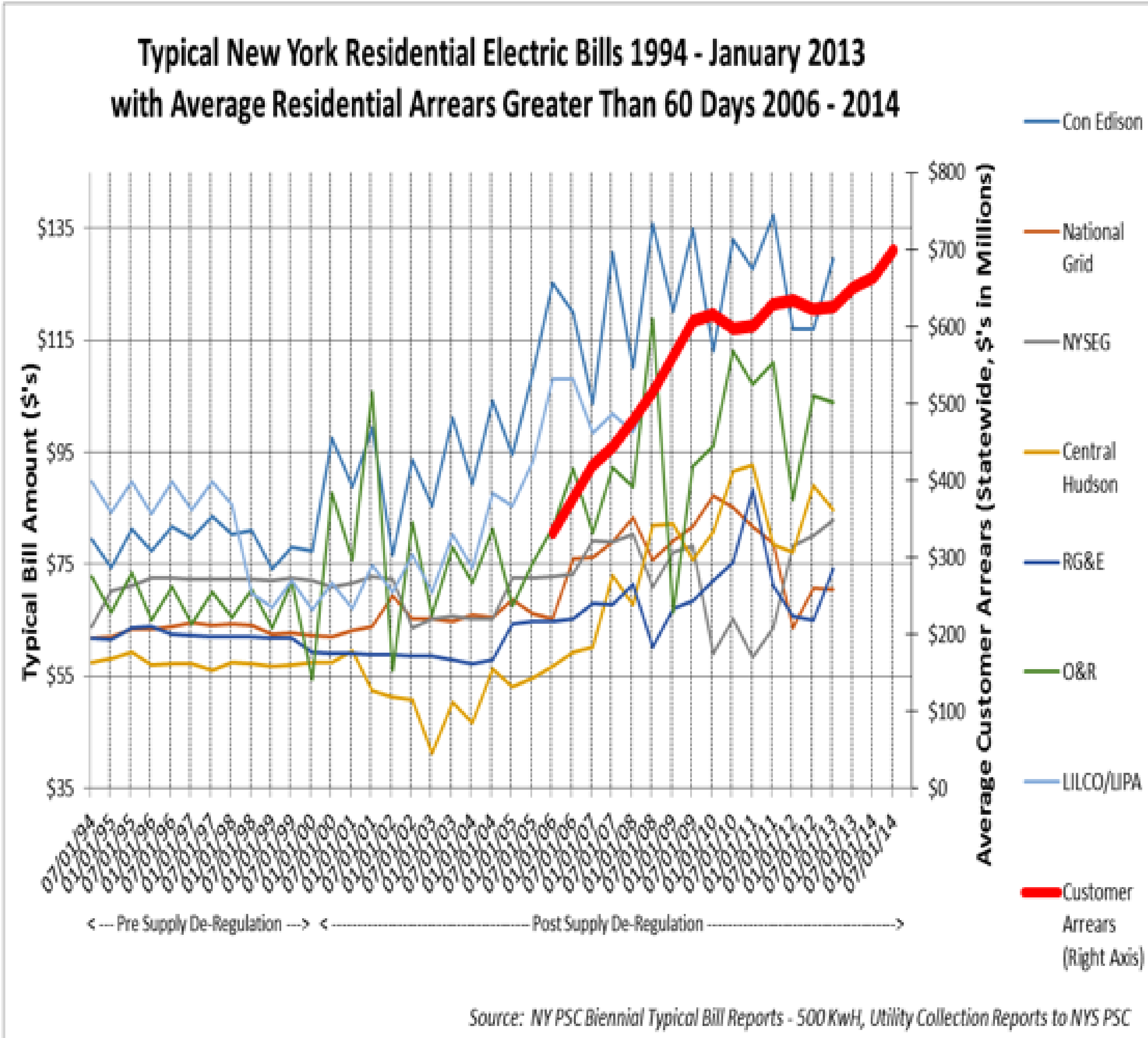
The fact that neither the Staff Straw Proposal nor the Initial Comments reflected the concerns and recommendations of the Draft New York State Energy Plan with regard to the need to focus on and implement programs that take into account energy affordability concerns is disturbing.

For example, AARP recently conducted a survey of New York voters age 50+ and the responses with regard to concerns about energy affordability are widespread among those surveyed. Forty-nine percent of those surveyed are extremely or very concerned about their ability to afford essential energy services in the near future. Almost 75% reported that paying for the cost of home heating last winter put a strain on their household finances. Furthermore, the vast majority (70%) felt that elected officials were not doing enough to help people when home energy costs increase.[9]

Furthermore, the Commission's own reported data on residential customer bills and arrears in excess of 60 days dramatically shows that bills have been volatile, and that arrears that are 60+ days old are growing at a dramatic pace:

[8] Ibid., Vol. II, at 120. The footnote to this paragraph states that this California low-income discount program provides a 20% bill discount for qualified households, but this is not correct. CARE provides a 30%-35% discount for gas and electric service. Furthermore, missing from this citation is that California also provides a discount to families with incomes slightly above the income level that qualifies for CARE: Families whose household income slightly exceeds the CARE low-income energy program allowances will qualify to receive FERA (Family Electric Rate Assistance) discounts, which bills some of their electricity usage at a lower rate. See, http://www.cpuc.ca.gov/PUC/energy/Low+Income/

[9] AARP, 2014 State of 50+ in New York State (September 2014), at 21-22.




AARP and the Utility Project have urged the Commission to make Energy Affordability for New York consumers a primary focus of this proceeding. There are a wide variety of potential programs and policies that could be properly designed, whether through Track 1 or Track 2, which would focus on energy affordability, in particular the recommendations associated energy affordability as set forth in the draft State Energy Plan, but these have thus far been virtually ignored in the REV proceeding. This is a defect that this Commission should promptly and conspicuously remedy.

**RESPONSE TO THE DISTRIBUTION UTILITIES**

AARP and the Utility Project agree with many of the concerns about cost implications, consumer protection and customer privacy policies, as well as the need for a complex integration of the many implementation processes that would be required by the Staff's Straw Proposal, as raised by the Comments filed by the Joint Utilities. Most importantly, but perhaps for different reasons, AARP and the Utility Project agree with the Joint Utility Comments that suggest a closer integration and coordination of the Track 2 issues with the policies that are under consideration of Track 1. The Joint Utilities are basically stating that they need to understand how they will recover their costs and what new incentives might govern the implementation of the REV policies. AARP and the Utility Project would like more clarity on the costs and rate implications for consumers associated with the implementation of the REV policies and a fact-based analysis of the bill and rate implications of these new directives prior to any agreement that New York's basic ratemaking and regulatory policies should be changed in the dramatic fashion as reflected in the Track 1 proceeding to date. Furthermore, the recently announced delay in the publication of a Staff Proposal for Track 2 issues without any date established for how this Track 2 process will be implemented heighten our concerns about this lack of integration.

The Joint Utilities' suggestion that the affordability concerns and issues can be addressed with the targeting of existing or future programs to low-income customers lacks any specific policies or recommendations. Their comments, as well as the contents of the Staff's Straw Proposal, fail to identify the ongoing and deepening crisis in affordable electric service for New York consumers and the lack of robust and widely implemented programs to address the increase in terminations and high electricity prices that continue to dominate the views and experience of large numbers of New York residential customers. The utilities do not offer any solution to the problem that many New York customers are in debt to utilities and face hardship and home energy crises due to unaffordable bills, late charges, shutoff threats and actual shutoffs.

In addition to the Joint Utilities, **Consolidated Edison** and **NYSEG** have separately filed Comments that urge the Commission to include a mandate for deployment of Advanced Metering Infrastructure (AMI) as part of this proceeding. AARP and the Utility Project strongly disagree with any such mandate. First, neither of these recommendations includes any information about the costs of such a mandate. The cost implications of such a mandate are likely to exceed billions of dollars in new costs that utilities will want to recover from ratepayers.[10] The deployment of AMI is expensive and the potential net benefits to ratepayers are difficult to quantify or guarantee beyond the reduction in meter reading costs and the loss of more jobs for New York utility workers. Second, the reference by NYSEG to Central Maine Power's deployment of AMI fails to identify a crucial aspect of that deployment that is not available to any of the New York utilities in that the cost of CMP's AMI deployment was defrayed by a 50% grant from the U.S. Department of Energy pursuant to the ARRA Smart Grid grant program. Finally, the deployment of AMI is not required to implement Distribution Automation (cost-effective investments in the distribution grid) or Demand Response programs that rely on direct load control as documented in our Comments with reference to the Maryland Peak Rewards Programs.

**ENVIRONMENTAL ORGANIZATIONS**

AARP and the Utility Project disagree with the Comments filed by the **Environmental**

[10] "The $713 million AMI program cost is a significant additional future cost whose potential offsetting benefits are far from clear or certain at this point." CASE 94-E-0952 – In the Matter of Competitive Opportunities Regarding Electric Service; CASE 00-E-0165 – In the Matter of Competitive Metering; CASE 02-M-0514 – Proceeding on Motion of the Commission to Investigate Competitive Metering for Gas Service ORDER REQUIRING FILING OF SUPPLEMENTAL PLAN, at 19 (Issued December 19, 2007)

**Defense Fund** that endorse the full deployment of AMI and a reliance on time-varying rates to achieve climate change objectives and implement demand response programs. First, as noted in our response to the Consolidated Edison and NYSEG Comments, there is no information provided to identify the costs associated with such a recommendation or the alleged benefits associated with future unknown programs for which there is no analysis of costs and benefits for New York consumers. The suggestion by EDF that low-income consumers might "realize value" from AMI due to the "superior control of household expenses that it can enable," and their reference to prepayment programs and time-variant pricing as examples of these benefits [EDF Comments at 20] is fraught with potential adverse consequences for low-income households, vulnerable elderly customers or those who are disabled, and residential customers generally. While "some" low-income consumers might find "value" in these programs, there is no evidence to suggest that the bill impacts associated with paying for AMI and the design and implementation of these time-varying programs can be avoided with the lower bills that "some" low-income customers may experience.[11] Furthermore, there is no evidence that AMI deployment is required to implement cost-effective demand response programs that do not depend on time-varying rates or prepay service programs.

Additionally, AARP and the Utility Project oppose prepay service programs as a degradation of service for low-income customers, who are forced to lower their electric usage to avoid automated termination of service without any of the protections required by HEFPA and the Commission's regulations. EDF and other proponents of mass "smart meter" deployment do not sufficiently address the Commission's prior Order on the issue, which emphasizes the statutory requirement of affirmative residential customer election of time-varying rates[12] and the need for realistic benefit-

[11] See ***Not So Smart? High Tech Metering May Harm Low Income Electricity Customers***, Utility Project Updates, April 16, 2007 available at http://utilityproject.org/2007/04/16/not-so-smart-high-tech-metering-may-harm-low-income-electricity-customers/

[12] "Chapter 307 of the Laws of 1997 amended Public Service Law §66(27)(a) to delete a provision authorizing the

cost analysis.[13]

Under the existing 1996 "vision order," it has long been assumed that ESCOs would provide various supply options as an alternative to stable priced default service under the current statutory scheme.[14] If it is cost effective for some customers to shift their energy usage to less expensive hours, ESCOs could and should provide that option, including the necessary meter upgrade, the cost of which should not be included in delivery rates or borne by nonparticipants. The fact that ESCOs after nearly two decades are not offering TOU supply service to residential customers suggests that it is not cost effective to do so, and that there is little market demand for such time-varying rates.

**Natural Resources Defense Council (NRDC)** filed Comments that emphasized the importance of decoupling and associated revenue mechanisms as an "essential first building block" to drive utility investments "in a manner that is in the consumer and environmental interest." [NRDC Comments at 4.] We are concerned with this recommendation because we recommend that utility investments be driven by the statutory obligations to ensure that regulated and monopoly electric utility customers have reliable service adequate service quality at just and reasonable rates, terms and conditions of service. AARP and the Utility Project object to any inference in NRDC's recommendations that the current statutory policies that govern utility regulation in New York should be revised in such a vague manner through regulatory fiat alone. There is also considerable disagreement regarding whether "decoupling" mechanisms actually aggravate environmental goals

---

Commission to mandate time-of-use rates for residential customers, in the public interest." – In the Matter of Competitive Opportunities Regarding Electric Service; CASE 00-E-0165 – In the Matter of Competitive Metering; CASE 02-M-0514 – Proceeding on Motion of the Commission to Investigate Competitive Metering for Gas Service, ORDER RELATING TO ELECTRIC AND GAS METERING SERVICES, p. 13, fn. 15 (Issued August 1, 2006).

[13] See Fn 10, ORDER REQUIRING FILING OF SUPPLEMENTAL PLAN, requiring detailed cost benefit analysis and voluntary customer request for time varying rates, at 21 -22.

[14] "Energy efficiency services and the packaging of other innovative services may continue to be provided by energy services companies (ESCOS) including marketers, brokers, and aggregators" "Vision Order", Opinion 96-12 Appendix C, p. 5, available at http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/E05EBC3E5C3E79B385256DF10075624C/$File/doc886.pdf?OpenElement

as well as hurt consumer interests, by weakening the rewards for the overall energy efficiency and conservation efforts undertaken by consumers.

Furthermore, NRDC explicitly opposes the use of the Ratepayer Impact Measure (RIM) test in evaluating the costs and benefits of potential DER investments, stating, "While rate impacts should not be ignored, the greater focus of DER investments should be on bill impacts, which are a function of both rates and consumption." [NRDC Comments at 13.] While we might agree that it will be important to emphasize the need to ensure that "hard to reach market segments" must be served with new DER offerings, the suggestion that rate impacts should not be analyzed and taken into consideration should be rejected. The suggestion that bill impacts should be the primary focal point is not reasonable, because not all customers will participate in the limited efficiency and DER programs, and those who do not or who cannot due to upfront costs and other barriers will have to pay the higher rates without any opportunity to experience the lower bills typically promised with these programs. This concern is particularly important in light of the Staff's proposal to include a wide range of societal benefits in any cost-benefit analysis, benefits that may not be reflected in regulated utility services and that will not offset the higher costs of electric service that are likely to occur with many of these REV mandates as recommended in the Staff's Straw Proposal.

**ENERGY EFFICIENCY FOR ALL AND ASSOCIATION FOR ENERGY AFFORDABILITY**

AARP and the Utility Project are interested in programs that would direct an appropriate level of ratepayer funding to multi-unit structures, so that there is an equitable distribution of efficiency and distributed-generation funding, and that these programs are available for these consumers. However, we oppose the notion, as recommended in the initial comments of these groups, that the Commission should make changes to its evaluation of costs and benefits for these programs to rely on external factors such as pollution and greenhouse gas emission reductions. Rather, well-designed programs for efficiency and distributed generation should be required for all customer classes, and customers who lack the authority or the resources to implement these programs should be subsidized as a matter of equitable distribution of ratepayer funds.

**ENERGY SERVICE COMPANIES (ESCOs) and DER PROVIDERS**

The Retail Energy Suppliers Association (RESA) filed Comments that appeared to oppose much of the Staff's Proposal on the grounds that the implementation of the REV vision would rely too heavily on the distribution utilities and ignore the development of a competitive retail DER market. RESA appears to rely on unfounded statements about whether or how ESCOs or other DER providers not currently subject to the Commission's jurisdiction[15] can be relied upon to deliver cost-effective efficiency, demand response, and distributed-generation programs and resources that will respond to the identified needs to lower peak load demand and properly and economically integrate such resources into the distribution grids owned and operated by the utilities. AARP and the Utility Project support the primary role of the distribution utilities to plan for and integrate these programs into a coherent and cost-effective suite of basic programs that are designed to achieve cost-effective solutions and, due to the regulated nature of the programs and their operators, <u>can be monitored and tracked to ensure that the promised benefits will actually occur at a reasonable cost.</u> There is no evidence that market forces for these products and services will achieve the desired benefits in a manner that will ensure safe and reliable and least cost service for distribution service customers. While ESCOs have been authorized to offer "value added" efficiency and renewable energy resources since the onset of retail competition, they have not done so in any manner that can be documented as having an impact on overall electricity prices, since they operate without any obligation to provide these programs at least cost or with any documented results that benefit either

[15] ESCOs, in claiming to be unregulated, do not explain why they and DER providers are not "electric corporations" whose facilities or "plant" include their contracts for elements of utility service.

their own or other consumers.

AARP and the Utility Project are concerned that the "vision" set forth in the Staff Straw Proposal and repeated by the ESCOs in their Initial Comments reflect vague and unsupported promises and statements of value to customers that have not come to fruition in any jurisdiction. In its 1996 "Vision Order" about the implementation of retail competition, the Commission stated:

> "[C]onsumers will have more opportunities to choose a producer of electricity and to decide on preferable energy service options. Consumers should be able to choose not only their suppliers, but also the terms of their service through various contract options, including the design of their rates and the length of their contracts for service. If desired, consumers should be able to purchase power from different locations, constrained only by the need for continued reliability. Energy service packages should be available that include demand side management and other service options, possibly along with meter reading and billing choices. Additionally, customers should see the emergence and proliferation of non-traditional suppliers, such as brokers, marketers, and aggregators, who will offer to act as intermediaries between customers and utilities and will be available to combine customers so that preferable pricing and service options are offered even to small customers."[16]

Clearly, this "vision" has not occurred, even though New York ratepayers have spent billions to subsidize the creation of a retail electric market, one that has not provided any identifiable benefits to the vast majority of residential customers. To the contrary, in far too many situations, relying on ESCOs to sell generation supply service has resulted in higher prices compared to default utility service, contributing to unaffordable bills and arrears balances.

**JON WELLINGHOFF, STOEL RIVES, LLC, ET AL.**

**Mr. Wellinghoff**, a former Chairman of FERC, recommends that the Commission consider a plan in which the New York distribution utilities turn the operational management of their assets

---

[16] See P. 26 of the 1996 "Vision Order," available at http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/E05EBC3E5C3E79B385256DF10075624C/$File/doc886.pdf?OpenElement

over to an Independent Distribution System Operator. AARP and the Utility Project oppose this proposal.

First, this appears to recommend that the distribution systems regulated by the State of New York would be transformed into an entity subject to federal jurisdiction, similar to the New York ISO. This would require substantial changes to New York's Public Service Law, and would also no doubt result in significant litigation by the current owners of the distribution utilities, who are unlikely to agree with the transfer of their assets. Second, neither Mr. Wellinghoff nor other parties who may support this radical proposal have identified the costs or have evinced any apparent concern about the costs involved in such a transfer of assets or change in ownership. For example, the costs of the NYISO are now far beyond those imagined when it was first formed to effectuate the "vision" the Commission adopted in Order 96-12. In 1998 the New York Power Pool employed approximately 111 people and had a budget of $14.5 million to manage the grid and provide economic dispatch based on the operating costs of generation plants. The transformation of the NYPP into the NYISO and its market-based dispatch initially was estimated to cost less than $5 million per year more than the NYPP.[17] The actual cost of the NYISO skyrocketed far beyond the initial projections.[18] At latest count, the NYISO has 512 employees and a budget of over $160 million/year, roughly twice the PSC's $84 million budget.[19]

**NYSERDA and THE CLEAN ENERGY FUND PROPOSAL**

**NYSERDA** filed Comments generally in support of the Staff's Straw Proposal and urged the Commission to establish policies that would value and endorse "clean" energy and not merely

[17] This optimistic estimate is recorded in a Report prepared by the State of Georgia that indicates at p. 121 that the "New York Power Pool estimates an annual budget of $20 million." Georgia Public Service Commission Staff Report on Electric Industry Restructuring Docket Number 7313-U January 23, 1996, p. 121. Available at http://www.psc.state.ga.us/electricindust/Final%20Draft%2012398.pdf

[18] A 2005 report indicates that, once underway, NYISO's "[o]perational costs have increased from $8,479,312 in 2001 to $12,246,311 in 2005. Administrative costs have increased from $81,564,644 in 2001 to $136,924,551 in 2005." APPA, *Analysis of Operational and Administrative Cost of RTOs*, p. 24, February 5, 2007, available at http://bit.ly/1yVJYtV .

[19] See NYISO Charities Report filed with New York Attorney General for 2012, available at http://bit.ly/1pxYjV4.

programs and policies that would respond to system constraints. They ask the Commission to align the REV proceeding with its consideration of the Clean Energy Fund proposal that was filed on September 23, 2014 and filed in the REV proceeding docket. As stated in NYSERDA's Comments, the Clean Energy Fund proposal was provided in response to the "CEF Order" issued on May 8, 2014. The proposal includes a 10-year program that is intended to ensure the delivery of efficiency programs for all consumers and "manage the transition of NYSERDA's program approaches to better align with the market outcomes envisioned through the REV proceeding." [Clean Energy Fund at 5] The intent of the proposal is to foster private investment and attract private capital to invest in clean energy in New York. Based on this proposal, the CEF will replace the System Benefit Charge, the Efficiency Portfolio Standard, and the Renewable Energy Portfolio Standard. The proposal recommends a cap on collection from ratepayers starting in 2016 with a $225 million reduction from the 2015 collections level (from $925 million to $700 million). However, as stated, this reduction is possible if NYSERDA can use its unexpended balance of program funds to meet ongoing and current program requirements. NYSERDA does not explain why there is such a large unexpended fund balance for these programs. NYSERDA then proposes a $700 million expenditure cap for three years, with step-downs as current programs are phased out and completed, followed by another reduction in expenditures, to $400 million per year.

While this proposal recognizes the current high rates and energy costs that are reflected in consumer bills, there is no specific discussion of how to ameliorate this concern or whether the programs and funding requirements associated with this 10-year plan will address this concern. Furthermore, NYSERDA's claim that their proposal will therefore alleviate cost burdens on New York consumers is not explained in light of the REV Staff Straw Proposal that would empower utilities to develop, implement and fund efficiency, demand response, and DER programs on behalf of their customers without any cost caps or funding mechanisms identified. Furthermore, NYSERDA does not explain how low-income customers, who pay the surcharges, receive direct benefits. Initially, the SBC set aside 20% for low-income programs. That is now gone, and there is no indication that using the money as vaguely proposed will directly benefit any significant portion of the low-income customer segment.

AARP and the Utility Project recommend that the Commission announce how it will integrate or coordinate its consideration of the CEF with this REV initiative, including the Commission's apparent intent to transfer program design, implementation, and funding obligations for integrated efficiency, renewables, and demand response programs to the distribution utilities. No integrated resource plans and planning criteria are available which would ensure that only cost-effective and least-cost programs are implemented. Without an understanding of how these programs would be funded, whether participant benefits would be equitably available to low-income customers, and with what rate and bill impacts for both participants and nonparticipants is of significant concern.

## CONCLUSION

Based on our review of the Comments filed to date, AARP and the Utility Project continue to recommend the approach set forth in our Initial Comments. We repeat those recommendations here with some specific references to the Draft Energy Plan's emphasis on energy affordability and the concerns that have arisen in light of the Initial Comments filed in this proceeding by other parties.

AARP and the Utility Project recommend that "energy affordability" should permeate every aspect of the policies and programs that the Commission seeks to consider and potentially adopt in this proceeding. The Commission should move forward only when it has a full understanding of the evidence necessary to understand the cost impacts of proposed changes to New York's ratemaking and investment policies. We also believe that the Commission needs to develop a full record regarding how such changes will be linked to any unknown incentives relegated to Track Two.

It will be insufficient, for example, to make changes in policies and investment directives, cost-benefit analysis frameworks, and ratemaking and incentives for utilities in return for merely some modest expansion of current low-income programs. Although AARP and the Utility Project strongly support the need for more robust low-income programs and expanded enrollment in these programs, our concerns are also directed to the broad impact of future ratemaking policies and costs associated with the Staff's Straw Proposal on all residential consumers, particularly those on fixed incomes and who may not qualify as "low income" as that term is typically defined. Therefore, our recommendations go to the heart of the REV proceeding and the Staff's Proposals:

1. Track One policy changes should not be adopted in isolation from the Track Two ratemaking and cost implications. It is unreasonable to consider adopting radical changes in the policies that govern the role of the distribution utility in New York without a full understanding of the implications of these policies in terms of ratemaking policies and rate design policies, and how the bill impacts associated with these policy-driven objectives will impact the affordability of essential electric service for New York consumers.

2. Distribution utilities should be required to prepare plans that document that cost-effective distributed energy technologies and programs are integrated into their system planning, with the short-term objective of identifying the locations and opportunities where least-cost and cost-effective DER programs and investments can be targeted.

3. The Commission should ensure that **ratepayers realize the net benefits from the optimal use of distributed resources at minimal cost to integrate these resources into the electric system, and that any net participant benefits be equitably provided to low-income consumers**. Any proposals for expansion of DER programs and investments should be accompanied by evidence that the proposal is cost effective compared to alternatives, that costs have been fairly allocated to those who stand to benefit from the investments, and that the proposal represents the least-cost approach to achieving existing statutory objectives for reliable service at reasonable costs and rates. This approach will enable the gradual development and implementation of DER based on an evaluation of specific

investments that are accompanied by evidence to support their effectiveness, costs, and bill impacts.

4. The Commission should adopt a policy that supports smaller scale demonstration projects for technologies and programs that are untested or where the impact of these proposals is unknown or lack valid experience and results. This is particularly important when considering programs that will require a large-scale participation by customers in order to be successful or cost effective.

5. In general, utilities that propose to recover REV-mandated investments from ratepayers should be required to submit a performance plan that documents how the promised benefits will be tracked and delivered to ratepayers. Ratepayers should not pay additional costs for alleged benefits related to societal objectives that are beyond those policies currently articulated in statute. These plans should include specific proposals for ensuring the affordability of service for residential customers generally and particularly lower income households, including robust and expanded bill-payment assistance programs.

For all of the foregoing reasons, AARP and the Utility Project recommend that the Commission adopt our recommendations with respect to the Staff's Proposed Straw Proposal for Track One in this proceeding and reflect our Reply Comments in its ongoing development of the REV proceeding.

Dated: October 24, 2014

Respectfully submitted,

Beth Finkel

Beth Finkel, AARP NY State Director
AARP
99 Washington Avenue
Albany, NY

Public Utility Law Project
Of New York, Inc.
P.O. Box 10787
Albany, NY 12201-5787
Tel. 518.281.5991

By: _

Gerald A. Norlander, Esq., for AARP and
Public Utility Law Project of
New York, Inc.