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.
CASE 14-M-0094 -	Proceeding on Motion of the Commission to Consider a Clean Energy Fund
CASE 10-M-0457 -	In the Matter of the System Benefits Charge IV
CASE 13-M-0412 -	Petition of the New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank
CASE 07-M-0548 -	Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio
CASE 03-E-0188 -	Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard

REPLY COMMENTS

OF AARP

and

PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.

ON

CLEAN ENERGY FUND PROPOSAL

DECEMBER 22, 2014

INTRODUCTION AND OVERVIEW

AARP and the Public Utility Law Project of New York, Inc. ("Utility Project") filed comments on the Clean Energy Proposal submitted by NYSERDA on December 8, 2014. Our reply comments are intended to respond to the recommendations and statements made by various other parties who also filed comments on December 8, 2014.[1] As a preliminary matter, we note that the comments filed by the other parties and interested persons do not cause us to change our primary recommendation in this matter. We asked the Commission to "improve affordability" of essential electric service in its actions in response to the NYSERDA CEF Proposal, to repurpose existing surcharges and the corresponding $925 million/year in current surcharge revenues and integrate those concerns in its yet undefined policies under consideration in Case 14-M-0101, "Reforming the Energy Vision" (REV).

AARP and the Utility Project do not suggest specific programs or funding levels at this time. Moreover, we support the review of existing surcharges and programs. However, we note that a recurring theme among many of those who submitted comments is the lack of sufficient details in the NYSERDA proposals for 2015 transition programs and the lack of any recommendations for post-2015 programs. See, for example, the comments filed by National Fuel Distribution Corp. ("National Fuel"), Efficiency for All, New York ISO, Sierra Club,[2] and Natural Resource Defense Council (NRDC).[3] While AARP and the Utility Project may differ with some of the specific recommendations for program design and funding as reflected in the comments filed by other parties, we join in their observation that the Commission does not have

[1] In preparing these comments we have been assisted by Barbara R. Alexander, Consumer Affairs Consultant.
[2] See, Sierra Club Comments at 2, pointing out the lack of clarification of funding and roadmap for utility-scale renewable programs.
[3] See, NRDC Comments at 14, "The draft CEF proposes a generalized ramp down of NYSERDA's efficiency implementation activities without any discussion as to specific programs, specific timelines, and specific program funding levels."

sufficient evidence before it to justify the funding levels and recommendations of NYSERDA in its CEF filings to date.

In particular, we support the observation of National Fuel that NYSERDA's filings to date apparently seek the Commission's approval of funding levels for broad program parameters without any detailed information on how those programs will be implemented, how their success will be measured, or how these programs will be coordinated for the "transition" phase of the implementation of clean energy programs under the REV initiative. Nor have NYSERDA's filings to date actually documented the basis for its alleged "savings" and efficiency results from its proposed programs and portfolios. In light of the significant changes to how clean energy programs will be implemented and funded under the Commission and Staff's REV proposals to date, the lack of details about specific programs, their funding levels, their implementation details, and the lack of any identifiable and enforceable metrics to judge performance is disturbing. We do not agree with NYSERDA in its CEF filing that "success will be apparent"[4] based on the information and recommendations made to date by any party.

AARP and the Utility Project join with several commenters that identify the lack of important factual evidence about program design, funding levels, performance metrics, as well as the lack of analysis about cost effectiveness and the methodology to determine cost effectiveness in the CEF proposals to date. We recommend that the Commission not adopt the rate relief requested by Multiple Intervenors (MI) for 2015 for the reasons stated in our initial comments. Rather, as we recommend in our initial comments on CEF and REV, the Commission should evaluate the need for additional funding for "affordability" programs as an integral part of its REV policies and related surcharge funded programs. This consideration should be directed by the Commission in its REV policies and the Commission should require

[4] CEF Proposal at 9.

utilities to propose robust “affordability” programs in their forthcoming REV transition plans and programs. We do not agree that the modest additional funding to existing low income and multifamily housing (as recommended by NYSERDA) is a sufficient respond to this concern.

AARP and the Utility Project note that the “fuel neutral” recommendations reflected in the CEF Proposal and its recommendation to phase out the natural gas funding mechanism and use electric ratepayer funds for both gas and electric service programs is controversial and would require, at the least, a reversal of historical Commission decisions and policies. This proposal, as well as Commission’s preference for a change in the funding structure for clean energy programs from surcharges to base rate funding suggests that a more extensive and potentially more formal proceeding would be necessary to fully explore the implications of these recommendations.

Certainly, the proposals for changes that are implied in previous Commission statements about REV, the lack of specifics for the Track Two proceeding concerning ratemaking and rate design policies, as well as the need for more specificity relating to the post-2015 clean energy programs, their funding mechanism, and the need to flesh out the implications of the change in the implementation of some of these programs (from NYSERDA to the utilities) suggest the need for a slower and more measured approach to the implementation and design of clean energy programs.

SPECIFIC COMMENTS IN RESPONSE TO OTHER PARTIES

AARP and the Utility Project generally support the comments filed by the **Utility Intervention Unit (UIU)**. UIU raises many of the concerns about the need to focus on “energy affordability,” quoting from the Draft Energy Plan in this regard. UIU suggests that it may meet with NYSERDA to discuss the future CEF Information Supplement due in February 2015 “to assure that the low to moderate income consumers receive meaningful benefits from the CEF."[5]

While meetings may be useful, AARP and the Utility Project seek a Commission directive in these proceedings to assign a higher priority to programs that respond to the affordability needs of low and moderate income families and to consider the development of more robust bill payment assistance programs with public purpose funds.

The **City of New York** supports NYSERDA's recommendations for the relatively minor transfer of funds to low income and gas multifamily efficiency programs in 2015, "but it respectfully urges the Commission to reject the proposal to transfer a portion of the low income efficiency program funds to other programs"[6] and opposes a CEF Proposal to transfer $1.1 million in funds from gas efficiency programs targeted to low income customers to programs serving other sectors. AARP and the Utility Project support this concern as well, but note that the City's comments do not address the critical affordability issues faced by many low income and moderate income customers in New York City, all of whom are at risk for higher bills and rates as a result of some of the proposals pending before the Commission in the REV case. For example, in August 2014, 11% of Con Edison's residential customers were more than 60 days overdue in paying their utility bills, they owed $258.9 million to the utility, much of which was subject to 18%/year late charges. Con Edison sent shutoff notices to 8.2% of its residential customers in August 2014, sent 2.8 million shutoff notices in the 12 preceding months and shut off service to 82,602 customers as a bill collection measure in the 12-month period of August 2013-August 2014. In comparison to 2005, before the Great Recession, in August 2014 the percentage of Con Edison customers late in paying more than 60 days is up approximately 22%, and the amount of 60+ day arrears they owe is up approximately 143%. The number of customers with Deferred

[5] UIU Comments at 2.
[6] City of New York Comments at 2.

Payment Agreements (DPAs) — which allow customers to pay installments on arrears with current bill payments — is up more than 40%, to 452,500. These customers are at heightened risk of shutoff if they miss or are late in making a payment on the current bill plus the DPA arrears payment.[7] Manifestly, electric service is not affordable now to many New York City households, and this problem is not adequately recognized or meaningfully addressed by the City in its comments.

AARP and the Utility Project welcome the clarification that is reflected in the comments submitted by **Multiple Intervenors** that state that they are not recommending that any unspent surcharge funds be returned disproportionally to larger commercial and industrial customers and that some relief could be targeted to low income customers in the form of a bill credit or reduction in future surcharges. However, as explained in our initial comments, there is an opportunity now to consider ameliorating the bill impacts of lower income customers without raising rates for any customer and perhaps reducing the surcharge amounts somewhat less than NYSERDA appears to recommend. Our concerns are a reflection of the ongoing and as yet undefined policies and programs being contemplated in the REV proceeding, as well as the recommendations by other parties to expand efficiency and renewable mandates and programs that are likely to result in higher bills for low and moderate income families and without any realistic opportunity to participate in these programs as they are currently structured.

AARP and the Utility Project support many of the concerns expressed by **National Fuel** in their extensive comments, but defer any recommendations about their concerns about the "fuel neutral" approach and the apparent change in funding from gas customers and/or the use of electric funds for gas-related customer efficiency programs at this time. Specifically, we support

[7] See Monthly Utility Collection Activity Reports filed with the New York Department of Public Service, FOIL responses provided to the Utility Project.

National Fuel's concerns about the need to support low income weatherization programs and ensure that they are effectively and efficiently delivered (as National Fuel as apparently done in recent years), but we note that the level of funding for weatherization programs is very small and does not address all of the bill payment or affordability issues identified in our comments. We also urge the Commission to carefully consider National Fuel's documentation of the lack of details in the "market transformation programs" in the CEF Proposal, National Fuel's concern about NYSERDA's assumption that the surcharge mechanism should be eliminated at this time prior to any final decision on this matter, and the lack of any performance mechanisms beyond "market" and "economic" indicators in the CEF Proposals to date.

AARP supports **New York ISO's** concerns about the lack of performance standards and reporting requirements that would enable an explicit evaluation of the actual impact of any of the proposed or future programs and hamper NYISO's ability to plan and ensure reliability for the bulk power market.

With regard to the comments filed by **Energy Efficiency for All, Energy Affordability Association, and NRDC** (as well as others), AARP and the Utility Project support the development of cost effective and well targeted programs to address the efficiency needs for multi-family housing, particularly housing dedicated to low income residents. This issue is of particular concern in the City of New York for obvious reasons. However, AARP and the Utility Project are concerned about the lack of detail about the scope and scale of these programs that many commenters want the Commission to support. This more detailed analysis is particularly important due to the impact of the downward price of natural gas on cost-effectiveness. While there may well be a need for long-term investments and programs to address these housing situations, the role of ratepayer funding generally and electric ratepayers specifically must be viewed as only part of the potential solution.

Clearly as acknowledged by the proponents for this program in their comments, there are multiple barriers to the implementation of efficiency programs for these multi-unit residential structures. While these comments appear to recognize these barriers and suggest that this section requires a specific "market" and "program" area that recognizes these barriers, the result of these recommendations has the potential to require extensive ratepayer funding for a program that requires multiple levels of government, multiple layers of ownership interests, and the coordination of tax and energy policies. AARP and the Utility Project recommend that the Commission require the development of a plan and the documentation that various pilot programs that reflect the experience of these multiple and overlapping interests (perhaps building on the Mayor's initiative as referenced in the City of New York's comments) have actually resulted in a cost effective program in which the ratepayer dollars are complementary to the other market and private sources of funding and cooperation prior to targeting any large scale ratepayer dollars for this market sector.

To the extent that ratepayers have funded programs for multi-family buildings in the past, the comments from parties that seek to expand these initiatives do not identify programs that they seek to emulate or implement on a larger scale as having been successful at a reasonable cost.

As National Fuel's comments recommend for all program and portfolio suggestions, the Commission should not approve program ideas and funding levels until the actual programs are developed, funding is identified, cost effectiveness is documented, and performance metrics are identified.

A number of commenters, including **NRDC and the Sierra Club**, propose new mandates for efficiency and renewable energy penetration to drive funding and program decisions for the funding requirements for clean energy programs. AARP and the Utility Project do not agree that new mandates should be adopted at this time or that existing funding streams be targeted to the Green Bank or NY SUN programs without more careful analysis of the cost effectiveness of new mandates and programs, their impact on lower income households in terms of costs and participation rates, and their effectiveness in achieving their stated goals.

While goals and objectives to adopt new efficiency and renewable energy mandates may be desirable, there is insufficient evidence at this time to support these recommendations that would raise rates for those who can least afford to participate in these programs and who already suffer significant adverse impacts as a result of high electricity prices in New York. In our view and as reflected in the statutes that govern this Commission's policies, the primary objective of regulated utility service should be to ensure that all customers can obtain essential electric service at just and reasonable rates. AARP and the Utility Project's recommendations are intended to reflect these primary objectives and needs.

CONCLUSION

For all of the foregoing reasons, AARP and the Utility Project recommend that the Commission require NYSERDA to explicitly identify the impact of its recommendations on low to moderate income ratepayers and families, to design programs that will specifically "improve affordability" of essential electric service for these households. We also suggest that the Commission consider low-income rate programs and well-designed efficiency and assistance programs for low and moderate income households.

Accordingly, the repurposing and review of the existing $925 million/year surcharges proposed in this proceeding should be broadened to include, the public purpose of making service affordable, in addition to clean energy initiatives.

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Respectfully submitted,

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