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VIA EMAIL TO
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July 18, 2014

Hon. Kathleen Burgess
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza, Agency Building 3
Albany, NY 12223-1350

RE: Cases 14-M-0101: Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision (REV)

Dear Secretary Burgess:

The signatories of this letter submit the following consumer protection principles to help guide the Commission's consideration of the future role of the New York distribution utilities and potential changes to the policies and regulations impacting the affordability of electric service in New York. The Commission has asked many of the right questions about the potential impact of current trends in technology and customer energy use and has correctly identified the need to explore the implications of the various mandates for efficiency, clean energy, renewables, retail competition, and grid resiliency on consumers.

AARP is a nonprofit, nonpartisan organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP has 2.6 million members residing in each of New York's counties and representing all segments of the socio-economic scale. Moreover, a substantial percentage of AARP's members live on fixed or limited incomes and depend on reliable electric service for adequate heat, lighting, refrigeration, air conditioning, and powering life-saving medical devices.

The Public Utility Law Project of New York, Inc. is a not for profit organization representing the interests of low income persons in utility and energy

matters. The Utility Project focuses upon issues affecting universal service, affordability, and customer protection.

NYPIRG is a nonprofit research and advocacy organization whose mission includes advancing the interests of residential ratepayers and other consumers. NYPIRG's long history in this area includes its push for the creation of a Citizen Utility Board ("CUB") in New York and greater transparency and accountability in the energy marketplace. NYPIRG is also active in advancing clean and renewable sources of energy, efficiency measures and addressing head on the root causes of global climate change.

The purpose of this letter is to share concerns about the process and direction of this proceeding and urge the Commission to hold fast to several critical and essential over-arching objectives throughout its consideration of the wide range and potentially dramatic changes in ratemaking policies and new potential mandates raised in the Staff Report. We have accompanied our key policy recommendations with suggested questions that we propose that the Staff and the Commission answer during the consideration of the REV initiative.

The growing evidence of late payment, non-payment, and disconnection of essential electricity service for millions of New York residents, particularly those of modest or low income, underscores why affordability and consumer protections must be a fundamental goal for this proceeding.

A recent analysis of utility collection activity reports by the Public Utility Law Project of New York, Inc. shows that millions of New York consumers have fallen behind in making payments for essential utility electric and gas services. As a consequence, they face added late charges and threats of service termination for bill collection purposes. Nearly three hundred thousand New Yorkers face actual service termination each year. Almost 12% of New York's electric customers have an arrears balance that is more than 60 days old. About 6.7 million termination notices were issued to customers in 2012.[1] In 2013, 7,090,315 final termination notices were issued. Current data shows a worsening trend, with even more increases in shut off notices in 2014, indicative of unaffordability due to high ESCO prices and higher default service prices.

To ensure that any changes resulting from the REV benefit New York's residential consumers the Commission and Staff should:

Ensure that essential electricity service is affordable for all New York households. New mandates that may flow from this proceeding should not result in higher costs and bills.

The potential environmental benefits that are anticipated from a successful outcome of the REV process must not come at the expense of residential ratepayers.

[1] The Utility Project's analysis of this data is available at: http://bit.ly/Lv4VFB.

Consumers repeatedly hear that new technologies and programs will give them "control" and enable them to lower their home energy bills. Yet all of these new technologies and programs are likely to come with a cost, sometimes a significant cost. For many consumers, the additional costs may not offset any potential savings, particularly when utilities are allowed to recover lost or reduced revenues through decoupling or other means. Indeed, in other states mandates related to energy efficiency and renewable energy have been subject to backlash and repealed in a few instances.

The risk to consumers is even greater with some of the suggestions considered in the REV to adopt policies and programs that result in higher prices and costs imposed on ratepayers in return for projected environmental benefits to be provided by unregulated entities that cannot be held accountable for delivery. We are particularly concerned about the implications of shifting cost recovery from kWh rates to fixed monthly costs or demand charges for residential customers. These proposals are likely to adversely impact lower usage customers, many of whom are elderly and low income, and we fear will send a signal that would discourage investment in efficiency, threatening the affordability of service by those least likely to be able to respond to these rate changes.

When considering reforms to current ratemaking policies, the Commission should view calls for incentives and rewards with careful scrutiny. At their most basic, rewards and incentives for shareholders result in higher rates and prices to be imposed on ratepayers to achieve something that is either an obligation by the regulation distribution utility or a desire to achieve something in addition to what is an otherwise required level of performance. Incentives to utilities are often not transparent to ratepayers. More efficient and effective oversight of the efficiency, distributed generation, and renewables mandates does not necessarily require incentives and rewards for shareholders. The focus should be on achieving efficiencies and lower costs for New York ratepayers.

We believe the following questions need to be answered:

- What are the likely costs and bill impacts on ratepayers for proposed new programs or changes in current programs?
- What bill and affordability impacts will occur with proposals to shift cost recovery from kWh rates to fixed charges or demand changes?
- What bill and affordability impacts will occur if current surcharges and mandated costs are shifted to base rates?
- What is the rate impact of current mechanisms and future proposals for incentives and rewards for utilities? On what grounds is it determined that incentives are necessary to achieve performance? How are consumers ensured incentives are tied to performance that matters?

- What is the current distribution of federal and state (ratepayer) funded low income programs in terms of funding, coordination and delivery compared to the need and how will that distribution be impacted by REV?
- What are the bill impacts on participants compared to current costs and mandated surcharges and programs?

Ensure a more stable and least cost default service for residential customers and review current mandates, prior to embarking on the REV.

Our groups welcomed the Commission's reforms adopted in its Order in Case 12-M-0476 (Proceeding on Notion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State), issued on February 25, 2014. However, many of those key reforms have been stayed[2] and remain in limbo. AARP also filed comments raising concerns about the Commission's proposal to promote "value added" services by ESCOs.[3] It is well-documented that the "Polar Vortex" impacted short-term prices in the wholesale market, resulting in unprecedented price increases imposed by ESCOs on customers under variable price contracts. The fact that default service prices also showed immediate and short-term increases is equally disturbing.

Unlike other restructuring states, New York's default service policies and purchasing strategies rely far too heavily on monthly and short-term wholesale spot market prices and contracts based upon them. Further, other states are examining current mandates regarding renewable energy and net metering polices to ensure costs imposed on ratepayers are fair. The Commission's REV proceeding should consider the need for reforms in the retail market on a level with the consideration of new programs.

The following questions are raised in this regards:

- What are the bill impacts of customers served by ESCOs over the last year and how do those bill impacts compare to default service prices?
- What reforms should be considered and included in the REV to ensure that default service is based on a portfolio of a prudent mix of contracts types and terms to ensure stable and least cost service for residential customers?
- How can the Commission properly monitor and enforce essential consumer protections for the retail market and is there a need for additional statutory authority?
- How will "value added services" offered by ESCOs and other third parties impact affordability for consumers? Will "value added services" exacerbate misleading marketing or require more oversight by the Commission?

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[2] The Order Granting Requests for Rehearing and Issuing A Stay was issued on April 25, 2014.
[3] The comments of AARP and the Utility Project in Case 12-M-0476 regarding proposed revisions to the retail market structure are available at http://bit.ly/1lc8jRq.

- What are the costs being incurred by other ratepayers to support the current net metering policies? What are the demographic and housing implications of continuing or expanding these subsidies?
- What impact has the lower cost of distribution generation and solar PV in particular had on whether such subsidies should be continued or eliminated?

Ensure that residential consumers can properly and fairly participate in the REV process.

The current REV process is in need of considerable reform. The Commission has adopted a schedule that includes at least two tracks (one for general policy and another for ratemaking reforms) and numerous working groups that are holding weekly meetings. The participants in this process to date overwhelmingly reflect commercial interests with the funding and resources to push their various agendas to the detriment of the ability of residential consumers and utility customers to participate. Even a casual perusal of the working group mailing lists to date indicates that utilities, third party providers, ESCOs, and state energy agencies dominate the list of participants, but that the participants associated with residential customers and low income customers are almost non-existent. This situation is exacerbated by the lack of any fully funded independent consumer advocate for utility customers in New York, a lack that puts New York among the minority of other states in this regard.[4] In June 2013, Governor Andrew Cuomo's Moreland Act Commission on Utility Storm Preparation and Response found that New York needs "a robust, permanent, professional consumer advocate office to represent ratepayers."[5] This lack of adequate consumer representation means that the Commission cannot rely on the stakeholder processes to generate solutions that place a priority on the direct interests of New York consumers.

Ensure promised benefits are delivered to ratepayers.

Current trends with respect to the disbursement of new technologies and customer usage behavior, along with ongoing and new mandates for efficiency, renewables, net metering, and investments to ensure grid resiliency and reliability need a careful review to ensure that essential electricity service does not result in the "haves" and "have-nots." Any proposed alteration of ratemaking policies must be carefully examined to ensure that essential electric service is affordable. Programs and policies that promise benefits in return for higher costs must be tied to obligations to deliver those benefits to all customers, including those who cannot participate in new technologies.

- What are the demographic characteristics (including age, income, and geographic location) of those who take advantage of new technologies, efficiency programs, and distributed generation investments?

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[4] On March 12, 2014, the New York Assembly passed its version of the State Operations budget bill, A.8555-C, Part N, which beginning at page 62 creates a new state office of the utility consumer advocate. However, the final budget bill adopted by the Legislature eliminated this provision.
[5] The Moreland Commission Final Report is available at http://on.ny.gov/1nELV2V.

- What are the housing profiles of those who can or do participate in these newly available programs and investments, such as in-home technologies, distributed generation, electric vehicles, and microgrid development?
- How will any proposed reforms in mandates or programs impact the range of residential customer income and housing profiles?
- How can the Commission ensure that the wide range of programs it has already authorized and imposed on distribution utilities or that are being implemented by NYSERDA with ratepayer funds are properly and efficiently coordinated and implemented to achieve the least cost and most effective results?
- On what grounds can promised or estimated benefits be tracked and ensured for delivery to ratepayers?
- Who bears the risk that costs will be as estimated and that benefits occur as promised? Will the utility be held accountable if promised benefits are not achieved? How can residential ratepayers be held harmless if providers underperform?
- What is the jurisdiction of the Commission in the development and funding of programs designed to impact the supply portion of the customer bill in light of the current wholesale markets subject to FERC's jurisdiction? How can the Commission ensure that efficiency, and new distributed generation programs actually return value to all customers in the form of lower electricity prices?

Thank you for the opportunity to provide these recommendations. Please do not hesitate to contact us to discuss any of these concerns or issues further.

Respectfully submitted,

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Public Utility Law Project of New York, Inc.

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