

Richard Berkley, Executive Director, the Public Utility Law Project of NY

Testimony: NYS Budget Hearing (Encon/Energy/Finance Committees)

Good afternoon, Chair ____ and Chair ____ (and Members of the Budget Committees).

My name is Richard Berkley and I'm the Executive Director of the Public Utility Law Project of New York ("PULP"). PULP is a 40-year-old nonprofit with the mission of educating, advocating, and litigating on behalf of NYS' low-income utility customers.

PULP participates on both the State and Federal level in policy proceedings and is a party to all New York's major rate cases involving utilities. PULP also operates a state-wide hotline where we offer direct assistance to utility customers in need of help.

I appreciate the opportunity to provide public comments today in relation to the FY2023 New York State budget in relation to utility arrears. The COVID-19 pandemic is heading into its third-year afflicting New York, with more than 1.3 million households behind on their energy utility bills, totaling close to \$1.7 billion.¹ COVID-19 infections are still occurring, job losses have not fully been restored (New York is apparently 49th slowest in restoring lost employment from COVID), and the winter has been cold. Unless the arrears crisis can be resolved, and I have only focused on energy here because the PSC does not require reporting on arrears by

¹ See, <https://aarp-states.brightspotcdn.com/af/76/5df42c71425b93b6ac5ecc61d880/draft-monthly-arrears-report-december-2021.pdf>

water, telephone and internet utilities, New York's communities will not recover in less time than the decade it took to recover from the Great Recession.

As a result, PULP is requesting that the following actions be taken:

To begin, PULP urges the extension of the State's moratorium on essential utility shutoffs so that this crisis can be handled in the 2022-2023 State Budget. Currently, Chairman Parker is carrying **S.07668**, which puts a utility service termination moratorium back in place until June 30, 2022, for those individuals who have experienced financial hardship due to COVID-19. A short extension gives the State the time needed to complete the creation of a strong, common-sense plan that addresses the arrears in a responsible manner, while protecting NYS' most vulnerable.

PULP also recommends that the State adopt a three-part plan:

- 1) directing more funding to lower the total arrears statewide to help people struggling to pay their electric and gas bills, which have ballooned by approximately \$1 billion since February 2020;
- 2) while requiring the utilities to develop arrears management plans (or other plans to equitably lower arrears) that will result in forgiveness of a portion of the arrears, a reasonable amount of which should be borne by shareholders; and
- 3) requiring the utilities to offer affordable deferred payment plans to any customers who has exhausted the financial assistance options available, providing them with reasonable time to pay back any amount left over.

To achieve this three-part plan, PULP believes that is essential that an appropriation of \$1.25 billion be made in the 2022-2023 Executive Budget from the \$12.5 billion federal American Rescue Plan (“ARP”) funds the State has received to help low- to moderate-income energy customers. Directing the funds to pay down customer arrears directly helps existing and newly low-income individuals get their accounts back on track. It also protects their accounts from termination, lessening their financial stress and the struggle to determine whom to pay first, the rent, the mortgage, buy food or medicine. And as I noted above, the small businesses that are the cornerstone of communities statewide will fail if their customers continue to have no disposable income to spend there.

Failure to paydown the debts now could result in a disaster on the ground, with massive numbers of service terminations statewide during the ongoing pandemic. While you may have heard that the energy utilities can just absorb the arrears and pass it on to customers, that is not a safe or responsible option as it will result in higher rates for all customers, including small businesses who have been hit hard by the pandemic, and vulnerable households across the State. Directly helping customers behind on their electric and gas bills is reasonable and responsible. And the alternatives, mass bankruptcies, more inability to pay rent and mortgages leading to more evictions and foreclosures, are unthinkable.

Next, PULP is asking that the Legislature implement a \$200 million sales tax adjustment program to help low-, fixed- and newly-low-income households behind on their water, broadband, and/or telephone bills. The number of consumers behind on these bills are entirely unknown, since these utilities are not required to report arrearages to the Public Service Commission regularly as the major-energy utilities

do. Therefore, we advocate making a sales tax benefit contingent upon the utility showing the number of customers in arrears and how much they owe, along with evidence that it has forgiven those arrears in a dollar-for-dollar amount to the tax reduction it is seeking. That would directly help struggling New Yorkers stay connected to vital services and detail the scope of the problem for the first time. In other words, it will allow the Legislature, the regulator, and the Executive the ability to make evidence-based policy regarding the non-energy utilities. That is or should always be a goal of policy makers, and particularly so during a crisis as dire as this one.

Lastly, we respectfully request that the Legislature direct the Public Service Commission and Department of Public Service to order the energy utilities to develop and implement a meaningful arrears resolution program for customers who have exhausted all available financial assistance options. The program should enable any customer in arrears to protect their account from termination by enrolling in an affordable deferred payment agreement on a reasonable schedule that works for them without any down payments, late fees, or penalties. And the plan should provide a pathway to resolution of all arrears without visiting additional hardship on New York's financial vulnerable households.

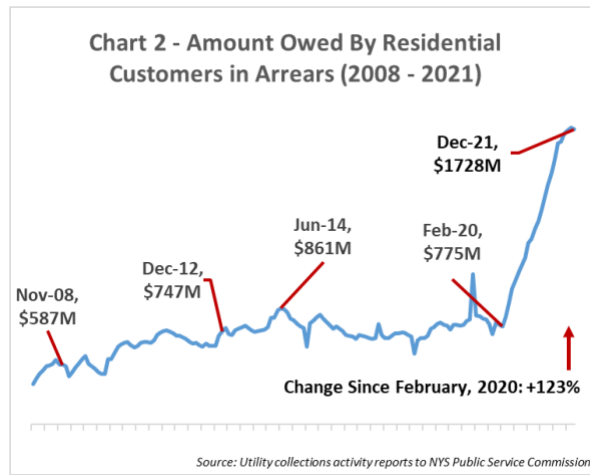
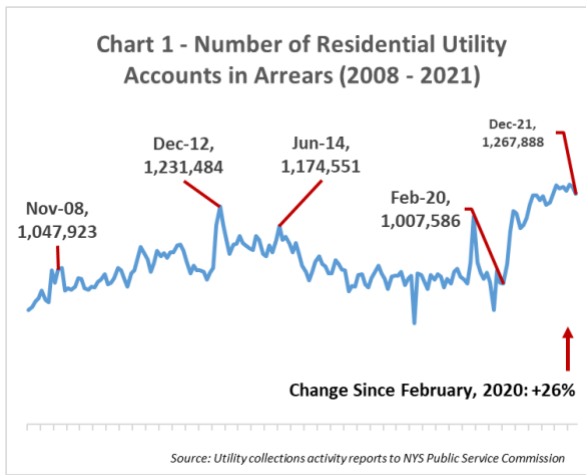
I have come before you today to ask for an extraordinary remedy to an historically dire crisis. It is PULP's best guess based on our expertise in utility issues and our partnerships with our colleagues facing similar crises across the country, that the solution we have placed before is not only necessary but the best model to achieve a commonsense, equitable and fair resolution to this crisis. Finally, I do not mean to forecast doom and gloom, but absent a commonsense and orderly resolution, more

than a million households will be facing service shutoffs at the same time, which would overwhelm the capacity of the social services departments, HRA in NYC, the Department of Public Service, PULP and such legal aid and legal services groups that will have to help them. We have never faced a shutoff crisis of this magnitude, and do not forget that when this shutoff tidal wave occurs in late May or early June, New York will still be suffering through the massive eviction tidal wave and the foreclosures. So, I am asking you today to solve the utility arrears crisis in this Budget and remove more than a million households from the fear of losing heat, light, water and connections to the education, medicine, and the workplace.

Thank you.

Public Utility Law Project of New York, Inc. Monthly Residential Electric and Gas Utility Customer Arrears Report^{2,3,4} (December 2021)

Month	Ending Balance		Monthly Change				Change Since February 2020			
	Accounts in Arrears	Amount in Arrears	Change		Dollars		Accounts		Dollars	
			Accounts	%	Amount	%	Amount	%	Amount	%
February, 2020	1,007,586	\$775 Million								
March	1,063,585	\$817 Million	55,999	6%	\$42.2 Million	5%	55,999	6%	\$42.2 Million	5%
April	1,160,718	\$881 Million	97,133	9%	\$64.3 Million	8%	153,132	15%	\$106.6 Million	14%
May	1,219,502	\$954 Million	58,784	5%	\$72.8 Million	8%	211,916	21%	\$179.4 Million	23%
June	1,210,717	\$1001 Million	-8,785	-1%	\$46.8 Million	5%	203,131	20%	\$226.2 Million	29%
July	1,168,327	\$1038 Million	-42,390	-4%	\$36.5 Million	4%	160,741	16%	\$262.7 Million	34%
August	1,178,145	\$1070 Million	9,818	1%	\$32.8 Million	3%	170,559	17%	\$295.5 Million	38%
September	1,197,277	\$1105 Million	19,132	2%	\$34.7 Million	3%	189,691	19%	\$330.3 Million	43%
October	1,237,067	\$1176 Million	39,790	3%	\$70.8 Million	6%	229,481	23%	\$401.1 Million	52%
November	1,264,540	\$1196 Million	27,473	2%	\$20.1 Million	2%	256,954	26%	\$421.1 Million	54%
December	1,263,742	\$1247 Million	-798	0%	\$51.1 Million	4%	256,156	25%	\$472.2 Million	61%
January, 2021	1,249,728	\$1285 Million	-14,014	-1%	\$37.5 Million	3%	242,142	24%	\$509.7 Million	66%
February	1,262,551	\$1336 Million	12,823	1%	\$51.3 Million	4%	254,965	25%	\$561. Million	72%
March	1,236,492	\$1397 Million	-26,059	-2%	\$61.3 Million	5%	228,906	23%	\$622.3 Million	80%
April	1,243,299	\$1455 Million	6,807	1%	\$57.6 Million	4%	235,713	23%	\$679.9 Million	88%
May	1,267,669	\$1516 Million	24,370	2%	\$61.1 Million	4%	260,083	26%	\$741.1 Million	96%
June	1,293,548	\$1580 Million	25,879	2%	\$64.1 Million	4%	285,962	28%	\$805.1 Million	104%
July	1,283,205	\$1661 Million	-10,343	-1%	\$80.9 Million	5%	275,619	27%	\$886. Million	114%
August	1,287,690	\$1669 Million	4,485	0%	\$8.4 Million	1%	280,104	28%	\$894.5 Million	115%
September	1,278,289	\$1705 Million	-9,401	-1%	\$35.8 Million	2%	270,703	27%	\$930.3 Million	120%
October	1,295,310	\$1722 Million	17,021	1%	\$17.3 Million	1%	287,724	29%	\$947.6 Million	122%
November	1,288,944	\$1736 Million	-6,366	0%	\$13.4 Million	1%	281,358	28%	\$961. Million	124%
December	1,267,888	\$1728 Million	-21,056	-2%	\$7.7 Million	0%	260,302	26%	\$953.3 Million	123%

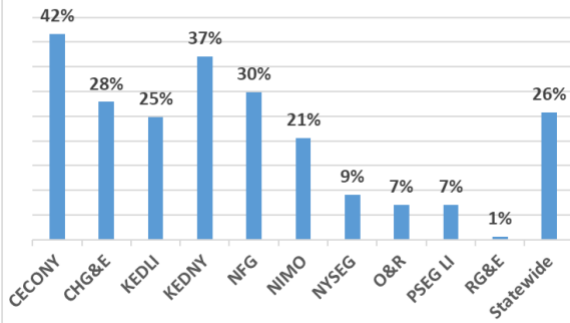


² Includes the residential customers of Central Hudson Gas & Electric, Consolidated Edison, National Fuel Gas, National Grid NYC Gas (Brooklyn Union Gas), National Grid Long Island Gas, National Grid Upstate (Niagara Mohawk), New York State Electric & Gas, Orange & Rockland Utilities, PSEG Long Island (LIPA) and Rochester Gas & Electric.

³ Source: Monthly Utility Collections Activity Reports (CARs) submitted to New York State Public Service Commission.

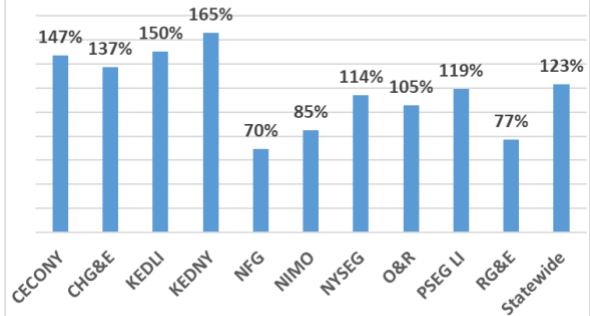
⁴ Central Hudson arrears were unavailable for September – December 2021. For comparison purposes, August arrears were also used for September - December 2021.

Chart 3 - Percent Change in Number of Residential Accounts in Arrears (By Utility, February 2020 - December 2021)



Source: Utility collection activity reports submitted to NYS Public Service Commission

Chart 4 - Percent Change in Arrears Owed By Residential Customers (By Utility, February 2020 to December 2021)



Source: Utility collection activity reports submitted to New York State PSC.