Committee on Consumer and Worker Protection

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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION**

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**COMMITTEE ON CONSUMER AND WORKER PROTECTION**

**Hon. Marjorie Velázquez, *Chair***

**July 13, 2022**

**INT. NO. 372-A:** By The Speaker (Council Member Adams) and Council Members Yeger, Louis, Nurse, Krishnan, Narcisse, Abreu, Restler, Ossé, De La Rosa, Dinowitz and Williams (by request of the Manhattan Borough President)

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the creation of an office of the utility advocate

**INT. NO. 506-A:** By Council Members Rivera, Louis, Hudson, Hanif, Brooks-Powers, Nurse, Abreu, Brewer, Narcisse, Restler, Won, Farías, Ossé, De La Rosa, Dinowitz and Krishnan (by request of the Bronx Borough President)

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of consumer and worker protection to implement an outreach and education campaign on facilities that deceptively advertise or are otherwise misleading when offering reproductive health services

**RES. NO. 162:** By Council Members Lee, Louis, Nurse, Yeger, Kagan, Menin, Marte, Farías, Williams, Holden, Brooks-Powers, Schulman, Dinowitz, Ossé, Narcisse, Richardson Jordan, Bottcher, Abreu, Restler, Avilés, Hudson, De La Rosa and Ariola

TITLE: A Resolution calling on the New York State Legislature to pass, and the Governor to sign, amendments to article 4 of the Public Service Law to prevent a utility's rate case from exceeding a certain percentage each year.

**RES. NO. 172:** By Council Members Salamanca, Yeger, Nurse, Narcisse, Hudson, Ossé, De La Rosa, Dinowitz and Ariola

TITLE: A Resolution calling on New York State to increase the number of Commissioners on the Public Service Commission and permit New York City to appoint two of its Commissioners

**RES. NO. 173-A:** By Council Members Ung, Yeger, Louis, Nurse, Narcisse, Restler, Ossé, De La Rosa, Dinowitz, Williams and Ariola

TITLE: Resolution calling upon the Governor and New York State Legislature to expand financial relief programs to assist City residents struggling to pay their utility bills.

**RES. NO. 174-A:** By Council Members Velázquez, Yeger, Ung, Nurse, Narcisse, Bottcher, Restler, Ossé, Louis, De La Rosa and Dinowitz

TITLE: Resolution calling upon Consolidated Edison to improve communication with City residents about increases in utility costs

1. **INTRODUCTION**

On July 13, 2022, the Committee on Consumer and Worker Protection, chaired by Council Member Marjorie Velázquez, held a vote on the following bills: (1) Proposed Introduction Number 372-A (Prop. Int. 372-A), in relation to the creation of an office of the utility advocate; (2) Proposed Introduction Number 506-A (Prop. Int. 506-A), in relation to requiring the department of consumer and worker protection to implement an outreach and education campaign on facilities that deceptively advertise or are otherwise misleading when offering reproductive health services; (3) Resolution Number 162 (Res. 162), calling on the New York State Legislature to pass, and the Governor to sign, amendments to article 4 of the Public Service Law to prevent a utility's rate case from exceeding a certain percentage each year; (4) Resolution Number 172 (Res. 172), calling on New York State to increase the number of Commissioners on the Public Service Commission and permit New York City to appoint two of its Commissioners; (5) Proposed Resolution Number 173-A (Prop Res. 173-A), calling upon the Governor and New York State Legislature to expand financial relief programs to assist City residents struggling to pay their utility bills; and (6) Proposed Resolution Number 174-A (Prop. Res. 174-A), calling upon Consolidated Edison to improve communication with City residents about increases in utility costs. At the vote, the Committee voted 6 in favor, 0 opposed and 0 abstentions.

The Committee previously heard testimony on these bills from the Department of Consumer and Worker Protection (DCWP), advocacy organizations, and other interested parties.

1. **CON EDISON**

Founded in 1823, Consolidated Edison Company of New York, Inc. (ConEd), formerly known as the New York Gas Light company, is one of the world’s largest energy delivery systems providing energy in the form of electric, gas, and steam services to about 10 million people within the New York City and Westchester County areas.[[1]](#footnote-1) ConEd is an investor-owned utility (IOU), so the company prioritizes sufficient net earnings to provide a return to investors and attract additional capital investment. In 2020, ConEd reported $10.647 billion in operating revenues, with total assets amounting to $50.967 billion.[[2]](#footnote-2) As ConEd is an energy company that provides utility services to millions of people, there is strict regulation and oversight of the company at the federal, state, and municipal levels.[[3]](#footnote-3)

ConEd’s rates and terms of service are governed by the New York State Public Service Commission (PSC), which regulates the state’s electric, gas, and steam utilities, while federally, ConEd complies with the provisions set forth by the Federal Energy Regulatory Commission (FERC) Standards of Conduct.[[4]](#footnote-4) The FERC, among other things, regulates the transmission and wholesale sales of electricity in interstate commerce, the transmission and sale of natural gas for resale in interstate commerce, and has the authority to impose penalties.[[5]](#footnote-5) ConEd’s rates for services are determined through a public rate making process.[[6]](#footnote-6) ConEd files their rate proposal with the PSC, supported by expert witnesses, testimony and exhibits.[[7]](#footnote-7) Within 11 months, a decision on the proposal is required by Public Service Law.[[8]](#footnote-8) During those 11 months, interested parties and interveners can ask ConEd questions regarding their proposal, provide expert witnesses to counter ConEd’s claims and requests, and ultimately settle or litigate the case.[[9]](#footnote-9)

* 1. **ConEd’s Billing System**

For customers, ConEd’s bill is split into three categories of costs.[[10]](#footnote-10)

1. *Supply Charge* – The supply charge reflects the amount power generators charge ConEd to supply electricity to its customers. Most of the electricity consumed in New York City is generated by the burning of natural gas. When the price of natural gas increases, the cost to generate power increases, which increases the supply cost on customers’ bills. The supply charge on a ConEd bill reflects the price charged by power generating companies without any markup from ConEd. A customer's supply charge is the cost of the electricity (measured as MWh[[11]](#footnote-11)) multiplied by the amount that was used by the customer during the bill period. Customer supply costs are also affected by ConEd’s hedging program, the purpose of which is to mitigate supply price fluctuations.[[12]](#footnote-12)
2. *Delivery Charge* - This portion of the bill reflects the operation of the energy system, investments in energy efficiency, reliability, resiliency, and public improvement projects requested by government entities. ConEd pays $2.5 billion in property taxes annually to municipal and state entities, a cost that ConEd passes through to consumers.[[13]](#footnote-13) It is within this category that ConEd earns a regulated rate of return that is approved by the NYS Public Service Commission. In January 2022, as a result of the NYPSC approved 2019 investment filing, a 4% increase in the electric delivery portion of the bill (for a typical residential customer) went into effect.[[14]](#footnote-14)
3. *Taxes* –A small portion of a customer’s bill is from taxes, including sales tax, gross receipt taxes, and other tax surcharges.[[15]](#footnote-15)
	1. **January 2022 Utility Bill Increases**

In January 2022, City residents experienced dramatic and unexpected increases in their ConEd bills. The central cause for the increase in customers’ bills was an increase in the cost of energy (the supply charge portion of a resident’s bill), which may have been exacerbated by the shutdown of the Indian Point nuclear power plant, once a provider of 25% of the City’s electricity at a stable price.[[16]](#footnote-16) According to ConEd, the average energy price charged by power generators increased from $50 per MWh in December 2021 to $140 per MWh in January of 2022.[[17]](#footnote-17) This increase, coupled with the 10% increase in customer usage in January, resulted in large monthly increases for some customers.[[18]](#footnote-18) Natural gas prices have spiked worldwide for a myriad of reasons, including due to the increased demand for heating during the coldest winter months, and the impact of the Russian invasion of Ukraine on energy markets.[[19]](#footnote-19) NYC’s electric grid is especially vulnerable to this price shock because 70 percent of the City’s electricity is generated by power plants that burn fossil fuels, as opposed to renewable energies like wind, solar, and hydroelectric power that are more insulated from volatile spikes.[[20]](#footnote-20)

The increase in residents’ January 2022 bills caused a public outcry, as many City residents were shocked at the increase in their ConEd bills. Many City residents are still struggling due to the economic impact of the pandemic, and are unable to afford the increase in their utility bills. According to New York State Comptroller Thomas DiNapoli, the restaurant and retail industry are each employing over 30,000 fewer employees in March 2022 than in March 2020.[[21]](#footnote-21)[[22]](#footnote-22) The NYC Independent Budget Office predicts that New York City will not recover all of the jobs lost in 2020 until 2025.[[23]](#footnote-23) Over 410,000 New Yorkers are 60 days or more behind on ConEd payments, totaling over $800,000 million.[[24]](#footnote-24) The increase of hundreds of dollars in utility bills may therefore force New Yorkers into greater debt. According to Richard Berkley, executive director of the Public Utility Project (PULP), “We’ve never had a level of unpaid utility debt like this…These are unpaid bills that the people owe them have no reasonable likelihood of being able to handle so where we’re creating a multi-generational debt.... It’s a massive crisis.”[[25]](#footnote-25) Utility arrears in NYS have increased by over $1 billion since the start of the COVID-19 pandemic.[[26]](#footnote-26)

In the spring 2020, NYS enacted a utility shut-off moratorium to protect customers unable to pay their utility bills. The moratorium expired on December 21, 2021,[[27]](#footnote-27) however, and as of April 15, 2022, utilities are allowed to shut off heat and electricity.[[28]](#footnote-28) According to David Springe, executive director of the National Association of State Utility Consumer Advocates, “People end up unable to keep their home or apartment or dwelling because they lose electricity or they lose water, they end up homeless.”[[29]](#footnote-29)

* 1. **Existing Financial Relief Programs**

There are a number of NYS financial relief programs available to New Yorkers that are struggling to pay their utility bills. The Home Energy Assistance Program (HEAP) helps qualifying low-income New Yorkers pay their heating bills [[30]](#footnote-30). Qualifying applicants to HEAP can receive up to $751 in heating assistance, but eligible customers must be receiving SNAP, Temporary Assistance for Needy Families, or Supplementary Security Income.[[31]](#footnote-31) From October 1, 2021 through February 23, 2022, NYS has issued over 1.4 million regular benefits totaling $212 million through HEAP.[[32]](#footnote-32)An Emergency HEAP program was additionally created to help New Yorkers at risk of a utility shutoff.[[33]](#footnote-33) The $90 million program was federally funded, and as of February 23, 2022, nearly $25 million has been disbursed to around 28,000 New Yorkers.[[34]](#footnote-34) The HEAP Regular Arrears Supplement benefit helps residents pay for gas and electric utility arrears. The Regular Arrears Supplement is a one-time benefit funded by the federal American Rescue Plan Act of 2021.[[35]](#footnote-35) The supplement is a benefit based on the actual amount of a customer’s current utility arrears, up to a maximum of $10,000 per applicant household. Benefits are paid directly to the household’s gas and/or electric utility vendor. Despite the existence of these programs, however, it can be difficult for New Yorkers to qualify and access aid. According to Megan Sergi, program director at the Center for Urban Community Services, “We’ve seen some people who have been given a lot of assistance if they fit in all the right buckets and checkmarks…You have to meet a lot of criteria to fit the right profile.”[[36]](#footnote-36)

To meet the increased utility debt New Yorkers are experiencing, the Association for the Advancement of Retired Persons (AARP) and Public Utility Law Project wrote a letter to Governor Hochul requesting $1.25 billion be allocated to address energy utility arrears from funding NYS received through the American Rescue Plan.[[37]](#footnote-37) According to AARP’s New York State Director Beth Finkel, “any amount short of $500 million to address utility arrears will leave New Yorkers in the dark.[[38]](#footnote-38) On April 9, 2022, Governor Hochul announced that the NYS Fiscal Year 2023 State Budget would include $250 million in funding to eliminate pandemic-related utility arrears for low-income households.[[39]](#footnote-39)

On June 16, 2022, Governor Hochul announced a new state program that will allocate a total of $557 million to help low-income electric and gas utility customers pay off past utility bills.[[40]](#footnote-40) Under the Electric and Gas Utility Bill Credit Program, the PSC is utilizing the $250 million from the Fiscal Year 2023 Enacted State Budget to provide a one-time credit to customers enrolled in the Energy Affordability Program that will eliminate unpaid utility bills that accrued through May 1, 2022.[[41]](#footnote-41) NYS predicts that over 327,000 low-income New Yorkers will directly benefit from the program. The one-time bill credit will be applied to affected customers’ bills by the utilities, requiring no action by existing customers to receive the benefit.[[42]](#footnote-42)

* 1. **Further Utility Price Increases**

In January 2022, Con Ed submitted a new rate case to the PSC. The utility requested permission to raise residents’ electric bills by 11.2 percent and gas bills by 18.2 percent in 2023.[[43]](#footnote-43) According to ConEd, this proposed rate case increase will enable the utility to ensure safe, reliable and resilient electric and gas systems, fund investments to bring large-scale clean energy resources to customers, and support economic growth in NYC.[[44]](#footnote-44) According to Richard Berkley of PULP,

Con Edison’s recent request of a $1.7 billion increase in rates is almost three times the size of their 2019 case, with delivery rates increasing at three times the rate of inflation or the social security increase fixed income households received before this winter’s massive bill surge...More than 400,000 of Con Ed’s residential customers were already deep in debt to the utility before these excessive new charges that will worsen the continuing economic harms of COVID-19. This is a time for the Company to stand with its customers and share some of this financial burden, not exacerbate it.[[45]](#footnote-45)

ConEd’s 2023 rates are currently going through the public rate making process, and the final rates for the utility have not yet been confirmed.

The PSC has also predicted that City residents will experience an increase in their utility bills in the Summer of 2022. According to the PSC, “Overall, the statewide average residential full-service commodity rate is expected to be about 12 percent higher than last summer, but may vary depending on the customer’s location in the state.”[[46]](#footnote-46) ConEd has stated that City customers may see an increase of 11.5 percent this summer due to higher energy supply prices and delivery chargers.[[47]](#footnote-47)

* 1. **Accountability for Customers**

In October 2020, Governor Cuomo appointed a Special Counsel for Ratepayer Protection, a state watchdog for utility customers. This position – a consumer advocate and watchdog over utilities – had already existed in 43 other states before a position was established in New York.[[48]](#footnote-48) The position was to include representing the interests of residential and commercial customers, and to hold hearings, conduct investigations, and participate in PSC proceedings.[[49]](#footnote-49) The Special Counsel was given subpoena power to compel testimony or obtain necessary records, ensuring utilities were responding honestly and adequately to customers.[[50]](#footnote-50) The Special Counsel, former NYC Council Member Rory Lancman, is now stepping down, and a spokesperson for the Governor has said his replacement would more closely model a traditional ratepayer advocate.[[51]](#footnote-51) State Senator Diane Savino and Assembly Member Jeff Dinowitz passed legislation to create a consumer public advocate on the PSC, but the Governor vetoed the legislation, saying it was unnecessary and duplicative.[[52]](#footnote-52)

1. **PREGNANCY SERVICE CENTERS**

Pregnancy Service Centers (PSCs), also known as Crisis Pregnancy Centers (CPCs), advertise pregnancy related services and typically offer free pregnancy tests, while several offer ultrasounds.[[53]](#footnote-53) Providing these tests and ultrasounds helps foster an impression among women who visit these centers that PSCs are medical facilities; however, they are not actually licensed medical facilities. How PSCs hold themselves out to the public makes it difficult to recognize that unlike medical providers, which treat pregnant women and are subject to rigorous oversight by the State Department of Health, PSCs are not regulated by the government.[[54]](#footnote-54) PSCs also generally do not formally disclose to their clients whether they do or do not provide abortion or referrals for abortion; provide FDA-approved emergency contraception or referrals to organizations who provide emergency contraception; or provide prenatal care or referrals for prenatal care.

While PSCs allude to providing comprehensive reproductive care, they often engage in counseling that is misleading or false.[[55]](#footnote-55) The counseling services provided on abortion and contraception falls outside of accepted medical standards and guidelines for providing evidence-based information and treatment options to patients.[[56]](#footnote-56) PSCs have been found to suggest a link between abortion and subsequent serious mental health problems, despite multiple studies invalidating this assertion.[[57]](#footnote-57) PSCs cite debunked medical literature showing an association between abortion and breast cancer, and portray abortion as dangerous or even deadly.[[58]](#footnote-58) Notably, it’s been reported that PSCs outnumber licensed abortion clinics in the nation three to one.[[59]](#footnote-59)

In 2011, the City Council enacted Local Law 17 of 2011 (“LL 17/2011”) which regulated Pregnancy Service Centers (PSCs). Prior to the enactment of LL 17/2011, the Council heard from several witnesses about the harmful and deceptive practices at PSCs. An abortion counselor testified:

“There have been accounts . . . from my clients about these misrepresentations being taken even a step further, where some girls are set up for procedures with appointments, only to have these appointments canceled and rescheduled time and time again, in an attempt to prolong the process past a point when a woman can have access to a real and safe abortion procedure by a licensed provider.”[[60]](#footnote-60)

At a Council hearing in November of 2017 on the Administration’s enforcement of LL 17/2011, a healthcare educator from Harlem provided testimony detailing the experience of a seventh grade student who received services at a PSC across the street from a Planned Parenthood:

“At the center, she was ‘counseled’ by a staff person who told her [an] abortion would kill her unborn baby by ripping it apart and she was shown a video of a fetus in a more advance stage of development inside the womb and then another of dismembered fetuses. She was made to feel shamed for feeling that abortion was an answer to her unplanned pregnancy.”[[61]](#footnote-61)

PSCs often choose to locate in close proximity to hospitals or reproductive health clinics that do have a licensed medical provider on staff.[[62]](#footnote-62) PSCs in New York City are often located in the same building, across the street, or within walking distance from Planned Parenthood clinics,[[63]](#footnote-63) and a PSC mobile facility has been known to operate outside a reproductive healthcare clinic in the Bronx.[[64]](#footnote-64)

PSCs also may confuse potential clients through branding and marketing. Many of the PSCs in New York City have names that sound like certified reproductive health clinics, such as Expectant Mother Care and Pregnancy Resource Services.[[65]](#footnote-65) Additionally, PSCs have previously been listed in the Yellow Pages under categories titled “abortion” or “medical.”[[66]](#footnote-66) Employees working at PSCs, while not licensed clinicians, often wear white coats and see women in exam rooms to further give the false appearance that they are legitimate medical facilities.[[67]](#footnote-67)

Furthermore, PSCs are not required to abide by confidentiality rules applicable to licensed medical facilities, such as those contained in the federal Health Insurance Portability and Accountability Act (HIPAA). [[68]](#footnote-68)PSCs often request personal information, such as date of birth and employment information, and have used this information to harass women. In some cases, PSC employees have turned up at patient workplaces.[[69]](#footnote-69) This breach of confidentiality is of particular concern for women in abusive relationships who are often subject to attempts by their partners to control their reproductive decisions.[[70]](#footnote-70)

* + - 1. **Local Law 17 of 2011**

In 2011, the City Council enacted LL 17/2011 which regulated PSCs. PSCs are defined in the law as “…a facility, including a mobile facility, the primary purpose of which is to provide services to women who are or may be pregnant, that either: (1) offers obstetric ultrasounds, obstetric sonograms or prenatal care; or (2) has the appearance of a licensed medical facility.”[[71]](#footnote-71) The law does not apply to a PSC “…that is licensed by the state of New York or the United States government to provide medical or pharmaceutical services or where a licensed medical provider is present to directly provide or directly supervise the provision of all services.”[[72]](#footnote-72) The law lists several factors to help identify whether a facility has “the appearance of a licensed medical facility”:[[73]](#footnote-73)

The pregnancy services center:

(a) offers pregnancy testing and/or pregnancy diagnosis;

(b) has staff or volunteers who wear medical attire or uniforms;

(c) contains one or more examination tables;

(d) contains a private or semi-private room or area containing medical supplies and/or medical instruments;

(e) has staff or volunteers who collect health insurance information from clients; and

(f) is located on the same premises as a licensed medical facility or provider or shares facility space with a licensed medical provider.

The law further states that “it shall be prima facie evidence that a facility has the appearance of a licensed medical facility if it has two or more of the factors,” listed above. Under the law, PSCs are required to make a number of disclosures to patients, including:

(a) that the New York City Department of Health and Mental Hygiene encourages women who are or who may be pregnant to consult with a licensed medical provider;

(b) whether the PSC does or does not have a licensed medical provider on staff who provides or directly supervises the provision of all of the services at such pregnancy services center;

(c) whether the PSC does or does not provide referrals for abortion;

(d) whether the PSC does or does not provide referrals for emergency contraception; and

(e) whether the PSC does or does not provide referrals for prenatal care.

 Following the passage of LL 17/2011, the constitutionality of the law was challenged in the Court of Appeals for the Second Circuit.[[74]](#footnote-74) The Court held that only the disclosure regarding the presence of licensed medical providers survived First Amendment scrutiny. The United States Supreme Court denied the City’s petition for review of the decision.[[75]](#footnote-75)

 During a Council hearing in 2017 on the Administration’s enforcement of LL17/2011, the Department of Consumer Affairs (now the Department of Consumer and Worker Protection) testified that they received 23 complaints about nine purported PSC locations failing to post the licensed medical provider disclosure.[[76]](#footnote-76) The Department conducted 21 inspections, and two inspections resulted in the issuance of violations for the PSC failing to post the required license medical provider disclosure.[[77]](#footnote-77) However, the majority of facilities the city investigated did not meet the legal definition of a PSC and were therefore not required to post the disclosure.[[78]](#footnote-78)

* + - 1. **NYS Legislation**

In May 2022, a draft opinion of the Supreme Court’s plan to strike down *Roe v. Wade* was leaked to the press.[[79]](#footnote-79) The opinion is a repudiation of the 1973 *Roe v. Wade* decision, which guaranteed federal constitutional protections for abortion rights.[[80]](#footnote-80) In response to the impending overturning of *Roe,* the New York State legislature passed a package of bills to further enhance abortion protections in New York. On May 31, 2022, the NYS Senate passed S.470, sponsored by NYS Senator Brad Hoylman.[[81]](#footnote-81) The Assembly version of the bill, A.5499, had previously passed in April 2022.[[82]](#footnote-82) The bill authorizes the Commissioner of Health to conduct a study and issue a report examining the unmet health and resources needs facing pregnant women in New York, and the impact of limited services pregnancy centers on the ability of women to obtain accurate health care information. As part of this report, the Commissioner will gather information about the services provided by PSCs. This will include, but is not limited to, what services clients most frequently seek at PSCs, the number of women who access such services, whether PSCs collect medical information and how they handle collected medical information, and how PSCs advertise their services. On June 13, 2022, Governor Hochul signed A.5499/S.470 into law.[[83]](#footnote-83)

* + - 1. **Other Relevant Legislation**

In 2015, California enacted AB775, the Reproductive FACT (Freedom, Accountability, Comprehensive Care, and Transparency) Act.[[84]](#footnote-84) The Act requires both licensed and unlicensed facilities providing family planning or pregnancy-related services to disseminate public notices. Licensed facilities are required to post the following notice: “California has public programs that provide immediate free or low-cost access to comprehensive family planning services (including all FDA-approved methods of contraception), prenatal care, and abortion for eligible women. To determine whether you qualify, contact the county social services office at [insert the telephone number].”[[85]](#footnote-85) Unlicensed covered health facilities were required to disseminate a notice to clients stating, “This facility is not licensed as a medical facility by the State of California and has no licensed medical provider who provides or directly supervises the provision of services.”[[86]](#footnote-86) In response to the enactment the FACT Act, The National Institute of Family and Life Advocates (NIFLA) and two other religiously-affiliated pro-life PSCs sued the state of California, seeking to enjoin enforcement. NIFLA argued that the Act violates their free speech and free exercise rights under the First Amendment.[[87]](#footnote-87) The U.S. District Court for the Southern District of California denied NIFLA’s motion for a preliminary injunction.[[88]](#footnote-88) The Ninth Circuit court subsequently affirmed the District Court’s ruling, confirming that the District Court had not abused its discretion by denying the injunction.[[89]](#footnote-89) NIFLA filed a petition for the Supreme Court to hear the case. In *NIFLA, et al., v. Xavier Becerra, Attorney General of California, et al.*, the Supreme Court ruled in a 5-4 decision that the notices required by the FACT Act violated the First Amendment.[[90]](#footnote-90) The Supreme Court reversed the Ninth Circuit’s decision and remanded the case.[[91]](#footnote-91)

1. **LEGISLATIVE ANALYSIS**

**Int. 372-A, to amend the New York city charter, in relation to the creation of an office of the utility advocate**

This bill would establish an Office of the Utility Advocate, to be created in the Office of the Mayor or any other department or office that has a mayorally-appointed head. The Office would be charged with receiving feedback from City customers on their electric, gas, and steam utility providers; advocating for utility customers at public hearings; assisting utility customers with accessing financial help to pay their utility bills; and educating utility customers on their rights and methods to lower their utility bills. The bill would take effect on September 1, 2023.

**Int. 506-A, in relation to requiring the department of consumer and worker protection to implement an outreach and education campaign on facilities that deceptively advertise or are otherwise misleading when offering reproductive health services**

This bill would require the city to undertake a public education program about deceptive advertisements and misleading information provided by facilities that represent that they provide reproductive health services. It would be required to include information on what services these facilities typically provide, how they advertise their services, how these facilities can impact timely and safe access to pregnancy care, and how a person can file a complaint about deceptive practices by such facilities. This bill would take effect on the same date as Proposed Int. No. 474-A, which is in the Committee on Civil and Human Rights. That bill would take effect in 90 days.

**Res. 162**

            This resolution calls on the New York State Legislature to pass amendments to prevent a utility's rate case from exceeding a certain percentage each year. Beyond the Public Service Commission rejecting a rate case proposal, there are no mechanisms to prevent a utility from proposing an exorbitantly high rate case. To further enhance consumer protections, the resolution calls on NYS legislators to set a percentage cap an annual rate case cannot exceed.

**Res. 172**

            This resolution calls on New York State to increase the number of Commissioners on the Public Service Commission, and permit New York City to appoint two of the Commissioners. The Public Service Commission approves rate increases for utilities and ensures New Yorkers receive adequate service. While ConEd holds a near monopoly over the electricity market in NYC, the City does not have the power to appoint any Commissioners to the PSC. By granting the City the power to appoint Commissioners, the City would gain greater oversight over the PSC, and utilities would become more accountable to the City.

**Res. 173-A**

            This resolution calls on the Governor and New York State Legislature to expand financial relief programs to assist City residents struggling to pay their utility bills. Outstanding utility debt could impair City residents' credit and the City's economic recovery from the pandemic. While advocates called for the State to allocate $1.25 billion to address energy utility arrears, the recently adopted budget included only $250 million. Further state funding should be allocated to assist New Yorkers unable to pay their utility costs.

**Res. 174-A**

            This resolution calls on Consolidated Edison to improve communication with City residents about increases in utility costs. Many City residents were shocked to find the dramatic rise in their utility bills in January 2022. The resolution calls for improved communication to ensure all residents are aware of impending price increases.

Int. No. 372-A

The Speaker (Council Member Adams) and Council Members Yeger, Louis, Nurse, Krishnan, Narcisse, Abreu, Restler, Ossé, De La Rosa, Dinowitz and Williams (by request of the Manhattan Borough President)

A Local Law to amend the New York city charter, in relation to the creation of an office of the utility advocate

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the charter of the city of New York is amended by adding a new section 20-n to read as follows:

§ 20-n. Office of the utility advocate. a. For the purposes of this section, the term “utility” means a provider of electric, gas, or steam service in the city.

b. The mayor shall establish an office of utility advocate. Such office may be established within any office of the mayor or as a separate office of any department the head of which is appointed by the mayor. Such office shall be headed by an individual who shall be appointed by the mayor or, if the office is established within an agency other than the office of the mayor, by the head of such agency. Such office shall:

1. Establish a website, email address and telephone number to receive communications from utility customers on their utility services;

2. Advocate on behalf of utility customers by providing testimony for public hearings. Such public hearings shall include, but need not be limited to, rate cases conducted by the public service commission;

3. Conduct outreach and provide educational materials to the public on choosing, starting and stopping utility services; methods to lower the cost of their utility bills; and utility complaint procedures; and

4. Assist consumers with accessing and navigating financial aid available to cover utility costs.

c. In performing the duties of the office, the director shall regularly consult with 311; the department of social services; the office of financial empowerment at the department of consumer and worker protection; the mayor’s office of long-term planning and sustainability, or its successor office or agency; and any other agency or office the director deems necessary to further the duties of the office.

§ 2. This local law takes effect on September 1, 2023, except that the mayor shall take such measures as are necessary for the implementation of this local law, before such date.

SJ/DSS

LS #514, 5845, 8356, 8423

7/6/22

Int. No. 506-A

By Council Members Rivera, Louis, Hudson, Hanif, Brooks-Powers, Nurse, Abreu, Brewer, Narcisse, Restler, Won, Farias. Ossé, De La Rosa, Dinowitz and Krishnan (by request of the Bronx Borough President)

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of consumer and worker protection to implement an outreach and education campaign on facilities that deceptively advertise or are otherwise misleading when offering reproductive health services

..Body

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 3-119.6 of the administrative code of the city of New York, as added by a local law of the city of New York for the year 2022, relating to a public information and outreach campaign regarding safe access to reproductive health care, as proposed in introduction number 474-A for the year 2022, is amended by adding a new paragraph 8 to read as follows:

(8) (a) Facilities that deceptively advertise or are otherwise misleading when offering reproductive health services, including information related to: (i) services such facilities do and do not typically provide; (ii) how such facilities typically depict their services to the public; (iii) the effect such facilities have on timely and safe access to pregnancy related services; (iv) how to make a complaint regarding deceptive behaviors by such facilities.

(b) The information required by this paragraph shall be made available to the public and may be updated as necessary with relevant findings by the state of New York and organizations dedicated to providing comprehensive reproductive health services; and

§ 2. This local law takes effect on the same date that a local law amending the administrative code of the city of New York, relating to a public information and outreach campaign regarding safe access to reproductive health care, as proposed in introduction number 474-A for the year 2022, takes effect

SJ/RMC/DSS

LS #2485

7/6/22

Res. No. 162

..Title

Resolution calling on the New York State Legislature to pass, and the Governor to sign, amendments to article 4 of the Public Service Law to prevent a utility’s rate case from exceeding a certain percentage each year.

Body

By Council Members Lee, Louis, Nurse, Yeger, Kagan, Menin, Marte, Farías, Williams, Holden, Brooks-Powers, Schulman, Dinowitz, Ossé, Narcisse, Richardson Jordan, Bottcher, Abreu, Restler, Avilés, Hudson, De La Rosa and Ariola

Whereas, The New York Public Service Commission (PSC) regulates the State’s electric, gas, steam, telecommunications and water utilities; and

Whereas, The Commission also oversees the cable industry; and

Whereas, The Commission is housed within the Department of Public Service (DPS) and the Chair, designated by the Governor, also serves as the Chief Executive Officer of the Department; and

Whereas, A key responsibility of the PSC is approving rate increases, proposed by the various utility companies, and ensuring that New Yorkers are receiving adequate service; and

Whereas, In New York City, Consolidated Edison of New York (ConEd) holds a virtual monopoly over the electricity market, serving all parts of New York City (except for Rockaway, Queens), and Westchester County; and

Whereas, Although there are alternative electricity suppliers, all of these Energy Service Companies (ESCOs) still rely on existing utilities’ infrastructure to deliver the electricity; and

Whereas, Therefore, most New York City residents are at the mercy of ConEd’s billing practices; and

Whereas, The PSC exists to offer some protection to consumers – being a check on superfluous rate increases and ensuring a consistent and reliable delivery of utilities; and

Whereas, However, over the past few years, the PSC has approved rate case increases for ConEd, and New Yorkers have had their electricity bills soar; and

Whereas, This is despite the fact that New York City residents have experienced numerous blackouts and decreased services, even during heatwaves; and

Whereas, In fact, while investigating ConEd’s preparation for tropical Storm Isaias and its ability to restore power after the storm hit, the DPS threatened to revoke its franchise; and

Whereas, Despite these demonstrated failures in service, the PSC continues to approve rate case increases; and

Whereas, According to advocates such as Susan Lerner from Common Cause NY, the PSC Commissioners are typically plucked from private industry and are more concerned with industry profit than consumer wellbeing; and

Whereas, ConEd is proposing an 11.2 percent increase in electric rates and an 18.2 percent increase in gas rates starting in January 2023; and

Whereas, According to ConEd, annual increases in utility rates are needed for ConEd to operate its energy system, invest in energy efficiency and public improvement projects and advance NYS’s clean energy transition; and

Whereas, ConEd also pays $2.5 billion in property taxes annually to municipal and state entities, the majority of which goes to the City of New York; and

Whereas, According to ConEd, “the costs of taxes are socialized across our customer base”; and

Whereas, ConEd has therefore acknowledged that part of its annual rate case is for City residents to pay for ConEd’s property taxes; and

Whereas, ConEd reported over $11.716 billion in operating revenues in 2021, up from $10.647 billion in 2020; and

Whereas, City residents have meanwhile struggled to recover from the economic impact of the pandemic; and

Whereas, The NYC Independent Budget Office predicts that New York City will not recover all of the jobs lost in 2020 until 2025; and

Whereas, As ConEd proposes another rate case increase for January 2023, City residents struggling to pay their bills will enter even greater debt; and

Whereas, ConEd is a member of the industry group Edison Electric Institute, which spends millions of dollars annually on state and federal lobbying efforts; and

Whereas, Given its near monopoly status as a utility in NYC, ConEd has near assurance that it will continue to generate profits in future years; and

Whereas, Beyond the PSC rejecting a rate case proposal, there are no mechanisms to prevent a utility from proposing an exorbitantly high rate case; and

Whereas, To enhance consumer protections and hold ConEd and other utilities more accountable, there should be a percentage cap that an annual rate case cannot exceed; and

Whereas, This regulation would prevent utilities from proposing excessive rate case increases, therefore requiring utilities to invest more of their own money to pay taxes or public improvement projects instead of passing these costs on to City residents; now, therefore, be it

Resolved, That the Council of the City of New York on the New York State Legislature to pass, and the Governor to sign, amendments to article 4 of the Public Service Law to prevent a utility’s case rate from exceeding a certain percentage each year.

NM

LS #8424

4/20/2022

Res. No. 172

..Title

Resolution calling on New York State to increase the number of Commissioners on the Public Service Commission and permit New York City to appoint two of its Commissioners

..Body

By Council Members Salamanca, Yeger, Nurse, Narcisse, Hudson, Ossé, De La Rosa, Dinowitz and Ariola

Whereas, The New York Public Service Commission (PSC) regulates the State’s electric, gas, steam, telecommunications and water utilities; and

Whereas, The Commission also oversees the cable industry; and

Whereas, The Commission is housed within the Department of Public Service (DPS) and the Chair, designated by the Governor, also serves as the Chief Executive Officer of the Department; and

Whereas, There may be up to seven commissioners on the PSC, all of which are appointed by the governor and approved by the state Senate; and

Whereas, A full term for a commissioner is six years; and

Whereas, A key responsibility of the PSC is approving rate increases, proposed by the various utility companies, and ensuring that New Yorkers are receiving adequate service; and

Whereas, In New York City, Consolidated Edison (Con Ed) holds a virtual monopoly over the electricity market, serving all parts of New York City (except for Rockaway, Queens), and Westchester County; and

Whereas, Although there are alternative electricity suppliers, all of these Energy Service Companies (ESCOs) still rely on existing utilities’ infrastructure to deliver the electricity; and

Whereas, Therefore, most New York City residents are at the mercy of Con Ed’s billing practices; and

Whereas, The PSC exists to offer some protection to consumers – being a check on superfluous rate increases and ensuring a consistent and reliable delivery of utilities; and

Whereas, However, over the past few years, the PSC has approved rate increases for Con Ed, and New Yorkers have had their electricity bills soar; and

Whereas, This is despite the fact that New York City residents have experienced numerous blackouts and decreased services, even during searing heatwaves; and

Whereas, In fact, while investigating Con Ed’s preparation for tropical Storm Isaias and its ability to restore power after the storm hit, the DPS threatened to revoke its franchise; and

Whereas, In 2018, meanwhile, DPS reached a settlement agreement with Con Ed for $9.5 million, after numerous violations were issued to Con Ed due to its failure to adequately prepare for winter storms earlier that year; and

Whereas, Despite these demonstrated failures in service, the PSC continues to approve rate increases; and

Whereas, According to advocates such as Susan Lerner from Common Cause NY, the PSC Commissioners are typically plucked from private industry and are more concerned with industry profit than consumer wellbeing; and

Whereas, Furthermore, unlike other states, New York’s PSC does not require the body to include a member representing consumers; and

Whereas, New York City should be permitted to appoint at least two members to the board who represent the interests of our City’s consumers; and

Whereas, The City’s appointments should be made by the Mayor with the approval of the New York City Council; now, therefore, be it

 Resolved, That the Council of the city of New York calls on New York State to increase the number of Commissioners on the Public Service Commission and permit New York City to appoint two of its Commissioners.

LMS

LS #8047

4/15/2022

Res. No. 173-A

..Title

Resolution calling upon the Governor and New York State Legislature to expand financial relief programs to assist City residents struggling to pay their utility bills.

..Body

By Council Members Ung, Yeger, Louis, Nurse, Narcisse, Restler, Ossé, De La Rosa, Dinowitz, Williams and Ariola

 Whereas, Consolidated Edison Company of New York (ConEd) supplies energy services to approximately 10 million people within New York City and Westchester County; and

 Whereas, In 2020, ConEd reported $10.647 billion in operating revenues, with total assets amounting to $50.967 billion; and

 Whereas, In January of 2022, City residents experienced dramatic and unexpected increases in their ConEd bills, caused by an increase in in the cost of energy; and

 Whereas, According to ConEd, the average energy price charged by power generators increased from $50 per megawatts per hour (MWh) in December 2022 to $140 per MWh in January of 2022; and

Whereas, This increase, coupled with the 10% increase in customer usage in January of 2022 due to cold weather, resulted in large monthly increases for some customers; and

Whereas, Many City residents are still dealing with the economic devastation caused by the pandemic; and

Whereas, As of February 2022, the City’s unemployment rate was 7 percent, nearly twice the national rate, and the City had regained only 70 percent of its pandemic jobs deficit, in contrast to 91 percent nationally; and

Whereas, Accordingly, many City residents lack the financial resources to pay for such price increases; and

Whereas, Across NYS, almost 1.3 million residential gas and electric customers are 60 or more days behind on their bills, totaling over $1.7 billion; and

Whereas, The current outstanding debt owed to utilities is over double the debt owed before the pandemic; and

Whereas, Over 411,500 City and Westchester residents are 60 or more days behind on their ConEd bills, totaling over $819 million owed; and

Whereas, According to Richard Berkley, executive director of the Public Utility Project, the problem of unpaid utility debt has reached a new high, may result in multi-generational debt and is a “massive crisis”; and

Whereas, As the statewide moratorium on utility shut-offs for nonpayment expired on December 21, 2021, people behind on their utility bills have received termination notices; and

Whereas, According to David Springe, Executive Director of the National Association of State Utility Consumer Advocates, “People end up unable to keep their home or apartment or dwelling because they lose electricity or they lose water, they end up homeless”; and

Whereas, Numerous financial relief programs exist for City residents unable to pay their utility bills; and

Whereas, The Home Energy Assistance Program (HEAP) is a NYS administered relief program to help low-income residents pay the cost of heating their homes; and

Whereas, Qualifying applicants to HEAP can receive up to $751 in heating assistance, but eligible customers must be receiving SNAP, Temporary Assistance for Needy Families, or Supplementary Security Income; and

Whereas, From October 1, 2021 through February 23, 2022, over 1.4 million regular benefits totaling $212 million have been issued through HEAP; and

Whereas, NYS also developed an Emergency HEAP program to provide financial relief to residents facing the risk of a utility shut-off; and

Whereas, The HEAP Regular Arrears Supplement is a benefit for residents that have gas and electric utility arrears; and

Whereas, The Regular Arrears Supplement is a one-time benefit funded by the Federal American Rescue Plan Act of 2021; and

Whereas, The supplement is a benefit based on the actual amount of a customer’s current utility arrears, up to a maximum of $10,000 per applicant; and

Whereas, Despite the existence of these programs, however, qualifying for aid can be difficult; and

Whereas, According to Megan Sergi, program director at the Center for Urban Community Services, “We’ve seen some people who have been given a lot of assistance if they fit in all the right buckets and checkmarks…You have to meet a lot of criteria to fit the right profile”; and

Whereas, The AARP and Public Utility Law Project wrote a letter to Governor Hochul requesting $1.25 billion be allocated to address energy utility arrears; and

Whereas, On April 9, 2022, Governor Hochul announced the allocation of $250 million in utility arrears assistance in the NYS budget; and

Whereas, According to AARP New York State Director Beth Finkel, “any amount short of $500 million to address utility arrears will leave New Yorkers in the dark”; and

Whereas, On June 16, 2022, Governor Hochul announced the creation of the Electric and Gas Utility Bill Credit Program, a $557 million credit to help low-income gas and electric utility customers pay off utility arrears; and

Whereas, Under the program, the PSC is providing a one-time credit to customers enrolled in the Energy Affordability Program, which will eliminate unpaid utility bills through May 1, 2022; and

Whereas, While this program will provide relief to struggling New Yorkers, the program’s funding is not sufficient to match the current need; and

Whereas, Outstanding utility debt will impair City residents’ credit; and

Whereas, New Yorkers in utility arrears will have to choose between housing, medical needs, food or paying off their arrears; and

Whereas, Low to moderate income New Yorkers not in utility arrears may also have difficulty affording ConEd’s high and unexpected January 2022 utility bills; and

Whereas, The communities experiencing the most significant impact of rising utility prices are low-income communities and communities of color, who have been hit hardest by the pandemic; and

Whereas, With reduced economic spending, the City’s recovery from the pandemic will be hampered; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Governor and New York State Legislature to expand financial relief programs to assist City residents struggling to pay their utility bills

NM

LS #8,422

4/19/2022

Res. No. 174-A

..Title

Resolution calling upon Consolidated Edison to improve communication with City residents about increases in utility costs

..Body

By Council Members Velázquez, Yeger, Ung, Nurse, Narcisse, Bottcher, Restler, Ossé, Louis, De La Rosa and Dinowitz

 Whereas, Consolidated Edison Company of New York (ConEd) supplies energy services to around 10 million people within New York City and Westchester County; and

 Whereas, In 2020, ConEd reported $10.647 billion in operating revenues, with total assets amounting to $50.967 billion; and

 Whereas, In January of 2022, City residents experienced dramatic and unexpected increases in their ConEd bills, caused by an increase in the cost of energy; and

 Whereas, According to ConEd, the average energy price charged by power generators increased from $50 per megawatts per hour (MWh) in December 2022 to $140 per MWh in January of 2022; and

Whereas, This increase, coupled with the 10% increase in customer usage in January of 2022 due to cold weather, resulted in large monthly increases for City residents; and

Whereas, City residents reported increases of up to 300 percent in their gas and electric bills, a staggering surge that many New Yorkers cannot afford; and

Whereas, The financial impact of the COVID-19 pandemic is still affecting New Yorkers across the five boroughs; and

Whereas, The NYC Independent Budget Office predicts that New York City will not recover all of the jobs lost in 2020 until 2025; and

Whereas, Families in New York City who are struggling to pay rent should not have to choose between buying groceries and staying warm in their homes during the winter; and

Whereas, The unexpected increase of hundreds of dollars in gas and electric bills will further devastate households and force New Yorkers into greater debt; and

Whereas, ConEd has a robust notification system to alert City residents before major storms of the possibility of power outages; and

Whereas, City residents can sign up for ConEd’s text alert system, which updates residents on the expected severity of impending storms; and

Whereas, The purpose of this notification system is to equip City residents with the necessary time and information to prepare for potential outages; and

Whereas, Many City residents were shocked in February when they saw their gas and electric bills; and

Whereas, Had residents been made aware of the expected increases, they would have had more time to limit their utility usage, decreasing their January utility bills; and

Whereas, As soon as ConEd was aware of the increase in energy costs, they should have made it a priority to develop a comprehensive notification system to alert all New Yorkers about the impending price increases; and

Whereas, To ensure City residents are better informed of potential changes in their utility bills, ConEd should update customers monthly through text, mailed notices, and email on their energy forecasting so City residents know whether their utility bill will remain stable, increase, or decrease; now, therefore, be it,

Resolved, That the Council of the City of New York calls upon Consolidated Edison to improve communication with City residents about increases in utility costs.

NM

LS #8,048

4/18/2022

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