



# Public Utility Law Project of New York, Inc.

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## MEMORANDUM IN SUPPORT A.11427/S.7565

New York State residents pay some of the nation's highest prices for natural gas and electricity for heat and power. The price problem is compounded by energy inefficient housing stock and creates household energy burdens that siphon away household funds that could otherwise be used to improve energy efficiency, make repairs, or address other household needs. This bill enables the state to serve the energy efficiency needs of these homeowners by providing "on-bill recovery" financing, under the auspices of the Green Jobs-Green NY program (A.11427), as well as the research-based energy program standards established in the Green Jobs-Green NY Act of 2009.

Access to energy efficiency is a justice issue for low- to moderate-income homeowners. Often, they cannot afford new homes or new appliances and fixtures that incorporate energy efficient design and qualify for rebates, nor can they afford the cost of retrofits to the inefficient premises where they live. New York State is not in a fiscal position to fund all the energy efficiency retrofits needed to address its aging, inefficient housing stock. Financing from banks and other lenders may not be available or is risky for struggling homeowners.

On-bill recovery is a method of retrofit financing that, in the absence of grants, will make efficiency available to homeowners without "bankable" credit ratings, with low home values, and with relatively low income. It would allow homeowners to fund cost-effective energy efficiency measures and to pay for them through their utility bills, which will be lower than they otherwise would be without the efficiency measures. The on-bill recovery mechanism is also adequately endowed with consumer protections for both borrowing and contracting services.

In particular, on-bill recovery as defined in A.11427/S.7565 brings the hard-won consumer protections of the Home Energy Fair Practices Act (HEFPA) to bear on energy efficiency investments. On PULP's recommendation, the bill provides for the inclusion of the retrofit repayment charge in the overall utility bill obligation. This essential mechanism secures HEFPA protection for the following elements of safe and equitable provision of essential energy efficiency service to New York households:

- Limits on the consequences of late payment, including the right of the customer to a grace period of at least 20 days before incurring any consequence, and an additional period of at least 3 days in which to pay before incurring any consequence; and limits on the fees charged for late payment. In practice, this protection often provides several months of additional "cushion" before service termination, with very limited financial penalties, for customers who pay late.

- Standards for Deferred Payment Agreements (DPAs), allowing customers to bring their account current in installments, without incurring additional penalties, and establishing the right of customers who fall behind to make negotiated arrears payments, along with full payment of their current bills, of as little as \$10 monthly in DPAs.
- Reverses the consequences of default: if a customer misses payments to the point where their service is suspended or terminated, they can reverse that termination by bringing their account current or entering into a DPA, without further consequence to their home, credit or utility service. In cases where a deposit is also required to restore service, HEFPA limits the amount of the deposit and requires utilities to accept the deposit in installments.

The protections listed above are widely understood as critical for utility customers. They are also necessary to provide safe financing to vulnerable borrowers - but are unheard of in lending. Applying energy bill protections to financing makes absolute sense as a means of providing vulnerable households with access to energy efficiency.

Finally, concerns about termination of service related to on-bill recovery are misplaced. Under existing conditions, many New Yorkers living in inefficient premises now face termination because they cannot afford their high bills. This program will help them lower their bills and will help them avoid hardship and possible loss of service. The pending legislation includes, again at PULP's recommendation, specific provisions to ensure that no retrofit customer faces a higher risk of shut-off than if they had not received a retrofit. These include:

- A requirement that the monthly repayment amount on a customer's utility bill be no greater than the energy savings projected to appear on the same utility bill over no more than 15 years, and for no longer than the life of the installed energy-saving measures.
- A requirement that projections for energy savings be based on clear, scientific criteria, and reevaluated, annually based on actual savings achieved by the program.
- Strong responsibility for customer complaint resolution, suspension of repayment obligations during complaint investigation periods, and discharge of repayment obligation for failed retrofits that do not achieve expected energy savings.

The Public Utility Law Project urges the New York State Assembly to pass A.11427 swiftly, enabling utility customers to access energy efficiency measures that will reduce the waste of fuel and reduce their home energy costs.