February 12, 2018

Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Re: Proposal to Establish a Low-Income Assistance Program for Water and Sewer Services

Dear Governor Cuomo,

We write again to thank you for your leadership in bringing about the passage into law of New York State’s Water Infrastructure Improvement Act (WIIA) in the 2017-18 Executive Budget, and to ask that you develop and implement a program to help ensure that water and sewer services remain affordable for low-income/fixed-income New Yorkers. An affordability program will provide stability for low-income consumers and utilities alike and will not require any new appropriations.

As you know, water and sewer charges will undoubtedly need to be raised to effectuate the State’s goals of safe and sufficient water and sewer service for all New Yorkers, and to bring New York’s water infrastructure into the 21st Century, while satisfying the local match requirement for grants under WIIA.

Already, capital investment needs (and decreased federal financial assistance) have caused water and wastewater utility rates to increase nationally at about twice the rate of both inflation and income growth, for approximately the last 15 years. (See Figures 1 and 2 attached to this letter.) In New York, the limited available data on water and sewer rates generally is consistent with these national trends, as described further in Figure 3, also attached to this letter.

A New York State water and sewer affordability program providing assistance to low-income/fixed-income households – modeled after the State’s energy efficiency programs and the recently created energy affordability program in the Reforming the Energy Vision (REV) proceeding – would help to ensure successful implementation of last session’s $2.5 billion expansion of WIIA by:

- addressing the important equity concern that those least able to pay (e.g., low-income homeowners and tenants of affordable housing, seniors and disabled New Yorkers on fixed-incomes, and returning veterans) will be harmed by increased water and sewer charges;
- responding directly to water and sewer utilities’ expressed concern that they cannot raise water and sewer charges because of the adverse impacts on low-income households and therefore cannot meet clean water standards; and, thereby
- making it possible for utilities and municipalities to raise local revenue that is needed to complement state investments in water infrastructure and accelerate Clean Water Act and Safe Drinking Water Act compliance.
These goals are high priorities for the constituencies of our organizations, which include environmental, affordable and healthy housing, low/fixed-income, anti-poverty, and economic justice advocacy groups. Many of our groups are also members of the New York Energy Efficiency for All coalition.

A water affordability program could be devised in a number of ways. The Environmental Facilities Corporation (EFC) may have the authority to adopt and implement a low-income/fixed-income assistance program through administrative action. If your counsel determines that this authority does not exist, however, we urge you to introduce legislation that either establishes a low-income/fixed-income assistance program or provides the EFC with the authority to establish one by administrative rules.

In the attachment to this letter (following Figures 1-3), we provide one model for a low-income/fixed-income assistance program, about which NRDC has had several constructive conversations with your staff. In brief, the program could include the following elements:

- WIIA grant eligibility criteria that drive utilities to offer lifeline rates or a means-tested residential customer bill discount (“Affordability”);
- Targeted replacement of inefficient plumbing fixtures and appliances to significantly lower bills for low-income households in owner-occupied and rental housing (“Conservation”); and
- Funds in WIIA grants to help defray the local costs of establishing or implementing a low-income assistance program (“Local Planning Assistance”).

We would very much like to discuss with you these and other ideas for establishing an assistance program to ensure that low-income/fixed-income consumers have affordable access to clean drinking water and municipal sewer services that protect public health and the environment. As your administration acknowledged with its strong steps in 2015-17 toward achieving low-income/fixed-income programs in all of New York’s public utility industries (including energy, cable, and investor-owned water utilities), the increasing costs of vital services are rising out of reach of New York’s working poor. We respectfully request that you develop and implement a program to help ensure that water and sewer services remain affordable for low-income/fixed-income New Yorkers.

Joan Leary Matthews of the Natural Resources Defense Council can serve as an initial point of contact for our organizations regarding this request. She can be reached at (212) 727-4571 or jmatthews@nrdc.org).

Respectfully yours,

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*Organizations labeled with an asterisk (*) are members of the NY Energy Efficiency for All coalition.

Encl.
Figure 1. Growth in Water and Sewer Bills, CPI, and Household Income, 2000-2015.

Figure 1. Growth in key inflation and income measures, 2000–2015.


CPI—consumer price index

Figure 2. The Average Annual % Change in Cost of Drinking Water and Wastewater Charges vs. Consumer Price Index.²

**Water Rate Trends in New York State**

Available historic data on water and sewer rates in New York is very limited. However, the available data generally is consistent with the national trends shown above.

The best source for New York data is the bi-annual, nationwide water and wastewater utility rate survey published by the American Water Works Association. NRDC extracted the data on New York utilities from each of those reports from 1996-2016. The figure below shows the increase in water bills over time for the eight water utilities that reported more than once over that period.³

The graph shows a trend of consistent and significant increases from 2000 through 2016. A doubling in water rates, or more, over that 16-year period is not uncommon for the utilities shown here. (A 100% increase over 16 years would be an average annual increase of 4.7%.) By contrast, during that same period (2000-2016), median household income in New York increased by only about 45% (equal to an average annual increase of 2.7%).⁴

**Figure 3. Water Rate Trends in New York State**

![Graph showing water rate trends in New York State](https://www.awwa.org/resources-tools/water-and-wastewater-utility-management/water-wastewater-rates.aspx)


³ Wastewater rates are not shown here because only one wastewater utility, New York City, reported more than once since 2000.

New York State Water Infrastructure Affordability Initiative:  
Creating a Low-Income Assistance Program for Water and Sewer Services

JUSTIFICATION

Water and sewer charges will undoubtedly need to be raised to bring New York’s water infrastructure into the 21st Century and satisfy the local match requirement for grants under New York State’s Water Infrastructure Improvement Act (WIIA). A New York State water and sewer affordability program providing assistance to low-income households – modeled after the State’s energy affordability and energy efficiency programs – would help to ensure successful implementation of the recently adopted $2.5 billion expansion of WIIA by:

1. addressing the important equity concern that those least able to pay (e.g., low-income homeowners and tenants of affordable housing) will be harmed by increased water and sewer charges;
2. responding directly to water and sewer utilities’ expressed concern that they cannot raise water and sewer charges because of the adverse impacts on low-income households and therefore cannot meet clean water standards; and thereby
3. making it possible for utilities and municipalities to raise local revenue that is needed to complement state investments in water infrastructure and accelerate Clean Water Act and Safe Drinking Water Act compliance.

OUTLINE OF PROPOSAL

1. **Establishment of customer assistance programs.** The Environmental Facilities Corporation (EFC) would, in consultation with the Public Services Commission (which regulates energy utility customer assistance programs), Office of Temporary and Disability Assistance (which administers the statewide energy bill assistance program), and the Division of Homes and Community Renewal, adopt regulations within 6 months that establish requirements concerning the establishment by each grantee of a customer assistance program for its low-income customers in which direct assistance is accompanied by support for water conservation and efficiency measures:

   (a) Grantee agrees to establish not later than one year after the execution of the grant agreement a customer assistance program for its low-income customers, and to maintain such program for not less than five years, or until the exhaustion of the funds, or the retirement of all bonds issued to fund such grants, whichever is later in time;

   (b) Customer assistance programs shall include the following elements (which are used by water and sewer utilities around the country):

      (1) **Lifeline rates.** An inclining rate structure for residential customers with the lowest commodity charge assigned to metered volumes representative of essential levels of indoor water use per dwelling unit. [Suggested default value: 6,000 gallons per month (based on 50 gal/month/person for a 4-person household); with a proportionally larger
amount for larger households, provided the utility can obtain household size data from
the customer or another source (e.g., from the agency administering another benefits
program); or

(ii) **Means-tested residential customer bill discount.** Minimum discounts per dwelling unit
of $20 per month for water service, $10 per month for sanitary sewer service, or $30
per month for combined water and sewer service. EFC would have the option to set a
higher amount, via rulemaking, with the goal of ensuring that essential levels of water
and sewer service are affordable for all customers; or

(iii) **Bills based on percentage-of-income.** Bills for eligible customers capped at a certain
percentage of the customer’s household income.

(2) **Means-tested residential water conservation and efficiency assistance.** Direct installation of, or
incentives for, water-efficient replacements for toilets, showerheads, and kitchen faucets on
customer premises.iii Water conservation and efficiency assistance shall be provided to
multifamily affordable housing in a manner to ensure that increased water and sewer rates do
not place undue upward pressure on rents. In order to effectuate entry into the premises where
the proposed recipient of the direct installations is not the owner, EFC regulations would include
“building access” requirements similar to those under sec. 228 of the Public Service Law (which
concerns cable TV installation); and

(3) Such other feature or features as may be described in guidance (or regulations) published by
EFC following public notice and comment.

3. **Customer eligibility criteria.** For means-tested programs, customer eligibility would match the eligibility
criteria of the New York Telephone Lifeline program, which is triggered by eligibility for any of several other
benefits programs (including, but not limited to, HEAP).iv

4. **Administrative requirements for customer assistance programs.** EFC regulations would:

   (a) address the provision of assistance under this program to households that are not direct customers of a
   water or sewer utility (i.e., households that for pay water/sewer indirectly through their rent, or through
   condominium or co-op fees), including assistance to providers of affordable rental housing to ensure
   that housing affordability is maintained;v

   (b) define additional requirements for the administration of local customer assistance programs. (This could
   include, for example, automatic enrollment of those who are already receiving other benefits.)

5. **Existing customer assistance programs.** EFC may allow grantees to use an existing customer assistance
program to satisfy the requirements, upon a determination that such program provides a level of assistance that
meets or exceeds the above requirements.\vi

6. **Grant support for customer assistance programs.** EFC may include in WIAA grants for municipal water and
wastewater infrastructure:

   (a) funds to cover reasonable one-time administrative costs to establish the customer assistance and
   efficiency program;vii and

   (b) for grantees that meet the eligibility criteria for “hardship financing” under the Clean Water State
   Revolving Fund, funds to defray a portion of the non-administrative cost of their customer assistance
   programs, up to a maximum of [to be determined].

7. **Stakeholder process.** EFC would convene a stakeholder process and subsequent rulemaking (or
recommendations for additional legislative authority if needed) to further enhance or expand the coverage of
the state program to more customers and more communities.
8. Coordination with other means-tested state programs. EFC would coordinate with the Office of Temporary and Disability Assistance (which administers the Home Energy Assistance Program and other means-tested benefits programs) to consider opportunities for ODTA to assist in the implementation of any means-tested customer bill discounts adopted under this program. EFC, ODTA, and other relevant agencies would also coordinate to ensure that participation in the program will not exclude grantees from participating in any other benefits program, nor will benefits granted from the program be considered in the calculation of other means-tested program benefits.

9. Investor-owned drinking water utilities. Separately, PSC would create an affordability program for all investor-owned utilities, analogous to the energy affordability program PSC adopted last year, as well as water conservation and efficiency programs.

EXPLANATORY NOTES:

i See also point 4(a) below. Some provision should be made for low-income households that are not direct customers of the water/sewer utility, but rather pay these utilities indirectly through rent or through condominium or co-op fees.

ii This general approach was adopted in the PSC’s “Low-Income Affordability Proceeding” (Case 14-M-0565) last year; it is referred to there as an “affordability block” rate. See pp. 23-24 of the PSC Order: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BC2F31C9-B563-4DD6-B1EA-81A830B77276}. The proceeding established a state goal of a 6% ceiling on household energy costs.

iii The 2016 PSC order creating an energy affordability program noted that “a need for better coordination of rate discounts with energy efficiency and weatherization services was the most widely given, and least opposed, comment.” See pp. 42-43 of the PSC Order (linked above).

iv This eligibility criterion was recommended by many commenters in the PSC energy affordability proceeding.

v For example, HEAP has a mechanism for doing this. However, under HEAP, the payment comes directly from the state agency to the eligible household, not from the utility (which does not have a direct customer relationship with these households). Another model is found in some multifamily programs that have the effect of lowering the owner and resident utility bills, reduce building operating expenses and the upward pressure on rent, thus helping to preserve affordable housing. EFC, ODTA, and HCR should also consider in rulemaking how renters can receive benefits from the reduced water costs paid by the building owner as a result of affordability assistance under this program.

vi As an example of an existing program in NY – which does not necessarily provide an equivalent level of assistance (because fewer customers may be covered) – NYC has a program run by the city utility (DEP) and Dept. of Finance that provides an automatic $115 credit for HEAP recipients and seniors and disabled homeowners. (Note, however, that not all HEAP-eligible customers actually receive HEAP benefits. Statewide, according to the Public Utilities Law Project, only about one-third of eligible households receive HEAP.) There are two other very recent examples of programs for by PSC-regulated water utilities. See http://efc.web.unc.edu/2017/05/25/two-private-water-companies-changing-new-york-water-affordability/. First, the PSC’s Final Order for Suez (in Rockland County and a bit of Orange County) requires the utility to create a low-income program. Here is a link to the PSC’s Jan. 2017 press release: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=0EF384C1-204E-4D2F-AD1D-7D0B16BB7183]. A link to the PSC’s Final Order in the Suez proceeding (Case No. 16-W-0130) is here, see pp. 25-26: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=ECCAD35D-B853-47EA-B97E-5F6BB1020CFC.

Second, in the New York American Water Nassau County and 6 communities extending up the Hudson Valley from Lake Waccabuc to Kingston) rate case in late 2016, a proposed settlement would have provided rebates to a percentage of income-eligible residential customers the equivalent of their "basic service charge"/"minimum customer charge." (See pp. 21-22 here: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=3CA51993-523B-46F9-AA28-5A49985538E). Unfortunately, the latter program was hindered by a last-minute reversal by the PSC.

vii We expect this would be most important for smaller systems. It could be left to EFC in consultation with the PSC to determine in what circumstances, and in what amounts, such assistance is necessary.