

Public Service Commission meeting - 10-19-2017

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, October 19, 2017
12:35 p.m.

Three Empire State Plaza

Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS

JOHN RHODES, Chair
GREGG C. SAYRE

DIANE X. BURMAN
JAMES ALESI

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2 CHAIRMAN RHODES: Good morning.

3 I would like to call this session of the
4 Public Service Commission to order.

5 Secretary Burgess, are there any changes to
6 the final agenda?

7 SECRETARY BURGESS: Good morning, Chair and
8 Commissioners. There is one change to the agenda. Item
9 209, which is case 12-M-0476, et al, which is a
10 petition by Utility Expense Reduction, for a waiver to
11 serve low-income customers. That item has been pulled.

12 CHAIRMAN RHODES: Thank you.

13 So, let's proceed to the regular agenda and
14 go to the first item for discussion. Item 101, case 17-G-
15 0424, which is the proceeding on motion of the Commission
16 to review operating procedures of natural-gas gathering
17 lines presented by Cindy McCarran, Deputy Director of Gas
18 and Water. Cindy, please begin.

19 MS. MCCARRAN: Thank you.

20 Good morning, Chair Rhodes and
21 Commissioners.

22 In item 101, Staff is recommending that the
23 Commission institute a proceeding to convene a
24 collaborative that will include gathering-line operators
25 and local-distribution companies. The purpose of the

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2 collaborative will be to determine what information should
3 be gathered, so that Staff can report to the Commission in
4 six months' time about the natural-gas-gathering system in
5 New York. The goal is the development of best practices
6 in the gathering-line industry and to ensure New York's
7 role as a national leader in natural-gas safety.

8 Staff will report to the Commission in six
9 months, on progress made in developing oversight
10 protocols, identifying gathering lines, subject to New
11 York State gas-safety regulations and any other issues
12 raised in the collaborative.

13 I would be happy to take any questions you
14 may have.

15 CHAIRMAN RHODES: Thank you, Cindy.

16 Speaking for myself, I find this is an
17 important topic, overdue for attention, highly relevant to
18 the safety of -- of New Yorkers and I find this a very
19 useful collaborative approach, that's -- that's been
20 developed.

21 Are there any comments or questions from my
22 fellow Commissioners?

23 Commissioner Sayre?

24 COMMISSIONER SAYRE: Lack of odorization on
25 a natural-gas line is a serious safety concern. If you

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2 can't smell it, you don't know that your life may be in
3 danger.

4 At this point, it appears that we don't
5 know where all the gathering lines are, especially those
6 that were constructed before our initial safety
7 regulations in 1982. It's also not clear that the owners
8 and operators all understand our regulations and where
9 odorization is required.

10 It's not uncommon for a well owner to walk
11 away from an unproductive or uneconomic well and the same
12 can hold true for gathering lines. This order will give
13 us the data that we need to enforce our regulations.

14 Once we get the data, I expect that we may
15 have a lot of work to do. I'm confident that Staff is up
16 to the job.

17 CHAIRMAN RHODES: Thank you.

18 Commissioner Burman?

19 COMMISSIONER BURMAN: Thank you.

20 The integrity and reliability of the gas
21 system is paramount and in New York, we're focused on
22 ensuring we have a safe, reliable and clean, natural-gas
23 system. Today's action by this Commission represents
24 another step in the continuum undertaken, to ensure the
25 transportation and delivery of natural gas with the utmost

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2 care and safety.

3 In the recent past, we've either required
4 or encouraged the odorization of gas and gathering lines,
5 increased research development and deployment of methane
6 emission-detection strategies, posting the locations of
7 leaky pipes, gas-worker training-compliance review,
8 expanded utility-system inspections at the customer
9 interface, where meters are locate -- located inside
10 buildings and accelerated replacement rates for leak-prone
11 pipe.

12 As the demand for natural gas continues to
13 grow, due to economic and environmental factors, we must
14 continue to seek common-sense methods, to ensure its safe
15 delivery, while minimizing unintended environmental
16 impacts. Continuous improvement should be the goal of any
17 pipeline regulator, or pipeline operator. We should
18 strive to do so, with proper communication and
19 collaboration, to help with overall planning and
20 coordination and address issues.

21 We have an opportunity to engage at the
22 federal level. I sit as the Vice Chair on the Gas
23 Pipeline Advisory Committee, for PHMSA and it's vital that
24 we do so, looking at this effort and how it may be done in
25 a way that is helpful at the federal level, not

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2 overstepping our jurisdiction. Here, we're limited to our
3 jurisdictional gas-gathering lines, but working together
4 to again focus on how we can best improve continuously,
5 for the safety, integrity and reliability of the gas
6 system.

7 Such opportunities are truly desired and
8 appreciated. I look forward to working together on this
9 issue, not only in this collaborative, but at the federal
10 level.

11 Thank you so much.

12 CHAIRMAN RHODES: Thank you.

13 Commissioner Alesi?

14 COMMISSIONER ALESI: Yes.

15 Thank you very much.

16 I was talking about this very issue with
17 the Commissioner from Montana, where a while back, they
18 had a devastating explosion because they had no idea there
19 were lines underground that had been abandoned.

20 The only question I would have as you go
21 along, that maybe you could provide answers to, in
22 general, when there's a -- an agreement between the
23 private landowner and the utility, they generally grant
24 rights-of-way and I would suspect that as we go through
25 our own history here in New York, that not every one of

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2 these lines would have a right-of-way.

3 But in the process of setting up this
4 collaborative effort, would that be a good assumption,
5 that we'd be looking at rights-of-way, to try to find
6 where these lines are and aren't -- and are not?

7 MS. MCCARRAN: Yeah.

8 That -- Commissioner Alesi, you -- you've
9 highlighted a very important issue and, you know, we know
10 for a matter of fact that there are hundreds if not
11 thousands of property owners that have gas wells on their
12 property and a lot of them get free gas in exchange for
13 allowing, you know, the producer to use their property.
14 So, it's definitely an issue that we're going to be
15 spending some time on.

16 CHAIRMAN RHODES: Thank you.

17 So, we'll now proceed to call for a vote on
18 item 101. My vote is in favor of the recommendation to
19 institute the proceeding and commence a collaborative as
20 described. Commissioner Sayre, how do you vote?

21 COMMISSIONER SAYRE: Aye.

22 CHAIRMAN RHODES: Commissioner Burman?

23 COMMISSIONER BURMAN: Aye.

24 CHAIRMAN RHODES: Commissioner Alesi?

25 COMMISSIONER ALESI: Aye.

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2 CHAIRMAN RHODES: The item is approved and
3 the recommendation is adopted.

4 Let's move to the second item for
5 discussion. Item 201, case 15-M-0180, which is in the
6 matter of regulation and oversight of distributed energy-
7 resource providers, presented by Ted Kelly, Assistant
8 Counsel.

9 John Garvey, Utility Supervisor and Luann
10 Scherer, Director, Office of Consumer Services are
11 available for questions.

12 Ted, please begin.

13 MR. KELLY: Thank you.

14 Good morning, Chair Rhodes and
15 Commissioners.

16 Item 201 is a draft order, establishing an
17 oversight framework and uniform business practices, for
18 distributed energy-resource suppliers.

19 Through the Reforming the Energy Vision
20 initiative, the Commission has set the stage for increased
21 deployment and integration of these D.E.R.s for the
22 benefit of the energy system, the environment, and
23 customers. D.E.R.s take a broad range of forms, from
24 rooftop solar panels, to smart thermostats, to energy
25 efficient and demand-responsive industrial equipment, to

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2 biodigesters making energy from farm waste, to community-
3 scale distributed-generation projects.

4 The Commission recognized in the REV Track
5 One Order that as D.E.R.s become increasingly -- an
6 increasingly common and significant part of electric and
7 gas service to customers, it has both the authority and
8 the responsibility to ensure the customers participating
9 in D.E.R. markets and programs understand the costs and
10 benefits of their investments and are protected from
11 confusion, fraud and abusive marketing.

12 Furthermore, clear and robust guidance on
13 appropriate marketing and contracting practices, will
14 create a level playing field for D.E.R. suppliers and
15 support fair competition between suppliers and between
16 various D.E.R. options.

17 In response to the direction in that order
18 and subsequent orders, including the March 2017 value of
19 D.E.R. order, Staff conducted a robust stakeholder
20 process, including multiple proposals for comment and a
21 number of public meetings. The culmination of that
22 process is the order before you today, which includes the
23 Uniform Business Practices for Distributed Energy Resource
24 Suppliers or U.B.P.D.E.R.S., which represents a rule book
25 for D.E.R. -- for the D.E.R. market.

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2 The order and the U.B.P.D.E.R.S. reflect
3 both the need for clear and robust guidance in this
4 growing market, particularly with regard to transactions
5 with residential customers and small businesses and the
6 need to avoid unnecessary -- unnecessary, or overly-
7 burdensome obligations, particularly with respect to small
8 D.E.R. suppliers and with innovative individuals and
9 businesses, exploring and deploying new products and
10 services.

11 For those reasons, oversight is carefully
12 tailored to the characteristics of different market
13 sectors. Specifically, as compared with the Staff
14 proposals, it limits oversight of transactions with large
15 industrial, or commercial customers, to prohibitions on
16 fraud and requirements regarding customer consent. It
17 applies a limited passive set of regulations to most
18 D.E.R. suppliers, while more comprehensively regulating
19 providers of community-distributed generation and onsite
20 mass-market distributed generation, such as rooftop solar
21 panels. And it eliminates certain proposed requirements
22 that were identified as particularly burdensome and not
23 sufficiently justified by an urgent need, including
24 proposed bonding requirements.

25 I will briefly summarize the provisions

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2 adopted, first describing the provisions that are broadly
3 applicable to all D.E.R. suppliers, followed by the
4 provisions that are specific to community distributed
5 generation and onsite mass-market distributed generation
6 providers.

7 D.E.R. suppliers are required to obtain
8 clear and explicit consent from customers, before billing
9 or enrolling them in programs and for large, or ongoing
10 transactions, to retain that consent for at least two
11 years, or the life of the contract. D.E.R. suppliers are
12 required to conduct their marketing in an honest,
13 forthright and clear manner. They're responsible for
14 ensuring that the actions of their contractors and other
15 agents comply with the relevant laws and regulations.
16 They're required to cooperate with Department and
17 Commission efforts to resolve customer inquiries and
18 complaints and to do any investigation of markets or
19 programs.

20 The order also creates a process for D.E.R.
21 suppliers to access customer information, with the consent
22 of the customer, through the electronic data interchange
23 process currently used to exchange information between
24 utilities and ESCOs.

25 For violations of these rules, the order

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2 puts into place the same enforcement process that
3 currently applies to ESCOs, based on the severity of a
4 violation and other factors. It may result in informal
5 Staff contact, formal Staff contact, or a Commission issue
6 order to show cause, with an opportunity to respond by the
7 provider and with potential consequences ranging from a
8 warning, to a requirement to cure the violation and notify
9 customers, to a requirement that customers be refunded or
10 offered corrective pricing. Or at the most extreme end,
11 to a complete ban from Commission-authorized programs and
12 markets.

13 The additional requirements that apply only
14 to C.D.G. and onsite mass-market D.G. providers include a
15 requirement that a brief registration form and sample
16 contracts and bills be submitted to the Department. More
17 specific marketing requirements, including a requirement
18 that for savings forecasts, a standard baseline, based on
19 actual historical utility prices be used, the inclusion of
20 key minimum terms and contracts including a three day, no
21 penalty rescission period, information on customers'
22 rights and compliance with further standards, based on the
23 New York SUN requirements for onsite systems and -- and
24 the requirement that a standard disclosure form be
25 provided to all mass-market customers.

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2 These providers are also required to have a
3 local or toll-free telephone number and have specified
4 providers for quickly handling and resolving customer
5 complaints and they must file annual reports on the number
6 of customers served and services provided, as well as --
7 as already required by last month's value of D.E.R.
8 implementation order, send annual reports to each
9 individual customer on that customer's savings and costs.

10 The order also includes several additional
11 appendices. Appendix B, provides summary table of the
12 order's requirements for quick reference. Appendix C,
13 lists provisions of the Home Energy Fair Practices Act or
14 HEFPA, that apply to D.E.R. suppliers. And Appendix D,
15 contains questions or comments regarding potential
16 additional provisions to be considered on an expedited
17 basis, including limits on termination fees, annual
18 escalation percentages and requirements for production
19 guarantees.

20 The requirements established here, are part
21 of a framework of regulation and contractual agreements,
22 including interconnection agreements and tariffs, which
23 will govern the interconnection of D.E.R.s into New York's
24 electric and gas system, as well as the rights and
25 responsibility of D.E.R. suppliers. As markets continue

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2 to evolve, these requirements will receive -- will require
3 and will receive ongoing review from Staff and from the
4 Commission and modifications will be made to ensure that
5 customers are appropriately protected and that D.E.R.
6 markets are able to thrive.

7 We're available for questions.

8 Thank you.

9 CHAIRMAN RHODES: Thank you very much, Ted.

10 I find that this item strikes a thoughtful
11 and protective balance for New Yorkers and the timing is
12 right. We have -- we're facing important and welcomed
13 growth in these resources and we need to be in a position
14 to provide protection for customers against untoward
15 practices, while pragmatically not burdening developers.

16 And I also find that the focus -- initial
17 focus on C.D.G. and mass market, makes all the sense in
18 the world. So, thank you.

19 Commissioner Sayre?

20 COMMISSIONER SAYRE: This item was a
21 tremendous amount of work and I commend Staff for your
22 efforts. It's very difficult to tell in advance of robust
23 markets developing, how much consumer protection is
24 required for distributed-energy services, versus what is
25 unduly burdensome and would discourage the development of

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2 the markets.

3 Our experience with energy choice, leads me
4 to conclude that the public interest will be better served
5 by starting with a lot of protections, rather than too
6 little. So, where -- when in doubt, I'm in favor of
7 beginning on the -- on the high side, I'm certainly
8 willing to consider relaxation of regulations that turn
9 out to be unduly burdensome and unnecessary for consumer
10 protection. But it depends on how the market develops and
11 we need to get some experience first, before we relax any
12 regulations with what complaints may come up, or -- or
13 what problems may develop in the markets.

14 And if things go badly, I would not
15 hesitate to consider more strict requirements as they may
16 be necessary.

17 So, my advice to market players in this
18 space, treat your customers well and we'll all be happy.

19 CHAIRMAN RHODES: Commissioner Burman?

20 COMMISSIONER BURMAN: Thank you.

21 First, I do want to thank Staff for the
22 time that you've spent on this and also to the parties.

23 We've received a lot of comments. We have
24 had several layers of process in this, in the desire to
25 try to get it right. I do recognize that it is a process

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2 and that we will continue to evolve to meet the challenges
3 and the opportunities. And it's important for us to be
4 mindful of trying to facilitate collaboration to get to
5 appropriate solutions.

6 There are things that I'm unsettled about.
7 I am mindful in this order, that we are not touching upon
8 a great deal of the comments, to address this across the
9 board, whether it's to say don't have anyone under -- any
10 D.E.R. providers under a U.B.P., or to have all of them
11 under it, in some fashion.

12 I do believe that the order is going to be
13 challenging to get through and there's going to be a lot
14 of questions, in terms of what does that actually mean in
15 real life and how does it work, not only for the D.E.R.
16 provider, but for the utility and for the Staff, the
17 Consumer Services Staff in particular and most importantly
18 for the customers.

19 So, I am hesitantly supportive and I will
20 caution that we need to be very mindful, that while it
21 sounds, in many ways, like we got it on paper, I don't
22 know that the reality is going to be as easy in the
23 implementation. Doesn't mean that it won't be done. It
24 just means that like the history we've had in the
25 implementation of our first U.B.P., which I believe took

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2 several technical conferences over a long period, not just
3 two months, not three months, not six months, but two
4 years to maybe even longer than that and it was not a
5 delay. It was working through definite challenges and
6 implementation and making sure that we were doing things
7 that would have a positive impact and that we were -- that
8 everyone was prepared to handle that.

9 Same thing with the submetering
10 regulations, when we made changes to that, that required a
11 lot of careful, careful deliberation and analysis and
12 rethinking and frustration among people.

13 So, I need to emphasize the need for us to
14 be flexible and open to working with all of the parties,
15 with the ultimate goal of getting to what we need, for the
16 benefit of the customers and for the benefit of what the
17 goals of REV are, with the inclusion of D.E.R.

18 There are going to be jurisdictional
19 challenges. I'm mindful, that we're going to need to get
20 through those. There's also a fundamental unfairness to
21 ESCOs.

22 Here, we are very reflective and we are
23 very thoughtful in understanding that there may be some
24 bad players in the D.E.R.-provider market and we don't
25 paint with a broad brush all D.E.R. providers. And yet on

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2 the other side, we seem to be quicker to paint with a
3 broad brush. I have no tolerance for bad players at all
4 and we need to address that in enforcement perspective,
5 head on.

6 However, I just want to be very careful
7 that we are not having an unfairness, or an unlevel
8 playing field and seeming, you know, to pay lip service on
9 one end and -- and different degrees of what we allow, or
10 what we don't allow.

11 There is an issue, from my perspective, in
12 what does it mean in terms of figuring out. Here we have
13 carved out who has more active regulatory oversight, if
14 you fall under community D.G. or you're a mass-market
15 D.E.R. provider.

16 It's -- there's -- there's ongoing
17 petitions, on asking for clarification on what exactly is
18 a mass-market customer. We do have some orders that
19 identify that. However, we do have some upcoming -- I --
20 I think there's at least one on the gas side, in terms of
21 changes to that.

22 And we need to be mindful, that a customer
23 name may not be clear, on exactly what they -- who they
24 have and so, I'm concerned that we're going to create more
25 barriers, but also a lot more work for the Staff, that has

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2 to quickly try to resolve this and fit it into the
3 appropriate bucket and that if you don't fit into that
4 bucket, it may be very frustrating.

5 I'm concerned that we have had -- we have
6 seen that there has been a significant amount of barriers,
7 regulatory barriers as well as others, to community D.G.
8 and that we need to monitor, whether or not we are
9 creating another barrier because some D.E.R. providers may
10 say we're going to stay away from community D.G. and the
11 mass market because there's more-active regulation. And
12 therefore, our space is going to be smaller, but better
13 because we don't have to worry about the bureaucrats in
14 Albany.

15 I am wanting to make sure that we have
16 immediately an opportunity for parties to work together
17 and go through and understand exactly what this order is
18 and -- and work through what I think are going to be
19 definite implementation issues. From my perspective, I'm
20 not going to focus on a lot of the details that are in
21 there, that I think may be concerning, or have to have
22 more clarification. I -- I do expect that -- or I do ask
23 that Staff be very, very engaging on this front.

24 And to the extent that literally making
25 sure that we walk through all of the different scenarios

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2 and keeping in mind that we are not the experts in a lot
3 of these areas and calling upon those who can help,
4 especially U.I.U., as to the customer aspects, I think are
5 very, very important.

6 And I won't belabor this anymore, except
7 that I hesitantly will be voting for this item,
8 understanding that I do think that it is not a perfect
9 solution, but again, I come back to -- I recognize this is
10 a process. At some points, it may be very painful, but I
11 hope that ultimately we are going to be working through
12 and continuing to evolve, to meet and exceed these --
13 these challenges for the opportunities that are there.

14 So thank you.

15 CHAIRMAN RHODES: Thank you.

16 Commissioner Alesi?

17 COMMISSIONER ALESI: Thank you, Mr.
18 Chairman. Philosophically, I kind of lean towards
19 applying regulations and growing regulations, as we see
20 the need, but I also recognize the hard work and expertise
21 that has gone into your presentation, both last week in
22 greater detail and today. And so, I believe it's always
23 easier to add some regulations than it is to take them
24 away, once they're in place. But again, based on what
25 I've come to learn from your efforts and the hard work of

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2 Staff in general, I believe I can embrace this
3 recommendation and I'll be voting yes for it.

4 CHAIRMAN RHODES: Thank you very much.

5 So with that, let's move to a vote on item
6 201.

7 My vote -- my vote is in favor of the
8 recommendation to adopt the oversight framework and
9 uniform business practices for distributed-energy resource
10 suppliers, as described.

11 Commissioner Sayre, how do you vote?

12 COMMISSIONER SAYRE: Aye.

13 CHAIRMAN RHODES: Commissioner Burman, how
14 do you vote?

15 COMMISSIONER BURMAN: Aye.

16 CHAIRMAN RHODES: Commissioner Alesi, how
17 do you vote?

18 COMMISSIONER ALESI: I vote yes.

19 CHAIRMAN RHODES: The item is approved and
20 the recommendation is adopted.

21 We now move to item 202, cases 16-M-0015,
22 et al, which is the petition of the Municipal Electric and
23 Gas Alliance, to create a community-choice aggregation
24 pilot program presented by Kelly Connell, Utility Analyst
25 Three, Peter McGowan, Chief Policy Advisory. Ted Kelly

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2 and Luann Scherer are available for questions.

3 Kelly, please begin.

4 MS. CONNELL: Good morning, Chair Rhodes
5 and Commissioners. Item 202 addresses a series of filings
6 made by the Municipal Electric and Gas Alliance, also
7 known as MEGA. MEGA seeks to serve as a community-choice
8 aggregation administrator, for several municipalities in
9 New York State.

10 The filings by MEGA include a master-
11 implementation plan, a general data-protection plan and
12 certifications of municipal authorizations, to form a
13 C.C.A. program.

14 Concurrent with these filings, in response
15 to a Commission directive, the joint utilities filed a
16 data-security agreement for Commission consideration.
17 Staff is recommending Commission approval of these
18 filings, with some modifications.

19 By way of background, on April 21st, 2016,
20 the Commission established the framework for the
21 development of C.C.A. programs, which aims to increase
22 consumer choice and participation, while also supporting
23 local-energy planning and deployment of distributed-energy
24 resources, or D.E.R.s.

25 In a C.C.A. program, one or more

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2 municipalities aggregate the load of its residents and
3 small businesses, on an opt-out basis and procures energy
4 and potentially D.E.R. services, on their behalf. The
5 C.C.A. framework order authorized interested
6 municipalities on their own, or through their selected
7 C.C.A. administrator, to make a series of filings for
8 Commission consideration to initiate a C.C.A. program.

9 The C.C.A. framework order requires that
10 the implementation plan include a description of the
11 program and its goals, including plans for value-added
12 services, a public-outreach plan including multiple forms
13 of outreach and engagement, over a period of no less than
14 two months. Drafts over in communication with its
15 residents including opt-out letters, contact information
16 for a C.C.A. liaison to respond to questions, or concerns
17 and identification of at least one local official or
18 agency, in each municipality, for residents to contact
19 with questions, or comments. The C.C.A. administrator's
20 also required to file updates and supplements to the
21 implementation plan, as appropriate, including final
22 versions of customer opt-out letters that provide details
23 of program contracts.

24 The C.C.A. framework order also required
25 the joint utilities to file a proposed standardized data-

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2 security agreement, that would be entered into by the
3 municipality, or its C.C.A. administrator and the
4 appropriate utility. The data-security agreement
5 obligates the C.C.A. administrator and its residents, to
6 protect data from -- from disclosure and limit its use.

7 Based on Staff review, including lessons
8 learned from the Sustainable Westchester C.C.A. pilot,
9 Staff finds that MEGA's proposed C.C.A. program meets the
10 general requirements laid out in the Commission's
11 framework order, but recommends some additional outreach
12 and necessary revisions to their data-protection plan.
13 These revisions can be provided in a compliance filing.

14 Specifically, Staff recommends that once an
15 ESCO is selected and before the opt-out period ends, MEGA
16 continues their outreach and education to ensure that
17 residents are informed of the commodity prices and
18 services being offered by the contracted ESCO. Staff also
19 recommends that MEGA revise its data-protection pan --
20 plan to effectively protect the data obtained from the
21 utility, to allow for the sharing of an anonymized
22 aggregated usage data, with qualifying ESCOs and to
23 conform with the joint utilities' final data-security
24 agreement.

25 The draft order also clarifies the

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2 guaranteed savings requirement intended for C.C.A.
3 customers, who are participating in utility low-income
4 assistant programs.

5 Staff is also proposing several
6 modifications to the joint-utilities data-security
7 agreement. While customer account numbers were originally
8 envisioned as useful information in the framework order to
9 clearly identify customers and conduct the opt-out phase,
10 Staff now recommends that account numbers are not shared
11 with the C.C.A. administrator. In the unlikely event of a
12 security breach, account numbers could be misused for
13 slamming.

14 By allowing utilities to withhold account
15 numbers and use an alternate method to identify customers,
16 the risk of slamming, due to a breach, will be eliminated.
17 By removing a customer's account number, the utility
18 information transferred to a C.C.A. administrator will not
19 be highly sensitive.

20 Therefore, the following modifications are
21 recommended. The joint utilities should remove the
22 requirement for a C.C.A. administrator to procure cyber
23 insurance. At a -- as described in the draft order, the
24 data security-agreement language will also need to change
25 to allow for a more -- greater degree of flexibility

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2 regarding data-access controls and security.

3 This concludes my presentation. I am
4 available to respond to questions.

5 Thank you.

6 CHAIRMAN RHODES: Thank you, Kelly.

7 I find that this work establishes a
8 sensible -- establishes a sensible and useful parameters
9 for our next step, which is another pilot, as we march in
10 the direction of C.C.A., which is an important opportunity
11 to bring New Yorkers into our clean-energy future.

12 Commissioner Sayre?

13 COMMISSIONER SAYRE: I'm a fan of
14 community-choice aggregation, as long as it either
15 provides customers with savings, or provides them with
16 benefits or services that they would not otherwise
17 receive. And in the absence of -- of one of those things,
18 I presume that a C.C.A. isn't going to get off the ground
19 in the first place. I have hopes that in the future they
20 will evolve into even stronger models, like storm-
21 resilient microgrids.

22 I think we can count on the municipalities
23 to make good contracts with energy providers, which is why
24 I'm okay with their residents being included, unless they
25 opt-out. However, I urge all participants in these new

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2 programs to keep a close eye on how they're working and
3 hold their municipality leader's feet to the fire, if the
4 promises are not being kept.

5 I do support this item.

6 CHAIRMAN RHODES: Commissioner Burman.

7 COMMISSIONER BURMAN: It may come as no
8 surprise, but when I was in school and the teacher would
9 say we can leave class now, unless anyone has any
10 questions, I was the one that would raise my hand to the
11 groans of everyone else and ask a bunch of questions. So,
12 I have a couple questions. I'm sorry. I just really -- I
13 just want to understand a couple things and just pull it
14 out.

15 Is C.C.A. subject to D.E.R.?

16 MR. KELLY: So, to the extent that it
17 includes a -- a -- a distributed -- a D.E.R. component,
18 for example, if it includes the community-solar component,
19 it would be subject to all the relevant rules that the
20 U.B.P.D.E.R., as just discussed.

21 If it doesn't, if it's really just focused
22 on procurement of a particular ESCO, in that case, it
23 would still be subject to the -- the ESCO U.B.P., but not
24 specifically to the D.E.R. specific rules.

25 COMMISSIONER BURMAN: Okay. And can you

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2 explain to me, in this item, there is a focus now, on a --
3 a -- it -- it -- it -- it's stated as a clarification.
4 I'm not sure if it's a clarification or a change. I would
5 argue it's a change, but for purposes of this we'll say
6 clarification. Clarification that the C.C.A.s are now
7 held to the guaranteed-savings plan, for low-income
8 customers.

9 Can you explain that and exactly what that
10 means?

11 MR. KELLY: Sure.

12 So, the original C.C.A. implementation
13 order had said that low-income customer -- the -- that
14 service of low-income customers would be subject to any
15 requirements subsequently adopted by the Commission. This
16 was -- that was put out before the guaranteed savings was
17 adopted as a requirement for low-income customers.

18 So, that's kind of why we see it as a
19 clarification, to just explain that while the low-income
20 order did exempt C.C.A.s from the prohibition on service,
21 it did not exempt them from the general requirement that
22 guaranteed savings be provided.

23 So, what that means in this context, is
24 that the C.C.A., when they're soliciting an ESCO, if they
25 wish to include low-income customers, which specifically

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2 in this case means participants in utility low-income
3 assistance programs, if they wish to include those
4 customers, they must get from the ESCO, a guaranteed-
5 savings product and include those -- give those customers
6 the guaranteed-savings product, which would generally mean
7 that in any calendar year, or over the contract term, if
8 the contract expires before the end of the calendar year,
9 the customer must save money, compared to what they would
10 have paid, if they had been on just standard-utility
11 service. And if the customer hasn't saved money, there
12 then has to be essentially a -- a true up-payment, to
13 ensure that the customer paid no more than they would have
14 as a utility customer.

15 COMMISSIONER BURMAN: Okay. So, it does
16 sound to me like -- because I had raised concerns about
17 the exceptions to this, as well as other exceptions, under
18 the -- the -- the ESCO orders --

19 MR. KELLY: Uh-huh.

20 COMMISSIONER BURMAN: -- where it was
21 carving out the foot note, the C.C.A.s. So, I am now
22 concerned about the change and what that means for the
23 existing C.C.A.s, that are out there in Sustainable
24 Westchester. The -- the two -- the two, that I know of
25 and -- which -- how many municipalities does that affect

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2 and what does that mean? Are we going -- are we going
3 retroactively and looking at that, or are we going
4 prospectively?

5 MR. KELLY: So, it would be prospective, in
6 the sense that in Sustainable Westchester, the initial
7 contract was entered into before the low-income order came
8 out. And therefore, it's essentially treated the same as
9 other long-term ESCO contracts, in that the rule doesn't
10 apply, until the contract expires.

11 So, at the point where Sustainable
12 Westchester, or Westchester Power is what they have
13 specifically designated their C.C.A. as now, when they are
14 getting towards renewing their contract, or looking for a
15 new contract, which is going to be about next year,
16 they'll have to -- they're already required to make a
17 filing with the Commission, for the Commission to review
18 and -- and approve explaining whether they'll be renewing
19 and what -- on what terms they'll be doing so. And part
20 of that will require that as of the new contract, they'll
21 have to start complying with that guaranteed-savings
22 requirement.

23 COMMISSIONER BURMAN: Okay. I guess we're
24 -- we're -- I guess my focus is I -- I'm -- I'm glad to
25 see we're being thoughtful now in this. You know, these

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2 are issues that I had raised originally and had raised
3 concerns, in why we're taking this sort of statewide
4 without looking at these issues and further reflecting.

5 But I'm also now seeing that we seem to be
6 doing it differently and obviously, that's from lessons
7 learned from the pilot. But I'm just wondering, it kind
8 of gets to the bigger issue, which we'll get to in the
9 other items in the low-income, so I'll put aside, where I
10 -- where I'm at on the low-income stuff, except to the
11 extent that I'm glad to see we're trying to address the
12 low-income issues, that are critically important. But I
13 do think that there's still going to be confusion around
14 what is a guaranteed-savings plan. What does that mean
15 under the C.C.A.s? You're looking at it from the -- the -
16 - the rate that you set at the date of. On Sustainable
17 Westchester, I think it was from the 2014 was your
18 guaranteed savings, not month to month, correct?

19 MR. KELLY: So, I could speak to that.
20 Yeah.

21 What Sustainable Westchester looked for was
22 not guaranteed savings in the way we generally speak of
23 it, in the low-income sense. But instead, they looked at
24 making sure that the rate that they got would have caused
25 savings, if it had been applied in the past year.

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2 COMMISSIONER BURMAN: Okay.

3 MR. KELLY: So, they -- they -- their
4 initial program did not guarantee savings, although the
5 first annual report, which they filed this year and Staff
6 analysis of their first year of billing, does show that
7 all -- that the customers did overall save money. But
8 they did not provide guaranteed savings, in that if an
9 individual customer hadn't saved money, they wouldn't have
10 been required by contract to true-up that customer.

11 Whereas in going forward, including for
12 MEGA and for Sustainable Westchester, if and when they --
13 they renew their contract, there will be the requirement
14 that at least for low-income customers, they do a true-up
15 anytime the customer didn't actually save money.

16 COMMISSIONER BURMAN: Okay. Thank you.
17 That's helpful. What are the next steps? This -- we're --
18 -- we're approving this today, or assuming we approve this
19 today, the Chair used the term that this was our next
20 pilot.

21 What else is on the horizon for -- for
22 this?

23 MR. KELLY: For C.C.A. in general or for --

24 COMMISSIONER BURMAN: Uh-huh.

25 MR. KELLY: -- MEGA?

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2 COMMISSIONER BURMAN: C.C.A. in general.

3 MR. KELLY: So, there's another C.C.A.
4 aggregator, Good Energy, which has also filed an
5 implementation plan, that's currently under Staff and
6 Commission consideration and which we expect to come to
7 session at some time in the relatively near future.

8 COMMISSIONER BURMAN: Uh-huh.

9 MR. KELLY: There are also several other
10 potential C.C.A. aggregators who have been in contact with
11 us, with Staff to try, you know, to kind of give us
12 updates on their progress and to ask questions. And
13 they're also being supported by NYSERDA, which pursuant to
14 the C.C.A. implementation order and also the Clean Energy
15 Fund has a program, to support communities including on --
16 on developing C.C.A.

17 COMMISSIONER BURMAN: Uh-huh.

18 MR. KELLY: So, we expect that there will
19 be, you know, probably several more in the next year or
20 so, that are also ready to -- to get started.

21 COMMISSIONER BURMAN: Okay. So, one of my
22 -- as -- as -- as I believe you know, I -- I voted no, on
23 all of the C.C.A. items to date, primarily because I
24 believed that we were not looking -- we were not
25 holistically looking overall and taking time to

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2 incorporate what it would mean from an implementation
3 perspective. What it means in terms of doing this, how it
4 affects the load, how it affects customers, how it affects
5 the market.

6 And all the other states that have done
7 this, have done this through legislation. And we did it
8 really only after a very quick survey of the other states
9 and there have been challenges in many of those states in
10 C.C.A.s. C.C.A.s done well, can be very good. C.C.A.s
11 done poorly, is a disaster.

12 And so from my perspective, one of the
13 things that I was concerned with, was that we had embraced
14 a pilot, after the -- the bill seeking to do a pilot in
15 that very area had been vetoed. And then we -- after
16 doing the pilot and -- and not having it up and running,
17 then the Commission voted to adopt it statewide, without
18 the information on it.

19 So, I am glad to see that in MEGA, there's
20 been some thought into some lessons learned from the
21 Sustainable Westchester model. Does seem like there's
22 been some successes. Obviously, some issues, as well,
23 working through that and there will continue to be.

24 I do want to see that we are engaging
25 overall, not just in, you know, silos, these issues, so

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2 that all folks who are interested in participating and can
3 -- can benefit from that discussion and we can benefit
4 from their information, as -- to help us in adopting, or
5 approving those that will be successful.

6 I am cognizant of the fact that in MEGA,
7 MEGA has a long, very good history in New York. So that
8 gives me great confidence in MEGA. If it was someone
9 else, some other entity, I may have a different feeling,
10 but I -- I am very comfortable with them. However, I'm
11 not picking winners or losers. I'm just looking at it
12 from the perspective of do they have the expertise to do
13 this.

14 I do bristle at any notion that we are
15 going to call to task municipalities because they are not
16 necessarily the experts in a lot of these issues. So, we
17 need to be very mindful that it is incumbent upon us to
18 work through a lot of these challenges and implementations
19 that will definitely trip them up, especially as it goes
20 to D.E.R.

21 We're going to need to work through that.
22 And what that means, we're going to need to not just rely
23 on the aggregators to say whether they are under
24 U.B.P.D.E.R., or, you know, U.B.P. regular and that maybe
25 it needs to be incorporated up front and clearly defined.

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2 And some of that will come after we clearly figure it out
3 and define it a little better ourselves, from working
4 through the challenges with the parties.

5 So, I thank you.

6 I think my mantra for today is I recognize
7 this is a process. At times it's very painful, but it --
8 I think it is a necessary process and at the end of the
9 day, we need to be looking to evolve, to work to meet our
10 challenges and our opportunities, in a way that's
11 successful for all New Yorkers. So, thank you.

12 CHAIRMAN RHODES: Thank you, Commissioner
13 Burman. Commissioner Alesi?

14 COMMISSIONER ALESI: No.

15 CHAIRMAN RHODES: We will now proceed to a
16 vote on item 16-M-15 --.

17 I vote in favor.

18 Commissioner Sayre, how do you?

19 COMMISSIONER SAYRE: Aye.

20 CHAIRMAN RHODES: Commissioner Burman?

21 COMMISSIONER BURMAN: Aye.

22 CHAIRMAN RHODES: Commissioner Alesi?

23 COMMISSIONER ALESI: I vote yes.

24 CHAIRMAN RHODES: Thank you very much.

25 We now move to the fourth item, item two --

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2 for discussion. Item 203, case 17-M-0280, which is
3 Staff's report on the New York State Electric and Gas
4 Supply readiness for the 2017-18 winter, presented by
5 Cindy McCarren, Deputy Director Gas and Water. Vijay
6 Puran, Utility Supervisor of Bulk Electric Systems, Paul
7 Darmetko, Utility Engineering Specialist Three, Electric
8 Rates and Tariff Section and Andrew Bisnett, Utility
9 Consumer Program Specialist, are available to answer
10 questions.

11 Cindy, please begin.

12 MS. MCCARRAN: Good morning again and thank
13 you.

14 So, Staff would like to take this
15 opportunity this morning to brief you on the results of
16 our investigation into the readiness of the state's
17 natural gas and electric utilities, for the coming winter.
18 Although each of us will give more detail, I just want to
19 kick things off by saying overall the electric and gas
20 utilities are well-prepared for the coming winter.

21 First, I will brief you on the readiness of
22 the state's natural-gas utilities and a projection of
23 average natural-gas bills for the coming winter. Vijay
24 Puran will update you on the readiness of the bulk-
25 electric system and Paul Darmetko will discuss the

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2 projections for electricity prices, for the coming winter.
3 And then Andrew Bisnett will conclude the panel, with a
4 discussion of the outreach efforts, related to winter
5 bills and safety.

6 The state's gas utilities are also called
7 local-distribution companies or L.D.C.s. Based upon our
8 review and representations by the L.D.C.s, regarding
9 natural-gas supply readiness for the upcoming winter
10 season, Staff concludes that the L.D.C.s serving New York
11 State have adequate natural-gas supply-delivery capacity
12 and storage inventory to satisfy current firm customer
13 demands, under designed winter conditions for this winter.

14 Staff continues to coordinate with the oil
15 industry representatives and the New York State Energy
16 Research and Development Authority or NYSERDA, to ensure
17 that customers have access to adequate supplies of winter-
18 heating fuels.

19 Next slide.

20 Each utility has a unique mix of assets
21 used to serve a unique mix of customers. Some of the
22 state's utilities are experiencing growth in natural-gas
23 demand, as local government seek to phase out dirtier
24 heating fuels, such as fuel oil and propane.

25 Especially in the downstate areas of New

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2 York City and Long Island, interruptible customers are an
3 important piece of the puzzle and their ability to get off
4 the natural-gas system during periods of high demand,
5 reduces the amount of pipeline capacity needed to serve
6 winter load. This is a type of demand response program,
7 that is decades old.

8 Recently, however, many communities have
9 expressed an interest in meeting growing demand, through a
10 greater use of demand-response programs, including more
11 efficiency, combined with what is being called non-pipes
12 alternatives. Recent filings made by Consolidated Edison
13 and the New York State Electric and Gas Company will focus
14 on the use of demand response and non-pipes alternatives,
15 to meet growing space and water-heating needs.

16 We continue to monitor some areas of the
17 state, where demand is growing at a faster pace and where
18 the existing distribution system is becoming constrained,
19 including New York City and the Capital District. Staff
20 will continue the traditional monitoring of weather
21 pipeline and storage assets and interruptible-customer
22 compliance, but also work with the utilities and
23 communities, to find innovative solutions that increase
24 environmental benefits, while meeting customer
25 expectations for economic solutions.

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2 Next, please.

3 This slide illustrates some info --
4 interesting information related to weather and climate.
5 So, it's probably a little difficult to see, but there are
6 thirty years of history here. Each yellow bar shows the
7 number of heating-degree days for each of the last thirty
8 winters. We calculate the number of heating-degree days
9 by determining the average of the high and low
10 temperatures for the -- each day of the winter,
11 subtracting that from sixty-five, with the assumption that
12 at sixty-five degrees you're neither heating nor cooling
13 your home. The taller, the yellow bar on the slide the
14 colder the winter was.

15 As can be seen, last winter was one of the
16 warmer winters in recent history although it was slightly
17 colder than the previous winter, 2015-16. The polar
18 vortex winter was the winter of 2013-14.

19 The blue diamond on each yellow bar,
20 indicates how many heating-degree days were measured on
21 the peak day, or the coldest day of that particular winter
22 and what this slide illustrates that even though you have
23 a generally-mild winter, it's still possible to have, you
24 know, one or even a few very cold days and that is what
25 our L.D.C.s plan for.

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2 Next slide.

3 The L.D.C.s purchase gas to supply their
4 customers' winter needs in three ways and that is
5 represented by the par -- pie chart to the right. The
6 first way is by filling their natural-gas storage
7 facilities during the summer when heating demand is low.
8 The second way is by hedging, which acts like an insurance
9 policy to guarantee the purchase price of the gas will not
10 go too high. The third way is by purchasing at the
11 prevailing-market price, which fluctuates with market
12 forces, such as demand and weather and is called flowing
13 gas.

14 Each of these components has increased in
15 price, compared to last year. Last year at this time, the
16 cost of natural gas in storage was the lowest seen in
17 about twenty years and that was due in large part to the
18 very mild winter of 2015-16 which, you know, we just
19 discussed. That also caused the price -- that very-mild
20 winter also caused the price of flowing gas to drop
21 through that winter because there was very low demand.

22 The price of natural gas is influenced by
23 many factors. Weather is chief among these, but demand
24 for natural gas continues to grow which exerts upward
25 pressure on prices.

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2 That being said, natural-gas commodity
3 prices are significantly lower now than they were in the
4 recent past. As recently as the winter of 2009-2010,
5 natural-gas commodity prices averaged over six dollars per
6 dekatherm delivered into New York City and you can see for
7 this coming winter, it's below three dollars.

8 Given our proximity to the northeastern
9 natural-gas production areas, we have access to plentiful
10 supplies and even with colder than normal weather, prices
11 to firm natural-gas customers should be stable.

12 Next slide.

13 We expect the average residential
14 customer's winter-heating bill to be less than eight
15 hundred dollars for this winter, assuming normal weather,
16 but this does vary by utility. This is an increase from
17 last winter, but that is mostly due to last winter's mild
18 temperatures, which kept bills lower.

19 Next slide.

20 In conclusion, our review indicates that
21 the L.D.C.s serving New York has secured adequate supplies
22 of natural gas to meet expected customer requirements this
23 winter. Staff will continue to monitor supply prices and
24 interruptible-customer compliance throughout the winter
25 and report any situations that require Commission

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2 attention.

3 Staff will also work with the utilities and
4 interested communities, to find innovative solutions to
5 the challenges represented by increased demand for natural
6 gas.

7 This concludes my portion of the
8 presentation. I would be happy to take any questions you
9 have now, or we can wait till the end of the panel.

10 If you don't have any questions, Vijay
11 would be next.

12 CHAIRMAN RHODES: I think please continue,
13 Vijay.

14 MR. PURAN: Thank you, Cindy.

15 Good morning, Chair Rhodes and
16 Commissioners.

17 My name is Vijay Puran and I'm a Utility
18 Supervisor in the Department's bulk-electric system
19 section. As Cindy mentioned, I'm here today to brief you
20 on Staff's review of the bulk-electric systems
21 preparedness for the upcoming 2017-2018 winter. At the
22 outset, I would like to say that based upon our review, we
23 conclude that a bulk-electric system is prepared to
24 reliably meet the state's upcoming winter-electric
25 demands.

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2 Next slide, please.

3 This chart shows the summer and winter
4 historic coincident peak, since year 2000. It also shows
5 that New York State is a summer-peaking state and
6 therefore has to have sufficient available capability, to
7 meet loads well-above those typically experienced during
8 the winter.

9 Last winter's actual electric-peak load was
10 twenty-four thousand one hundred and sixty-four megawatt.
11 This was one thousand five hundred and seventy-four
12 megawatts lower than the 2013-2014 polar -- polar-vortex
13 winter record of twenty-five thousand seven hundred
14 thirty-eight megawatts. The New York I.S.O. electric-peak
15 forecast for the upcoming winter period is twenty-four
16 thousand three hundred and sixty-five megawatts.

17 Next slide please.

18 This slide summarizes the resources
19 expected to be available to New York, during the winter.
20 The New York I.S.O. expects to have thirty-nine thousand
21 seven hundred and eighty-five megawatts in net-capacity
22 resources available during the winter to serve the
23 forecasted winter-peak load of, as I mentioned, twenty-
24 four thousand three hundred and sixty-five megawatts.

25 Once operating reserves, which are

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2 resources available to meet sudden system contingencies
3 are accounted for, there remains a capacity margin of
4 twelve thousand eight hundred megawatts. So, in short, we
5 have sufficient capability to serve the forecasted load,
6 during the upcoming winter.

7 Next slide, please.

8 As part of Staff's winter assessment, we
9 reached out to major generating-facility owners in
10 southeast New York, who own about twelve thousand
11 megawatts of dual-fuel generation capability. We found
12 that these owners are continuing to implement lessons
13 learned from the polar-vortex winter of 2013-2014,
14 including having increased pre-winter onsite fuel
15 reserves, having formed contracts with fuel-oil suppliers,
16 conducting more-aggressive replenishment plans, and having
17 more proactive pre-winter maintenance and facilities prep
18 -- preparations.

19 Also, a winter-coordination protocol is in
20 place to facilitate communications between state agencies
21 and the New York I.S.O. in circumstances where fuel supply
22 for generating facilities may be at risk, or if a
23 generator owner needs a fuel-specification waiver from the
24 D.E.C., to maintain reliability. The state agencies
25 involved are the D.P.S., D.E.C., NYSERDA and D.O.T.

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2 Next slide, please.

3 Staff also met with the New York I.S.O. and
4 discussed its procedures and protocols for the winter
5 period. In recent year -- years, the New York I.S.O. had
6 instituted various changes to help ensure electric
7 reliability during periods of tight natural-gas supply,
8 especially closely monitoring generator fuel levels and
9 replenishments.

10 In addition, the New York State I.S.O. has
11 improved communications with interstate pipelines, local-
12 gas distribution companies and neighboring I.S.O.s, during
13 period of tight electric operating conditions. Our
14 neighboring R.T.O. and I.S.O., also have winter-
15 reliability programs and expect to have adequate supply
16 for this winter.

17 This concludes my presentation.

18 Thank you. I'll be happy to answer any
19 questions you may have.

20 If not, Paul Darmetko would be presenting
21 next.

22 CHAIRMAN RHODES: I think over to you,
23 Paul.

24 MR. DARMETKO: So, good morning, Chairman
25 Rhodes. Good morning, Commissioners.

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2 I'll be providing you with a summary of how
3 the electric utilities have performed at reducing the
4 electric-supply price volatility for their full-service
5 residential customers, compare this winter's forecasted
6 electric market prices to last winter's forecasts and
7 actual prices. And finally, I'll provide you with an
8 estimate of how we expect full service, residential-
9 customer supply rates to compare to the last few years.

10 Next slide.

11 This graph shows the results of the
12 utilities electric-supply price volatility-mitigation
13 efforts, since December of 2008. It compares the average
14 New York I.S.O. day-ahead market price volatility, the red
15 line, with the volatility of the utilities electric-supply
16 portfolios, the blue line. Each point represents the
17 volatility over a twelve-month period, as measured by the
18 coefficient variation.

19 That large spike that you see there, is the
20 2014 polar vortex and this resulted in an increased market
21 prices and increased-price volatility. And even though
22 customers benefited from the hedges that utilities had in
23 place, the bill impacts that customers experienced were
24 very high and as a result of lessons learned, the
25 utilities modified certain aspects of their hedging

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2 programs.

3 These changes included increasing the
4 fixed-price hedge level of the residential supply
5 customers during the winter months from about fifty-five
6 percent to seventy percent, on a statewide average basis,
7 as well as certain utilities maintaining multiple
8 portfolios, to better hedge their customers located in
9 different regions in their service territories. As you
10 can see, the utilities have continued to perform well at
11 reducing their portfolio-price volatility, compared to
12 market.

13 This chart shows how the New York I.S.O.
14 day-ahead around-the-clock market prices have varied over
15 the last few years. The solid lines represent the actual
16 average-monthly market prices for three New York I.S.O.
17 zones, west, Hudson and New York City. The dashed lines,
18 that are the same color, show what the NYMEX futures were,
19 just prior to the winter season. In the winter months,
20 market prices can be significantly affected by gas-market
21 price, as well as the weather.

22 In the last two winters there was
23 significantly warmer-than-normal weather, whereas the two
24 winters prior to the last two were significantly colder
25 than normal. Last winter's warmer-than-normal weather

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2 allowed gas prices and therefore electric-market prices to
3 remain significantly lower than what we experienced the
4 year of the polar vortex and the year immediately
5 following. But this variability is precisely why the
6 utilities hedge for their full-service mass-market
7 customers, to protect them against wide-market swings and
8 spot-market prices.

9 Next slide.

10 This next chart shows this winter's
11 expected average-energy prices based on NYMEX futures and
12 how they compare to last winter's forecasts and actual
13 prices for New York City, Hudson Valley and Western New
14 York. Last winter's expected energy-market prices that we
15 reported to you last October, are in green. Last winter's
16 actual-market prices are in blue and this winter's
17 expected-market prices are in red.

18 As shown, last winter's actual-market
19 prices were significantly lower than what was forecast
20 going into the winter, about thirty-three percent less,
21 which again reflects last winter's unusually-warm weather.
22 And although this year's market prices are expected to be
23 higher than last year's actuals, on a forecast basis,
24 they're between one to twenty-two percent lower, than the
25 prior year's futures. However, as always, these actual

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2 prices will vary, based on the weather and other
3 conditions in the system.

4 Next.

5 With respect to customers' supply prices
6 this winter, if we experience normal weather, we expect
7 that on a statewide average basis, that full-service
8 residential customers will spend about five-percent more
9 this winter than they did last winter, but approximately
10 sixteen-percent less than over the last five years on
11 average. And -- which is good news for consumers. Prices
12 are still low.

13 So, that concludes my portion of the
14 presentation. I'd be happy to answer any questions.

15 CHAIRMAN RHODES: Thank you.

16 Andrew?

17 MR. BISNETT: Good morning, Chairman Rhodes
18 and Commissioners.

19 As the winter season approaches and with
20 the rise of energy pricing, many New Yorkers are again
21 facing the difficulty of managing winter-heating costs.
22 The situation will be particularly hard on the elderly and
23 on people on fixed or low incomes.

24 This report will describe the work that
25 Department Staff and New York State Energy Utilities are

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2 doing to provide customers with information, to help
3 prepare for the 2017-2018 winter season.

4 To help consumers manage their energy
5 bills, we are carrying out a statewide consumer-awareness
6 campaign, to educate consumers about expected pricing and
7 the resources available to assist consumers. Key program
8 messages will focus on how customers can manage winter
9 bills through bill-payment options, such as budget billing
10 and deferred-payment agreements and with financial
11 assistance programs, which are available through the
12 government, such as the Home Energy Assistance Program or
13 HEAP, through community-based organizations and through
14 utility-sponsored programs.

15 Customers are also provided information
16 about controlling their heating costs, by taking simple
17 and affordable measures to in -- to reduce energy use and
18 become more energy efficient. Customers are also reminded
19 that there are special customer protections in place
20 during the cold weather period of November 1st to April
21 15th and that there are resources available to assist
22 consumers facing heating-related energy emergencies.

23 Lastly, in addition to information about
24 winter bills, our winter messaging will include safety
25 information, regarding natural gas, electricity, carbon

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2 monoxide and service interruptions.

3 The Department's winter-outreach program
4 uses a variety of methods to get messages to consumers,
5 such as developing and distributing publications in
6 English and Spanish, that focus on winter preparedness and
7 managing bills. We also have several of the publications
8 used in our winter programs, available in Chinese, Haitian
9 Creole, Italian, Korean and Russian.

10 To help us in our efforts to reach as many
11 New Yorkers as possible, we provide copies of our outreach
12 materials to our statewide network of community leaders,
13 free of charge and invite them to work with us, in
14 educating consumers this winter. The list includes over
15 six thousand representatives of social-service agencies,
16 community organizations and local governments.

17 To further increase the reach of our
18 message, Staff engages in grass-roots outreach, including
19 presentations to community groups and exhibits at public
20 events, such as home shows. We also use the Department's
21 websites and our call-center staff to get our messages out
22 to utility customers.

23 Next.

24 In addition to the Department's outreach
25 program, we are working with the utility companies to

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2 encourage them, to maintain strong, customer education and
3 assistance programs. Each utility has developed outreach
4 plans to alert customers about price estimates and
5 mitigating-price volatility, suggest ways to conserve
6 energy and reduce heating bills, to provide advice about
7 payment plans and financial-assistance programs and offer
8 storm preparation measures and safety information.

9 The companies are using a variety of tools
10 to reach customers, including news releases and paid media
11 ads, bill inserts and bill-envelope messages, newsletters,
12 on-hold telephone messages, website features and social-
13 media platforms such as Facebook, Twitter and Instagram.
14 The utilities also work with municipal and elected
15 officials and partner with human-service organizations and
16 community groups.

17 Finally, the companies provide training to
18 their consumer advocates and call-center staff on winter
19 messaging and customer service.

20 In conclusion, the Office of Consumer
21 Services winter any -- energy outreach and education
22 program is designed to ensure that New York utility
23 customers have access to information and programs they
24 need to manage their winter-energy bills and use energy
25 efficiently. Staff will continue to monitor -- excuse me,

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2 Staff will continue to monitor the need for additional
3 outreach and education efforts and will work with the
4 utilities, to make modifications as needed, throughout the
5 heating season.

6 We will also continue to work with the
7 state's utility companies to find ways to assist their
8 customers and to keep the heat on and stay warm this
9 winter.

10 Thank you.

11 CHAIRMAN RHODES: Thank you, Andrew, also
12 Paul, Vijay and Cindy.

13 Thank you all for the work and for the
14 forward look. I certainly like the fact that the work
15 shows that we've got adequate capacity and supply, we've
16 got reasonable price outlooks, and that our utilities are
17 ready.

18 And I also recommend -- also welcome the
19 reminder on this part of the Commission's and the
20 Department's role, we oversee and we pay attention to new
21 kinds of energy models and we also pay attention and
22 oversee consumer-protection issues, safety, reliability
23 and now supply and also making sure that the outreach
24 that's needed to get through winter in good shape is
25 happening, happening here and with our consumer-outreach

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2 partners. So thank you very much.

3 Are there any comments or questions from my
4 fellow Commissioners?

5 Commissioner Sayre?

6 COMMISSIONER SAYRE: No.

7 CHAIRMAN RHODES: Commissioner Burman?

8 COMMISSIONER BURMAN: Thank you.

9 First, I want to take a moment of personal
10 privilege.

11 I don't know, I started getting choked up,
12 Andrew, I know this is your first time presenting and
13 we've been partners together at a number of the public-
14 statement hearings. So, I was happy to see you
15 presenting. So thank you. You did a good job.

16 Couple of things. I just want to -- and --
17 and please, I think primarily, Cindy and Vijay, please
18 correct me if I'm wrong, I just want to make sure that I
19 am sort of capturing what I'm hearing.

20 I'm hearing that we are projecting adequate
21 resources to meet demand for the winter 2017-2018. We are
22 well-prepared to handle the winter-operational challenges,
23 due in part to lessons that we learned from the 2014 polar
24 vortex.

25 And that -- some of that deals with sort of

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2 the gas-electric coordination issues. You know, we have
3 enhanced operational tools. We have a gas-electric market
4 alignment fuel situation -- situational-assurance
5 measures. The I.S.O. has wonderful winter --
6 winterization guidelines and protocols that they've
7 enhanced, that we, collaboratively, with the state
8 agencies work on.

9 And then on the generation side there are a
10 number of different enhancements that have been made,
11 including onsite -- onsite fuel reserves, as well as
12 further planning and collaboration. And that -- really,
13 the key seems to be the planning and the collaboration.

14 Industries made improvements in their
15 winter preparation activities and this has helped to
16 improve New York's overall preparedness for the winter
17 2017-2018. However, we do expect it to be much colder, or
18 at least forecasting to be much colder this winter than it
19 was last winter.

20 I'm not sure that -- Mike, you want to --?

21 MR. WORDEN: No, go ahead.

22 I'm just getting ready.

23 COMMISSIONER BURMAN: Well, if you want to
24 respond to that now, you --.

25 MR. WORDEN: Well, you know, I wouldn't say

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2 much colder. I would say colder.

3 We expect it to be more normal. It's not
4 like we're projecting a polar vortex for this winter. I
5 don't think we have a good handle on that.

6 Prior to that, I -- I would say yes to all
7 of the things you said, both on the gas and electric side,
8 that we are prepared and we have done all the things that
9 you walked through.

10 COMMISSIONER BURMAN: Okay. How much
11 colder do we -- has it been forecast? One percent,
12 thirteen percent?

13 I think I saw a figure from the Natural Gas
14 Supply Association of thirteen-percent colder than last
15 year.

16 MR. WORDEN: That sounds -- I was going to
17 say ten percent --

18 COMMISSIONER BURMAN: Okay.

19 MR. WORDEN: -- but on that --

20 COMMISSIONER BURMAN: All right.

21 MR. WORDEN: -- order. Yes.

22 COMMISSIONER BURMAN: Okay. So, colder. I
23 won't say much colder.

24 And then it is also expected to be an
25 increased demand with both the colder-expected winter, as

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2 well as increased demand, that is going to put some price
3 pressure on -- on the -- on the bills.

4 Really, we always have to look at sort of
5 the market-pressure points. And so for winter 2017-2018
6 some of those market-pressure points are traditionally
7 weather economy, demand, storage, production, obviously
8 wild-card factors and expectations for the winter.

9 Really, some of the critical issues that we
10 need to address, are looking at the natural-gas
11 capabilities. First, the electric-system capabilities and
12 what about that? How does that affect things? As well as
13 what about the natural-gas system congestion and how does
14 that impact the electric-system prices? Those are the
15 things that we need to be really laser-focused on. All of
16 those different critical issues really do put upward
17 pressure on our system and while we are projecting
18 adequate resources to meet demand for the current winter,
19 we do need to recognize that we need to look at some of
20 those pressures and what that may mean, you know, not only
21 this winter, but down the road.

22 So, I am cognizant of that. Really, for
23 me, a lot of this also comes back to Andrew's
24 presentation, in just how critically important it is on
25 the consumer-services end, the outreach and the education.

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2 We have had a good-working relationship with the
3 utilities, not only under the regulations and the
4 different moratoriums that are in place for the cold-
5 weather period, but also the voluntary enhancements that
6 utilities historically always step-up and step-up very
7 well to do. That comes through the active efforts of the
8 consumer-services folks, who are not waiting until after
9 an issue, but really there beforehand, coordinating
10 through the various means. And I'm -- I'm sure that's
11 going to continue and I look forward to working through
12 that.

13 And, again, as much as we can get out the
14 information, especially as we know it on HEAP and
15 emergency HEAP availability and getting it out to the
16 relevant organizations, that can help us with that, is
17 critically important.

18 So, thank you.

19 CHAIRMAN RHODES: Commissioner Alesi?

20 COMMISSIONER ALESI: Thank you.

21 This is a great presentation all the way
22 across the board. And I appreciate the hard work and
23 effort that has gone into it. I just had one quick
24 question on the effectiveness of the outreach and it's
25 obviously something you want to continue to do. But I'm

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2 wondering also, is there an established method for
3 actually measuring the results of -- of the outreach
4 efforts? And I know you have on the other end, such
5 fluctuations with the -- the cost of energy and the use of
6 energy, but is there -- is there a way to establish a
7 control group, or measure the effectiveness of all these
8 various methods of outreach?

9 MS. SCHERER: I think that's a good point.

10 I think we don't have an established
11 mechanism, but what I will say is we -- as Andrew
12 mentioned, we have a C.V.O. municipal database of about
13 six thousand -- six-thousand contacts and generally,
14 hundreds of those contacts request the outreach materials,
15 year after year.

16 So, I would say from the municipal and the
17 C.V.O. perspective, the information is -- is useful to
18 them.

19 COMMISSIONER ALESI: Okay. Thank you.

20 COMMISSIONER BURMAN: I also just want to
21 recognize that we do, when we look at -- annually the
22 utilities performance, look at the customer satisfaction
23 and factor in a lot of these different issues as well.
24 So, we -- and, you know, if there is a complaint we look
25 at that, as well.

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2 So there are different pressure points that
3 help us to know if things are going well and how to in --
4 in -- increase the outreach, not only at our end, but also
5 at the utility end, if it's necessary. And that is part
6 of what we do when we're approving the budgets, too.

7 CHAIRMAN RHODES: Thank you, very much.

8 This is not a voting item. It is for
9 information only. That doesn't sound quite right. It's
10 very informative, but it is not a voting item.

11 Let's move on to the fifth item for
12 discussion. Items 204 through 211, cases 12-M-0476, et
13 al, as they relate to seven petitions for waiver to serve
14 low-income customers, presented by Christine Bosy, Utility
15 Consumer Program Specialist, Luann Scherer, Director of
16 Office of Consumer Services and Tom Dwyer, Assistant
17 Counsel -- I'm sorry, Luann and Tom are available for
18 questions.

19 Christine, when you're ready, please begin.

20 MS. BOSY: Good morning, Chairman Rhodes
21 and Commissioners. Today, I'm presenting on seven
22 petitions for waiver of the Commission's December 2016
23 order on low-income ESCO customers. Item 204 through 211
24 relate to the waiver petitions, filed by Agway Energy
25 Services, New Wave Energy Corporation, South Bay Energy

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2 Corporation, Stream Energy New York, L.L.C., National Fuel
3 Resources, Zone One Energy, L.L.C. and Just Energy New
4 York Corporation.

5 As background, in the order adopting a
6 prohibition on service to low-income customers by energy-
7 service companies, issued on December 16, 2016, the
8 Commission directed a prohibition on ESCO enrollments and
9 renewals of customers, who are participants in utility,
10 low-income assistance programs, customers we refer to as
11 assistant program participants or A.P.P.s.

12 The December order provided that any ESCO
13 that believes they are able to provide guaranteed savings
14 to A.P.P.s, could petition the Commission for a waiver of
15 the December order, within thirty days of the order, by
16 demonstrating an ability to calculate what the customer
17 would have paid to the utility, a willingness and ability
18 to assure that the customer will be paying no more than
19 what they would have paid to the utility and the
20 appropriate reporting to verify and demonstrate compliance
21 with these assurances.

22 Petitioners -- I'm sorry. Petitions were
23 received from three ESCOs prior to the January 16th
24 deadline established in the order. An extension of
25 fourteen days was granted to January 30th, 2017, in

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2 response to an extension requested by the impacted ESCO
3 coalition. Subsequently, nine additional petitions were
4 filed.

5 Each of the petitions were SAPA'd, comments
6 were received from the Utility Intervention Unit or U.I. -
7 - U.I.U., of the New York State Department of State's
8 Division of Consumer Protection, the city of New York, the
9 Public Utility Law Project of New York or PULP and the New
10 York Attorney General's Office, or the A.G.'s Office.

11 U.I.E.U. -- U.I.U. requested that among
12 other things, a uniform methodology for the ESCO utility
13 price comparison be adopted, to assure that all customers
14 have adequate protection from potential overcharges and
15 that a condition be imposed, that any waiver is effective
16 for one year and renewable upon proof of compliance. In
17 addition, U.I.U. requested that if ESCOs failed to meet
18 these guaranteed-savings program requirements, the waivers
19 would be revoked.

20 Finally, U.I.U. suggested that the
21 Commission should impose certain reporting requirements,
22 on ESCOs who are granted a waiver. PULP, the A.G.'s
23 Office and the city concur with U.I.U.'s comments.

24 Each of the seven petitions before you
25 today, were deficient in some respect, or required

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2 additional clarification. Staff therefore requests --
3 requested additional information from each of these ESCOs
4 and had discussions with each, during its review of the
5 petitions and supporting materials.

6 Today we are recommending that the
7 Commission issue a waiver to Zone One Energy, National
8 Fuel Resources and Just Energy, to allow these ESCOs to
9 serve low-income customers.

10 Zone One and National Fuel Resources
11 currently offer products that result in savings to all of
12 their residential customers and they have been providing a
13 savings to the customers for years. Zone One currently
14 provides that a saving to electric customers in the Con
15 Edison territory and National Fuel Resources currently
16 provides a saving to its gas customers in National Fuel
17 Gas distributions territory.

18 Just Energy created a new product
19 specifically for this low-income -- for their low-income
20 customers that will provide a one percent savings from
21 what the low-income customer would have paid to the
22 utility. And in support of their petitions, Zone -- Zone
23 One, National Fuel Resources and Just Energy provided bill
24 methodologies, with the supporting calculations, which
25 replicate -- replicate the utility tariffs. These

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2 calculations will enable each of these ESCOs, on a monthly
3 basis, to closely bill the low-income customer what the
4 utility would have billed the customer.

5 In response to Staff's multiple -- multiple
6 requests for additional information, these three ESCOs
7 provided clarifications and very-detailed information,
8 along with calculations used to determine what the
9 customers' monthly bill for bundled utility service would
10 be, to determine what the customer should be billed for
11 their ESCO service, to achieve those guaranteed savings.
12 Moreover, Zone One and National Fuel Resources, provided
13 sample reports demonstrating the actual refunds and
14 savings that their customers have received over the past
15 year.

16 Just Energy indicated in its supplemental
17 response, that if guaranteed a waiver and with proper
18 notice, it would enroll all of its existing low-income
19 customers into its new guaranteed savings program, to
20 provide their A.P.P. customers immediate savings. Just
21 Energy also clarified that if a low-income customer
22 cancels before the twelve-month term expires, that A.P.P.
23 customer will pay no more for service, than they would
24 have paid as a full-service customer of the -- their
25 utility for that same period.

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2 In the event a credit is due to a low-
3 income customer, all three ESCOs will provide a credit on
4 the customer's bill, to ensure the low-income customer's
5 savings is credited to their utility account. For Just
6 Energy the true-ups are calculated on a monthly basis,
7 with the credit refunded, annually. For Zone One and
8 National Fuel Resources, the true-up will be calculated
9 monthly and the credit will be provided on the following
10 month's utility bill.

11 The draft orders before you today require
12 that Just Energy, National Fuel Resources and Zone One
13 report semiannually on the status of their guaranteed
14 savings product as it pertains to their low-income
15 customers. The report should in -- also include the
16 number of customers served, the monthly-calculated billed
17 amounts, the alternative amounts that the utility would
18 have charged and the amount of any refunds or credit
19 issued to the customer, to meet the savings guaranteed.

20 Finally, while the draft orders grant Just
21 Energy, National Fuel Resources and Zone One a petition
22 for waiver, we believe it's appropriate for the Commission
23 to place a time limit on the waivers. We recommend that
24 the waivers expire twenty-four months from the date of
25 this order.

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2 During that time period, Staff will review
3 Just Energy, National Fuel Resources and Zone One's
4 compliance with these -- the December 2016 order. These
5 three ESCOs will also, at that time, have the opportunity
6 to petition for an extension of their waiver.

7 After careful review of the information
8 filed for the remaining four ESCO waivers, Staff
9 recommends denying the petitions by Agway Energy Services,
10 New Wave Energy Corporation, South Bay Energy Corporation
11 and Stream Energy New York, L.L.C. We determined that the
12 -- these ESCOs have not complied with the Commission
13 order, which required them to demonstrate that they can
14 provide a guaranteed savings, compared to what the
15 customer would have paid to the utility and to provide
16 appropriate reporting, to verify their compliance with
17 these assurances.

18 Agway's Energy petition described the
19 benefits of its energy-guard service, that ensures
20 continued safe operation of its customers heating and
21 cooling systems. Agway's petition, however, failed to
22 provide any details on Agway's ability to provide a
23 guaranteed savings, over what the low-income customer
24 would have paid as a full-service utility customer.
25 Further, Agway did not respond to any of Staff's --

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2 Staff's additional requests for information.

3 New Wave Energy's petition described
4 offering three guaranteed savings plans, such as free
5 nights and weekends, flat peak hours and a six-month plan
6 that guarantees a savings of one percent. In response to
7 additional information requested by Staff, New Wave filed
8 an amended petition that offered a variable-rate month-to-
9 month guaranteed-savings plan instead of the three
10 products proposed in its -- in its original petition.

11 Although New Wave's amended petition provided a
12 description of the tools it would use to calculate the
13 utility pricing, it failed to -- to provide the details,
14 specifically the supporting calculations to allow Staff to
15 verify its monthly price and how New Wave calculated the
16 true-up to guarantee the savings. In addition, New Wave's
17 sales agreement continued inconsistencies, such as a
18 fixed-rate offer with early termination fees, which
19 directly conflicts with New Wave's amended petition,
20 stating that it would only offer -- offer a variable rate
21 month-to-month guaranteed savings plan.

22 New Wave also provided a proposed-
23 compliance reporting format, that did not include New
24 Wave's charges, or what the utility would have charged the
25 customer for the full service for that amount of time.

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2 New Wave provided no supporting calculations to validate
3 its proposed guaranteed-savings product.

4 South Bay's waiver request described their
5 guaranteed-savings plan, as a monthly savings with a
6 variable price that would be one-percent less than the
7 approximated utility price. South Bay's petition also
8 explained generally, how it would track and report its
9 guaranteed-savings plan. South -- South Bay's petition
10 failed to provide details of the actual-rate calculations
11 and methodologies that would be used to determine its
12 monthly rate.

13 Staff requested from South Bay, its
14 proposed low-income customer contracts, spreadsheet
15 analysis, with detailed supporting calculations, for
16 determining its monthly price, detailed calculations,
17 verifying the customer did not pay more to South Bay than
18 it would have paid to the utility for the same period and
19 a sample of its proposed tracking and reporting of such
20 savings, to verify compliance. South Bay did not respond
21 to either of Staff's requests for additional information.

22 Stream Energy's waiver request, describes
23 their current guaranteed-savings plan, as one that
24 attempts to match the utility pricing, to calculate its
25 monthly variable rate along with providing a cash-back re

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2 -- rewards program that would typically result in the low-
3 income customer paying no more than what the customer
4 would have paid as a full-service utility customer. The
5 low-income customer, however, is required to stay with
6 Stream for twelve-consecutive months to qualify for the
7 cash-back reward.

8 Stream's petition indicated that an annual
9 true-up would be performed and if warranted, a refund
10 would be -- be provided to the customer. Stream will
11 refund the difference between the rate paid to Stream and
12 the rate that the low-income customer would have paid to
13 the utility for full-utility service. For the cash-back
14 reward the amount of the refund would be subtracted from
15 the customer's cash back reward, to -- to determine the
16 final savings. If the refund equals or exceeds the reward
17 no reward would be given. If refund is warranted at
18 Stream's sole discretion, the refund would be provided to
19 the low-income customer by a check, debit card, preloaded
20 credit, or any other mechanism Stream may provide.

21 Stream provided a spreadsheet that
22 indicated a cash-back credit amount its customers
23 received. However, failed to include what the utility
24 charges would have been for the same period. It also
25 failed to provide the calculations to verify Stream's

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2 monthly charges and how the utility rates were calculated.
3 Moreover, Stream did not provide the calculations
4 necessary for Staff to validate that the cash-back reward
5 makes up the difference between what the low-income paid
6 -- customer paid to Stream and what it would have paid to
7 the utility as a full-service customer.

8 Stream's proposed reporting mechanisms
9 failed to provide all the information necessary to
10 validate the low-income customer actually -- actually paid
11 less to Stream, than what they would have paid for full
12 utility service.

13 That concludes my summary. If you have any
14 questions, we'd be happy to answer them.

15 CHAIRMAN RHODES: Thank you, Christine.

16 MS. BOSY: You're welcome.

17 CHAIRMAN RHODES: My own view is that it's
18 important to reaffirm the standard that we're applying,
19 that we require a demonstrated methodology for
20 guaranteeing savings. I appreciate the Staff -- very
21 much, the work that the Staff has done in assessing these
22 seven petitions and agree with the recommendations by the
23 Staff, as to which meet that standard and which do not
24 meet that standard.

25 So, thank you very much.

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2 Any comments, Commissioner Sayre?

3 COMMISSIONER SAYRE: I agree with the Chair
4 and I also commend the Staff for a very thorough analysis.

5 We've made it clear that energy-service
6 companies can serve low-income customers in this state, if
7 they guarantee savings to our satisfaction. We've said
8 both yes and no to requests previously and these items
9 continue our careful analysis of every such request on a
10 case-by-case basis.

11 I think we've had enough yeses at this
12 point, to -- to make it clear that there is more than one
13 path to yes and to suggest to ESCOs, who either want to
14 come in initially, or want to come again to serve this
15 market, they're welcome to do so, but they need to follow
16 the rules and meet the requirements and answer Staff's
17 data requests.

18 CHAIRMAN RHODES: Commissioner Burman?

19 COMMISSIONER BURMAN: Thank you.

20 So, while my mantra is it is a process and
21 we continue to need to evolve, to meet challenges and
22 opportunities, I'm concerned about this process.

23 I think Staff and Christine, you have
24 always done complete due diligence and hard work, and you
25 are a -- a -- a exemplary professional. So, this is not a

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2 criticism of any of your fine work. In fact, I do
3 recognize how dedicated all of the Staff is on these
4 issues.

5 My concern is this. I -- I -- I feel like
6 we're doing these in a silo and while there seems to be
7 and I guess we can take from the different orders from
8 last session and this session, some takeaways on what
9 would fall into the yes category and what would fall into
10 the no category, it's kind of a secret society, right?
11 You don't really know from the outside, what it is because
12 you're not able to look at the information that the --
13 that we're reviewing. And so we're kind of asking people
14 to tell -- to meet the -- the test, on what the guaranteed
15 savings is, but we really haven't laid out to them what we
16 are expecting as a guaranteed-savings plan, in a way that
17 for me gives me comfort.

18 I would -- I feel like at the end of the
19 day, it's better if we look at this from a more holistic
20 perspective, where we have one clear guidepost, guidance
21 order, that says this is what it is, here it is and we
22 will work with you. We seem to be able to do that in --
23 in other areas and we have -- in the past, we've been able
24 to do that.

25 In the C.C.A.s, we are not telling them

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2 that they have to come and get approval via petition, to
3 meet their guaranteed-savings plan, to be able to serve
4 low-income customers. They are allowed to, they continue
5 to do so and they're -- they can adopt it going forward.

6 But there's no -- so, it seems to me, that
7 it's sort of a fundamental unfairness, that we've only
8 allowed now a certain sector. Now, some would say, well,
9 we told them that they could petition and -- and ask for
10 the ability to do this and we would grant them the waiver.

11 I'm troubled that Agway hasn't responded.
12 I wonder why. I wonder, you know, for me, you know, Agway
13 to me, I'm just curious, you know, did they not respond
14 because they're giving up in this area? Did they think it
15 was futile?

16 Like I just -- that's really just from my
17 perspective, wanting to know what it is because we, as
18 regulators, should be evolving to produce the best
19 opportunities and choices for all customers. And so, we
20 should be helping to look at what the barriers may be.

21 Now, I do understand from the process, that
22 we are trying to get there. We are trying to find that
23 pathway. I just don't know that we've done a good-enough
24 job, at this point. The -- the -- sort of the overhanging
25 issue or the elephant in the room, is the ongoing ESCO

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2 administrative hearing, that has really sucked the life
3 out of all of us, in a way that is not allowing us to get
4 to the sweet spot of collaboration and coming to the
5 table, all of us and throwing away the blame game, of
6 who's at fault and figuring out a solution that might
7 work. And we need to really kind of work and think about
8 how do we work together to find the solutions that are
9 appropriate for us.

10 And, you know, again, I go back to the
11 history of where, you know, the ESCO-collaborative process
12 used to work really well, you know, for those who were in
13 it. They were in it, you know, down in the weeds in a way
14 that produced real, thoughtful, helpful, appropriate
15 solutions. I get that not everybody is coming to the
16 table with that same mindset, but we've got to figure it
17 out because it is not helpful.

18 And so, I really hope that the sweet spot
19 is there and that we can unblock the issues and maybe
20 figure out what works. Bad actors, we don't want. Good
21 actors, those that need to have thoughtful regulators
22 working with them to overcome some of the challenges for
23 the opportunities that are presented for the good of
24 consumers, is what we want to get to.

25 So, for me I'm not going to vote on -- I'm

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2 going to vote no on these items because it is in -- where
3 I come from, in -- in my process review, I don't think
4 that it is appropriate right now to do picking one over
5 another, without sort of a more holistic approach. We
6 have pending petitions for rehearing on some of the items
7 from last month, that may be food for thought on the ones
8 we're denying now, that I'm concerned about. I think we
9 have one further petition for low income.

10 Maybe this is helpful, that we'll get more
11 petitions for low income. I doubt it, until we figure out
12 the sweet spot for coming together and collaborating and I
13 really would challenge everyone, everyone, that includes
14 us as regulators, to really try to put aside our
15 differences and work together and -- and try to figure out
16 solutions and craft together some things, so that we can
17 get back to the business that we all want to do, which is,
18 you know, our bread and butter.

19 And so, that's really -- that's it. That's
20 where I come from. I feel passionate that we can get
21 there, if we try to do that.

22 So, thanks.

23 CHAIRMAN RHODES: Thank you, Commissioner
24 Burman. Commissioner Alesi?

25 With that we will proceed to vote, item by

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2 item.

3 So, I will call for a vote on Item 204.

4 My vote is in favor of the recommendation
5 to the -- to deny the petition by Agway Energy Services,
6 L.L.C., for waiver to serve low-income customers as
7 described.

8 Commissioner Sayre, how do you vote?

9 COMMISSIONER SAYRE: Aye.

10 CHAIRMAN RHODES: Commissioner Burman?

11 COMMISSIONER BURMAN: No.

12 CHAIRMAN RHODES: Commissioner Alesi?

13 COMMISSIONER ALESI: Yes.

14 CHAIRMAN RHODES: The item is approved and
15 the recommendation is adopted.

16 Calling for a vote on item 205.

17 My vote is in favor of the recommendation
18 to approve the petition by National Fuel Resources, Inc.,
19 for waiver to serve low-income customers as described.

20 Commissioner Sayre, how do you vote?

21 COMMISSIONER SAYRE: Aye.

22 CHAIRMAN RHODES: Commissioner Burman?

23 COMMISSIONER BURMAN: No.

24 CHAIRMAN RHODES: Commissioner Alesi?

25 COMMISSIONER ALESI: Yes.

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2 CHAIRMAN RHODES: The item is approved and
3 the recommendation is adopted.

4 Item 206, my vote is in favor of the
5 recommendation to deny the petition by New Wave Energy
6 Corporation for waiver to serve low-income customers as
7 described.

8 Commissioner Sayre, how do you vote?

9 COMMISSIONER SAYRE: Aye.

10 CHAIRMAN RHODES: Commissioner Burman?

11 COMMISSIONER BURMAN: No.

12 CHAIRMAN RHODES: Commissioner Alesi?

13 COMMISSIONER ALESI: Yes.

14 CHAIRMAN RHODES: The item is approved and
15 the recommendation is adopted.

16 Item 207, my vote is in favor of the
17 recommendation to deny the petition by South Bay Energy
18 Corp., for a waiver to serve low income customers as
19 described.

20 Commissioner Sayre, how do you vote?

21 COMMISSIONER SAYRE: Aye.

22 CHAIRMAN RHODES: Commissioner Burman?

23 COMMISSIONER BURMAN: No.

24 CHAIRMAN RHODES: Commissioner Alesi?

25 COMMISSIONER ALESI: Yes.

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2 CHAIRMAN RHODES: The item is approved and
3 the recommendation is adopted.

4 Item 208, my vote is in favor of the
5 recommendation to deny the petition by Stream Energy New
6 York, L.L.C., for a waiver to serve low-income customers
7 as described.

8 Commissioner Sayre, how do you vote?

9 COMMISSIONER SAYRE: Aye.

10 CHAIRMAN RHODES: Commissioner Burman?

11 COMMISSIONER BURMAN: No.

12 CHAIRMAN RHODES: Commissioner Alesi?

13 COMMISSIONER ALESI: Yes.

14 CHAIRMAN RHODES: The item is approved and
15 the recommendation is adopted.

16 Item 210, my vote is in favor of the
17 recommendation to approve the petition by Zone One Energy,
18 L.L.C., for a waiver to serve low-income customers as
19 described.

20 Commissioner Sayre, how do you vote?

21 COMMISSIONER SAYRE: Aye.

22 CHAIRMAN RHODES: Commissioner Burman?

23 COMMISSIONER BURMAN: No.

24 CHAIRMAN RHODES: Commissioner Alesi?

25 COMMISSIONER ALESI: Yes.

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2 CHAIRMAN RHODES: The item is approved and
3 the recommendation is adopted.

4 Item 211, my vote is in favor of the
5 recommendation to approve the petition by Just Energy New
6 York Corporation, for a waiver to serve low-income
7 customers as described. Commissioner Sayre?

8 COMMISSIONER SAYRE: Aye.

9 CHAIRMAN RHODES: Commissioner Burman?

10 COMMISSIONER BURMAN: No.

11 CHAIRMAN RHODES: Commissioner Alesi?

12 COMMISSIONER ALESI: Yes.

13 CHAIRMAN RHODES: The item is approved and
14 the recommendation is adopted.

15 We will now move to the consent agenda.

16 Do any of my fellow Commissioners wish to
17 recuse from voting on, or do they wish to comment on any
18 items on the consent agenda?

19 COMMISSIONER SAYRE: No.

20 COMMISSIONER ALESI: No.

21 CHAIRMAN RHODES: Okay.

22 Seeing none, let's move to a call for a
23 vote.

24 My vote is in favor of the recommendations
25 on the consent agenda.

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2 Commissioner Sayre?

3 COMMISSIONER SAYRE: Aye.

4 CHAIRMAN RHODES: Commissioner Burman?

5 COMMISSIONER BURMAN: Aye.

6 CHAIRMAN RHODES: Commissioner Alesi?

7 COMMISSIONER ALESI: Yes.

8 CHAIRMAN RHODES: The items are approved

9 and recommendations are adopted.

10 Secretary Burgess, is there anything

11 further to come before us today?

12 SECRETARY BURGESS: There are no further

13 matters to come before you today.

14 The next Commission session is November

15 16th and I'll just note, the start time is at two p.m.

16 CHAIRMAN RHODES: Thank you very much.

17 We are adjourned.

18 (The meeting adjourned.)

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2 STATE OF NEW YORK

3 I, HOWARD HUBBARD, do hereby certify that the foregoing
4 was reported by me, in the cause, at the time and place,
5 as stated in the caption hereto, at Page 1 hereof; that
6 the foregoing typewritten transcription consisting of
7 pages 1 through 81, is a true record of all proceedings
8 had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 26th day of October, 2017.

11

12

13 HOWARD HUBBARD, Reporter

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