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Monthly Meeting - 2-7-19

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MONTHLY MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, February 7, 2019
10:35 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor

Albany, New York

COMMISSIONERS:
JOHN B. RHODES, Chair
GREGG C. SAYRE
DIANE X. BURMAN
JAMES S. ALESI

1 Monthly Meeting - 2-7-19

2 CHAIRMAN RHODES: I call this session
3 of the Public Service Commission to order.

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

6 SECRETARY BURGESS: Good morning,
7 Chair and Commissioners.

8 There are no changes to this morning's
9 agenda.

10 CHAIRMAN RHODES: Thank you.

11 So, we'll move to the first item for
12 discussion, Item 101, Case 17-G-0606, as it relates
13 to the petition, filed by Consolidated Edison, for
14 approval of its Smart Solutions Program, presented by
15 Mike Rieder, Chief Gas and Water Rates and Supply and
16 Peggy Neville, Deputy Director Office of Clean
17 Energy.

18 Cindy McCarran, Deputy Director of Gas
19 and Water, Rob Cully, Utility Engineering Specialist
20 3 and John Favreau, Assistant Counsel, are available
21 for questions.

22 Mike, please begin.

23 MR. RIEDER: Thank you.

24 Good morning, Chair. Good morning,
25 Commissioners.

1 Monthly Meeting - 2-7-19

2 On September 29th, 2017, Consolidate -
3 - Consolidated

4 In its 2017 petition, Con Edison
5 proposed to implement a multi-prong program to
6 address its forecasted growing natural gas demand.
7 Specifically, the Company proposed an enhanced-gas
8 energy-efficiency program, a gas-innovation program,
9 a gas-demand response pilot, a non-pipe alternative,
10 or NPA portfolio and recovery of pipeline-development
11 costs.

12 In its July and August 2018 orders,
13 the Commission made determinations regarding the
14 Company's proposal, related to the enhanced energy-
15 efficiency program, pipeline-development costs and
16 the gas-demand response pilot. The Draft Order
17 before you, does not revisit those issues.

18 In addition, Con Edison has recently
19 filed additional information, related to its proposed
20 gas-innovation program, which is currently subject to
21 public comment and therefore, is not being
22 considered, at this time.

23 On December 28th, 2018, Con Edison
24 filed additional detail, regarding its proposed NPA
25 portfolio and shareholder-incentive mechanism. In

1 Monthly Meeting - 2-7-19

2 the Draft Order before your, it is recommended that
3 the Commission approve, with modification, Con
4 Edison's proposed NPA port -- portfolio.

5 Con Ed -- Con Edison underwent a
6 request for proposal, or R.F.P. process, to develop
7 its proposed NPA portfolio. After review and proper
8 vetting of the proposals received, Con Edison
9 requests that the Commission approve a 305 million
10 dollar budget, excluding commodity and capacity
11 charges and O and M costs, for a portfolio of non-
12 pipe-line projects, including one, gas energy
13 efficiency program, including efforts targeting low
14 income customers and government buildings, that
15 provide critical community services. Two, renewable
16 thermal electric -- electrification, by way of
17 residential geothermal-heat pumps, in Westchester
18 County and air-source heat pumps for multi-family
19 customers in the Bronx. Three, renewable natural-gas
20 productions plants in Westchester County and New York
21 City. And four, truck supplies of compressed natural
22 gas and liquefied natural gas in Westchester County.

23 The Company has taken a positive step,
24 by proposing non-traditional solutions, to present --
25 to present and future gas-supply constraint problems

1 Monthly Meeting - 2-7-19
2 and commenting parties, have made a valuable
3 contribution, in recommending qualifications to the
4 proposal, in light -- light of the State's clean-
5 energy policies.

6 The measures approved in this order,
7 are not a short-term fix, to a short-term problem.
8 They are the early stages of a long-term
9 comprehensive approach. The Company is encouraged to
10 work closely with stakeholders and local government
11 officials, as this effort continues.

12 The item before you does not grant Con
13 Edison's request for a shareholder-incentive
14 mechanism, mirroring those put in place for non-wires
15 alternatives, for the reasons we will discuss in more
16 detail. However, the item notes, where a gas company
17 does have a specific infrastructure project, within
18 the Company's control, that can be avoided, a non-
19 wires alternative-like mechanism may be appropriate.

20 Because the Company's gas business
21 faces a different set of long-term challenges, than
22 does its electric business, the Company's encouraged
23 to propose a more-comprehensive and gas-specific
24 approach to incentives, for supply-constraint
25 solutions.

1 Monthly Meeting - 2-7-19

2 The supply-side projects contained in
3 the Company's NPA portfolio, include renewable,
4 compressed and liquefied natural gas projects, that
5 would provide 47.1 million dekatherms of peak-day
6 supply capability, which accounts for just over half
7 of the relief contained in the portfolio.

8 The proposed budget for the supply-
9 side solutions, is 86.9 million dollars, which
10 consists of 82.6 million dollars, in capital costs,
11 1.4 million dollars in supply-side program
12 administrative costs for internal labor and 2.9
13 million dollars for other related O and M costs.
14 However, Con Edison currently has existing compressed
15 and liquefied natural-gas injection facilities
16 connected to its gas network, providing gas supply,
17 during winter peak-day events.

18 Because the proposed supply-side
19 projects fit within the Company's current gas-supply
20 and capital-planning scope, it is recommended that
21 Con Edison be directed to begin develop -- to begin
22 development of these projects now, with appropriate
23 engagement of local, effected communities.

24 Furthermore, it is recommended that
25 Con Edison's request for cost recovery and rate

1 Monthly Meeting - 2-7-19
2 treatment, associated with the supply-side solutions,
3 be denied and instead, the solutions be included as
4 projects within the Company's existing capital
5 program and included in the Company's current-pending
6 rate filing.

7 It has been the policy of the
8 Commission, to encourage non-traditional customer-
9 side solutions, where they are cost effective and to
10 align utility financial incentives with these
11 outcomes. In this instance, the supply-side
12 measures, proposed by the Company, represent a
13 conventional approach to supply sort -- shortages and
14 do not warrant any additional financial incentive.

15 The Company is exercising its
16 responsibility to maintain reliable service and costs
17 for those measures, should be recovered
18 conventionally, under the Company's current -- under
19 the Company's rate plan, or through the gas
20 adjustment-clause mechanism, as appropriate and
21 defined by regulations.

22 The Company should pursue these
23 solutions, in the interest of serving its customers
24 and in doing so, should work -- should work with
25 those customers and affected communities, to pursue

1 Monthly Meeting - 2-7-19

2 solutions that consider their needs.

3 Peggy will now speak to the demand --
4 to the demand side solutions.

5 MS. NEVILLE: Thank you, Mike.

6 Good morning, Chair and Commissioners.

7 The Company has included in the
8 proposed NPA portfolio, 227.5 million dollars, in
9 demand-side solutions, estimated to achieve 37.5
10 million dekatherms of peak-day relief, by 2024.

11 This figure includes 222.6 million
12 dollars in incentive and non-labor admin costs, as
13 well as 4.8 million dollars, in administrative costs
14 for internal labor. These solutions resulted from
15 the R.F.P. process mentioned earlier and consist of
16 natural-gas energy efficiency and heating
17 electrification, or in other words, installation of
18 heat pumps.

19 The draft item before you, recommends
20 approving the Company's proposal to implement the
21 demand-side solutions with modification.

22 In its December 13th, 2018 order
23 adopting accelerated energy-efficiency targets, in
24 Case 18-M-0084, which I will refer to as the
25 accelerated E.E. Order, the Commission expressed

1 Monthly Meeting - 2-7-19

2 support for both energy efficiency and heat-pump
3 installations. This was evidenced by the adoption of
4 an incremental energy-efficiency goal, for the
5 State's large investor-owned utilities of 31 trillion
6 BTU or TBTU, with a sub-target of at least 5 TBTU for
7 heat pump installations of 2025.

8 The accelerated E.E. Order also
9 established a process for the State's utilities to
10 jointly file a proposal, by March 31st, 2019, which
11 was propose a distribution of the statewide goal and
12 associated costs, by utility and by fuel type. This
13 proposal in anticipated to be acted upon, by the
14 Commission, in the latter part of 2019.

15 All commenters were supportive of the
16 demand-side solutions included in Con Edison's
17 petition. However, some raised questions, as to how
18 these activities would complement, or potentially
19 compete with current, or future energy-efficiency
20 initiatives.

21 While the Company's current petition
22 is focused on pursuing alternatives to peak-day
23 supply constraints, the demand-side solutions
24 proposed are wholly consistent with the goals set
25 forth in the accelerated E.E. Order and therefore,

1 Monthly Meeting - 2-7-19

2 need to be viewed within that context.

3 The primary distinction between what
4 is under consideration here and what is required from
5 the accelerated E.E. Order, is one of timing. Given
6 the process the Company has undertaken to solicit
7 actionable proposals from the marketplace, coupled
8 with the need to develop solutions for supply-
9 constrained areas, Staff believes it is not advisable
10 to unnecessarily delay this increased level of energy
11 efficiency and heat-pump installation, while the
12 process established in the accelerated E.E. Order
13 runs its course.

14 Rather, the recommendation before you,
15 allows Con Edison to begin to address the unique
16 needs of its territory, while jump starting
17 implementation towards the overall goals established
18 in the accelerated E.E. Order.

19 Staff recommends approval of 222.6
20 million dollars for the implementation of the demand-
21 side solutions. Cost recovery, as well as
22 consideration of any additional internal-labor costs,
23 are to be considered within the pending rate
24 proceeding.

25 Beyond the 37.5 million dekatherms of

1 Monthly Meeting - 2-7-19
2 peak-day relief previously mentioned, the demand-side
3 solutions are estimated to achieve approximately 4.1
4 TBTU of cumulative annual natural-gas savings, by
5 2024. The Company is directed to begin
6 implementation immediately and include the targets
7 and budgets approved in this item, within the
8 upcoming joint utility filing, in March.

9 With regard to shareholder incentives,
10 the demand-side solutions proposed by the Company, do
11 represent non-traditional solutions for which
12 shareholder incentives may be warranted. However,
13 because energy efficiency and heat-pump programs are
14 eligible for earning adjustments mechanisms, or
15 EAM's, as outlined in the accelerated E.E. Order,
16 these components are more appropriately considered,
17 as part of the Company's comprehensive energy
18 efficiency offerings.

19 Thank you.

20 We are available for any questions you
21 may have.

22 CHAIRMAN RHODES: Thank you, Peggy.
23 Thank you, Mike.

24 Thank you for the presentation and the
25 work that -- that got us here. I find it careful,

1 Monthly Meeting - 2-7-19

2 well-thought through and responsive and it looks to
3 Con Ed, to move forward with these important
4 solutions, in the interest of serving the customers,
5 both on the demand and the supply side.

6 I find that it's timely and I find
7 that you're recommendation is balanced and prudent,
8 as to budgets and incentives and matters of that
9 type. So, I will be in favor of this item.

10 Now, what -- did folks hear me? I'm
11 sorry. I wasn't on.

12 THE REPORTER: I got what you were
13 saying.

14 CHAIRMAN RHODES: I'm good.

15 Sorry?

16 THE REPORTER: They heard you.

17 CHAIRMAN RHODES: Thank you.

18 Apologizes.

19 THE REPORTER: Uh-huh.

20 CHAIRMAN RHODES: Commissioner Sayre?

21 COMMISSIONER SAYRE: This item
22 represents solid movement, toward the implementation
23 of a new way of utility planning, consistent with
24 REV, to look at non-pipes alternatives, as we do with
25 non-wires alternatives, on the gas -- on the electric

1 Monthly Meeting - 2-7-19

2 side, with RFP's and non-traditional alternatives
3 being considered, both on the supply side and the
4 demand side.

5 These programs are innovative, but I
6 recognize that they don't address all of the gas
7 supply issues downstate. They are, however, a step
8 in the right direction and I support the order.

9 CHAIRMAN RHODES: Thank you.

10 Commissioner Burman?

11 COMMISSIONER BURMAN: Thank you.

12 It may come as no surprise, that I do
13 have a little something to say on this issue. I hope
14 to be thoughtful and to focus on the path forward.

15 We are at a critical juncture. We --
16 while we are looking at the smart-solutions program
17 and the filing before us and we've dealt with a
18 number of different items in this proceeding and the
19 moratorium itself is not before us to evaluate today,
20 it is filed in this proceeding and it is mentioned in
21 the Draft Order and is a significant aspect of this
22 proceeding, but it's not unique to Con Ed. It just
23 happens to be the one that has generated the most
24 reaction, so far, but it's also not the first
25 moratorium that New York is facing and -- or has

1 Monthly Meeting - 2-7-19

2 faced.

3 In the 1970s, we dealt with looking at
4 statewide moratorium. That order is -- that dealt
5 with that, was -- is eye-opening and scary and I hope
6 to not to have to be in that position, but
7 unfortunately, that is something that if we don't
8 address sooner, rather than later, we are going to be
9 looking at that and that is not something that we
10 should be addressing. Moratoriums should not be the
11 answer and should not be seen as a good thing.
12 Regardless of where you sit on the issue, it is not
13 something we should want, temporary, or permanent.

14 Lansing also had a moratorium -- NYSEG
15 Lansing and that is instructive for me, as it relates
16 to the non-pipes alternatives. Part of the -- while
17 that didn't come before us, non-pipes alternatives
18 and what's happening in that area, will be something
19 that will come before us, for resolution on.

20 As way of background, we did address -
21 - in the NYSEG area, we did address allowing an
22 order, to allow a compressor station and looking at
23 also going forward with reliability issues going
24 forward with trying to address putting out -- letting
25 NYSEG put out an R.F.P. for the non-pipes

1 Monthly Meeting - 2-7-19
2 alternatives, as a way of getting around having to
3 have a pipeline. But, we did recognize, at that
4 time, that it may have to come back to us, for the --
5 for a pipeline, if we were not -- if they were not
6 able to address, through the non-pipes alternative
7 and the other issues that they were dealing with, the
8 need for addressing their energy needs there, in a --
9 an economic and environmentally-friendly way because
10 of the serious reliability issues.

11 They're still ongoing. I don't want
12 to prejudge what's happening there, but it is still a
13 significant challenge. They have not had success, so
14 far and it is something that I -- I know I'm watching
15 and the Staff is watching. The community's very
16 invested in it, as well as the Company.

17 But, it is -- a lesson for us, is that
18 is has -- it has significant time-line issue and we
19 don't have time for worrying about our reliability
20 issues. We need to address them, real time. We need
21 to really take careful stock of that because it isn't
22 an easy fix. Just saying no to a -- a pipeline,
23 doesn't necessarily end the issues. It's an ongoing
24 challenge. There's a lot that goes onto plan and to
25 make sure that a community has what it needs, for its

1 Monthly Meeting - 2-7-19

2 energy needs and doesn't put at risk, the system.

3 With that, I do want to recognize that
4 again, from a historical perspective, back in 2012,
5 there was a natural-gas expansion proceeding that's
6 still ongoing. I would say ongoing. There hasn't
7 been any activity in it, since 2013. Any time anyone
8 was asked if it's dormant, the response is, it's not
9 dormant, even though it is. There has been no
10 activity.

11 We have dealt with the issues through
12 other proceedings. We've dealt with some of the
13 natural-gas expansion issues, in other rate cases.
14 And so, if we were formally asked, we -- the -- the
15 response was, that it is proceeding through other
16 means and you could point to that and we've actually
17 had some successes, especially in our neighborhood-
18 expansion programs that we've supported, in looking
19 at that.

20 And so, I do point to that, sort of as
21 instructive, in terms of our policy goals and our
22 policy objectives and what we do, to help signal to
23 companies and to the customers and to those
24 stakeholders, in that our policies do generate
25 activities and reactions to that. And so, signaling

1 Monthly Meeting - 2-7-19
2 what we're doing, in terms of just a -- a short of a
3 time ago, as 2012 and actually interesting, in the
4 natural-gas expansion case, the first filing in that,
5 was the November 27th, 2012 press release, with the
6 Governor's energy highway, gaining momentum and then
7 it continued with our order instituting -- I wasn't
8 there at the time, order instituting the proceeding
9 to examine the expansion of natural gas and then
10 opening up a technical conference and presentations
11 for technical conference were posted.

12 Going through that, there was actually
13 an interesting PowerPoint from Con Ed, looking at the
14 Westchester gas-service requests in there and in
15 2011, traditional new business and the oil-to-gas
16 conversions and it showed that approximately eight
17 hundred services were installed in 2011 and 2012.

18 This was also in light of a focus in
19 New York City, as well. New York City put in a
20 presentation on its clean-heat program, back on
21 January 9th, 2013. Their presentation focused on the
22 fact that the -- the need to eliminate heavy oil and
23 the eliminated Number 6 heating oil, was one of the
24 number one strategies to make New York City's air,
25 the cleanest of any major U.S. city -- city. We

1 Monthly Meeting - 2-7-19

2 should be very proud of that. And the City and EDF
3 launched the New York City Clean Heat, to accelerate
4 that and so, we were very focused in as a state, also
5 supporting that.

6 There were -- over 13,000 conversions
7 completed since that program started, which
8 eliminated 154 -- this was back in 2013 -- beginning
9 of 2013, eliminated 154 metric tons of P.M. 2.5 or 40
10 percent of the program's goals.

11 And the demand for natural gas also
12 was recognized at that time, this is again from the
13 PowerPoint from New York City, requests for natural-
14 gas service to Con Edison, increased 5 fold, after
15 the City released its regulations, phasing out Number
16 6 oil. The conversions from Number 6 oil, to natural
17 gas, can achieve financial payback, especially when
18 paired with energy efficiency and then it went on and
19 on.

20 So, from my perspective, what I sort
21 of took away from that, is the focus of -- it is
22 really important that we focus on how can we reduce
23 emissions? How can we work to get cleaner energy?
24 And the policies that we do, really have to be
25 aligned with working with all stakeholders and seeing

1 Monthly Meeting - 2-7-19
2 it -- especially seeing how we started the proceeding
3 that actually led to the oil to gas conversions, that
4 actually focused at that time and there's a lot of
5 documentation in here, including our order, which
6 recognized the need to look at enhancing reliability,
7 economic development, what that would mean for load
8 growth, etcetera, that there was a recognition that
9 this would increase the load growth and that there
10 would be a need to look at that and what that would
11 mean, whether it was for reinforcements, extensions,
12 as well as potentially new pipes.

13 And so, those are things that we, I
14 think, have to take stock of. So, while we can say
15 that this is now coming from the moratorium, it is
16 not new to us, nor should it be new to us, or a shock
17 to us, that there would be increased demand. There
18 has been -- E.I.A. outlook has been forecasting this.
19 Its most recent outlook has been doing that,
20 forecasting both nationally, as well as state
21 forecasts have showcased that, when even under the
22 clean-power plan, would have showed that there would
23 be an increased need for this. It goes hand in hand
24 and we need to work very closely together, to get to
25 our renewables that we want to increase, we need to

1 Monthly Meeting - 2-7-19

2 also work through this transition.

3 And I think that that's really
4 incumbent upon us, as regulators, to make sure we do
5 that, in a way that is helpful and not pointing
6 fingers, when we see that there is some disruption to
7 that, but really trying to work together, in -- in a
8 -- in a helpful way.

9 So, that's the history. Now, we come
10 to the current, where we talked about the diff -- the
11 proceeding. There are the related proceedings.
12 There's still some ongoing proceedings.

13 I do recognize that some of the order
14 -- the Draft Order here, is looking to other orders
15 that will address it. We have the gas-innovations
16 piece of this, that still will come before us. We
17 have the petition for a rehearing -- excuse me, I
18 need some water.

19 Thanks. If you can open this?

20 CHAIRMAN RHODES: Yeah.

21 COMMISSIONER BURMAN: We have --.

22 CHAIRMAN RHODES: I didn't -- it's
23 good.

24 COMMISSIONER BURMAN: Thank you. All
25 right. Thank you.

1 Monthly Meeting - 2-7-19

2 We have the petition for rehearing on
3 the original order in the smart solutions, that will
4 have to come before us and then we -- we also have
5 other proceedings that will interconnect. But the
6 elephant in the room, really is, is that we need to
7 make some real-time decisions and we really need to
8 take care of that, in a way that makes some -- sends
9 some clear signals about what exactly we're -- we --
10 we are looking at, from a policy perspective, rather
11 than just leaving things hanging out there.

12 I am very concerned and as -- as I
13 said, we have warned about the gas-supply
14 constraints, for some time now. I think
15 historically, it -- I outlined that. Again, Con Ed
16 filed its original smart-solutions petition in
17 September 2017, stating its projections to have a 22
18 percent shortfall in supply capacity, by 2023/2024.

19 Supply is not the issue. We have
20 supply. It's getting that -- the constraints to get
21 that is the issue. It's not lost on us, that --
22 that's the issue. It's not just market conditions.
23 It's policy conditions, as well, that are leaving
24 that problematic and unclear policy, in what that is,
25 is leaving that and uncertainty, in what that is, is

1 Monthly Meeting - 2-7-19

2 leaving that to be unclear to those folks who may
3 want to come because they need to have some
4 certainty, for knowing that -- that there is a
5 pathway here.

6 Not only is it for their own need to
7 know that, but it is the right thing to do. They
8 have a -- a -- a fiduciary duty to their
9 shareholders, as well.

10 As I said, NYSEG filed its petition to
11 install compressors in the Lansing area, in July of
12 2017, which was followed-up this year, with the
13 issuance of an R.F.P. for non-pipe line alternatives,
14 to address a little -- the liability needs, caused by
15 the increased demand for gas. More recently,
16 National Grid filed tariff revisions in all three of
17 its gas-service territories, to allow for more
18 flexibility in connecting the gas customer because in
19 some areas, they just don't have the capacity needed
20 to serve new customers.

21 As demand grows from existing
22 customers without any increase in supply, the
23 potential for moratoriums on new gas customers, is a
24 stark reality and as we saw with Con Ed's recent
25 issuance of a moratorium for most of Westchester

1 Monthly Meeting - 2-7-19

2 County, utilities are obligated to provide safe and
3 reliable service, to their existing customers.

4 In a service territory, we also need
5 to look at what about those -- if they're not
6 existing customers but they are new customers, what's
7 the obligation there? How do we work through that?
8 What's the obligation of us, as regulators, to make
9 sure that those customers in that service territory,
10 or those potential customers, have the -- have what
11 they need for their energy needs?

12 That's our obligation. That's on us.
13 We need to make sure that the power is there and the
14 structure is there. That's on us.

15 If the utilities are telling us that
16 they can't provide that, it's irresponsible of them
17 to accept new customers if they've determined there's
18 inadequate supply. It's irresponsible of them to
19 accept new customers, if they're determined there's
20 inadequate supply to maintain a system pressure on
21 the coldest peak day.

22 They've come to us. They've told us.
23 They can't do it. It would be irresponsible. We're
24 determined, or we are looking at, that that is true.
25 If that's true, then they need to do the moratorium -

1 Monthly Meeting - 2-7-19

2 - the temporary moratorium.

3 We can't -- we can't penalize them for
4 that. We need to look at then, us and what are we
5 doing, knowing that this was coming and looking at
6 that from the perspective of, if there is an issue
7 and we're looking at that, what's the next step that
8 we need to do?

9 So, it's -- it's about looking and
10 planning, so that we don't have any more temporary
11 moratoriums and we don't have any permanent
12 moratoriums and addressing the issue, whatever that
13 is. It does not mean that the solution is, that
14 everything goes to gas. It may mean that there are
15 more opportunities, for other energy sources, but we
16 need to look at that and we need to plan for it
17 because it doesn't happen overnight.

18 Even here in this order, it doesn't go
19 far enough because we are now looking and we have to
20 rely on going to local permitting. Now,
21 traditionally, it should not be that difficult but it
22 may take a while with local permitting. And with
23 that, we still have a crisis, in that we have a
24 temporary moratorium and so we need to look at, in
25 the interim, what do we do with those customers -- or

1 Monthly Meeting - 2-7-19

2 those potential customers, who aren't able to access
3 the energy that they need. Or, if they are able to
4 access energy, it is too cost prohibitive for them,
5 or it's just not able to be sufficient for them, or
6 they have to wait. That may not be acceptable. It
7 produces other issues -- economic issues.

8 Large customers may decide to abandon
9 their projects, altogether. That has a negative
10 impact on economic development. It's not just about
11 that large business customer deciding not to come, or
12 build there. It's about those employees that may
13 come and build -- buy a home there, or rent there.
14 It's about those other businesses around there, that
15 may benefit from those folks who would -- who would
16 live there.

17 So, these are the ripple effects from
18 the decision for us, to not be able to plan out and
19 have foreseen this. Again, the picture is back in
20 2012/2103, we were projecting these -- this increase.

21 We should be looking at the numbers.
22 If the increases were every year, this projection of
23 increased customer demand, then we needed to be able
24 to do the forecasting.

25 Now, this gets to the larger issue for

1 Monthly Meeting - 2-7-19

2 me and one that I've spoken on quite a bit.

3 In -- in 2009, the State Energy
4 Planning, Article 6, was adopted. State Energy
5 Planning Law. At that time, every four years -- it
6 said, every four years, the State Energy Planning
7 Board shall adopt a state-energy plan, which
8 addresses each item identified and it's a long list,
9 so I won't read it to -- for you. And the Board may
10 adopt such a plan more frequently for good cause
11 shown. The Board shall prepare bi-annual reports,
12 every second year, following the issue -- issuance of
13 the final state-energy plan, including a discussion
14 and evaluation of the ability of the State and mark -
15 - private markets, to implement the policies,
16 programs and other recommendations, as found in the
17 state-energy plan and recommendations for new, or
18 amended policies, as needed, to continue successful
19 movement, toward implementation and realization of
20 such policies and programs. Then it goes on.

21 Right now, the State Energy Planning
22 Board is out of compliance with the law and has been
23 out of compliance, for a long time. The last State
24 Energy Planning Board should have been in 2 -- final
25 report, should have been in 2013. It was late by 2

1 Monthly Meeting - 2-7-19

2 years in 2015.

3 That doesn't mean that it should have
4 then got -- got a pass for another 4 years, to 2019.
5 It actually should have then still remained in
6 compliance to 2017 and gotten back into compliance
7 with the 4-year cycle.

8 However, if you wanted to keep it to
9 2019, at the very least in 2017, they should have
10 issued their -- every second year following the
11 issuance of the final report, they should have issued
12 their bi-annual -- prepared a bi-annual report. So,
13 we should have seen something then. I believe we did
14 see some stuff. Then 2019, is when we should have
15 seen an actual report, but we should have seen in
16 2018, a draft.

17 I understand there is discussion on
18 working with the State Energy Planning Board, but we
19 should already have been in that. We should already
20 have information and for me, it's something I've
21 spoken about, publicly, quite a bit. It is important
22 for us -- the technical advisor to the State Energy
23 Planning Board, is not NYSEERDA. It is not DPS It is
24 not NYPA. It is -- it is not DEC It is the ISO
25 That's the technical advisor to it.

1 Monthly Meeting - 2-7-19

2 While other state agencies, including
3 DPS, are part of the -- working with them under the
4 law, to give them information and -- and to plan with
5 them, it is actually -- the technical advisor is the
6 IS -- New York ISO

7 So, for me, I just think it's really
8 important that we focus on this because while that is
9 a separate, longer-term state-energy planning, we do
10 let the Commission, have our real-time needs now and
11 the critical crunch that we have to also do. And,
12 while I understand that we'll be studying this to
13 investigate the market conditions, it goes beyond
14 that. It goes beyond that. It goes into looking,
15 really at what we're doing to ensure safe and
16 reliable and adequate service, ensuring that there is
17 a cost-effective price point.

18 So, I really am very focused on making
19 sure that we're doing what we need to do, in real
20 time and not just waiting for a report to come out,
21 in July of 2019. I also do not think that it should
22 be that the Staff is the one -- the Staff is given
23 the job of the report. I do think it should be --
24 it's a -- a -- the -- an independent entity, or
25 independent -- excuse me, an independent consultant,

1 Monthly Meeting - 2-7-19
2 much like we do with our audit processes, where the
3 Commission itself, can weigh in on it and also
4 approve it, so that we can have that process in
5 place, so that it truly is authentic and weighs into
6 all of the different issues. And it also is, I
7 think, too cumbersome and too important to give to
8 Staff to have to do in short term. So, it's just my
9 food for thought on that.

10 With a moratorium and what led to
11 this, which is one of the things that Staff will be
12 looking at, there is no approval process for a
13 moratorium. They do come to the Staff. They do get,
14 sort of -- my understanding, is there is some
15 recognition that yes, we believe that there is a need
16 for a temporary moratorium.

17 Am I correct on that --

18 MR. RIEDER: Yes.

19 COMMISSIONER BURMAN: -- and that
20 there is an analysis done?

21 But there is no real formal standard,
22 or process.

23 MR. RIEDER: That's correct.

24 COMMISSIONER BURMAN: Right.

25 I do think that that is a fail because

1 Monthly Meeting - 2-7-19

2 I do think that we should have some processes in
3 place, so that we can make sure that the Commission,
4 itself, weighs in on that and also, maybe is able to
5 look at what are we doing to make sure that the
6 moratorium doesn't happen, but also, what the
7 parameters are with the moratorium.

8 The thing that concerns me -- pretty
9 much, one of the things that concerns me -- all of it
10 concerns me, but one of the things that concerns me,
11 is the March 15th deadline. Right now, there's a
12 race to get in and meet that March 15th deadline.

13 I'm unclear -- not from Westchester.
14 I don't live in Westchester, so I'm unclear on the
15 information that's being given to those in
16 Westchester or those seeking to come to Westchester,
17 on how to get file -- give that notice.

18 I think that we should be very
19 cognizant of the fact that it's a -- it's -- it's
20 stated, as a temporary moratorium. So, if it's truly
21 temporary, there should be no need for a deadline and
22 I'd like to explore that a little bit because as I
23 see it, there -- I don't really understand and help
24 me here because I'm looking at this, saying, you're
25 telling me that if we don't get in after this

1 Monthly Meeting - 2-7-19

2 deadline, there's no gas, until we deal with this
3 issue and there's -- now, we can lift the moratorium,
4 but we don't know when we're going to be able to lift
5 that moratorium. So, get in before March 15th.

6 If you're in March 15th, you'll be in
7 this queue but we don't know when we're going to be
8 able to take you and we don't necessarily know when
9 we're going to be able to make those pronouncements,
10 but -- so for me, it should be -- we should be, as
11 regulators, coming -- and very quickly and this
12 should have already been done, with the process to
13 make sure that it's seamless. One, getting the word
14 out to everyone, making sure it's very easy to get
15 notice and be part of that, so that anyone, even if
16 they just say hey, I think I may want it, please put
17 me down, come to me, let's talk.

18 Because they may not know. They maybe
19 want gas. Maybe they want something else. Maybe
20 they want to look at what the facts are. Maybe they
21 want to be able to explore this. We should have as
22 big a queue as possible to know what our demand needs
23 are -- our potential demand needs are and then
24 whittle it down from there.

25 We should -- they -- and we -- it

1 Monthly Meeting - 2-7-19

2 should -- yes, it's on the Company, but it's on us
3 because we're the ones that said yes to understanding
4 that they were going to be saying that there was a
5 need for filing the temporary moratorium. So, I just
6 really think this March 15th deadline is concerning
7 to me because it doesn't make sense to me.

8 Now, again, I go back to Con Ed is
9 doing the right thing, in that they can't put at risk
10 the reliability of the system. So, they can't serve,
11 if it's going to cause a problem, but we should have
12 already been figuring that out before we got to this
13 and figuring out how to get the word out, so it
14 wasn't just popped -- or felt like it was popped to
15 people.

16 So, that's just something for
17 consideration because it is really important and
18 nobody should -- nobody should feel like March 16th,
19 they found out and then they're out of luck. And at
20 the same time, when we're looking at this, what are
21 the projections for -- if we do -- so, if we do the
22 smart-solutions program and if all of these things
23 come into fruition, how much of this helps the
24 Westchester pocket, that's still going to be in need?
25 Is there still going to be a -- a problem?

1 Monthly Meeting - 2-7-19

2 MR. RIEDER: Yeah.

3 Even if the -- well, it's -- it's hard
4 to say with -- because we don't have the -- the
5 information on the innovation program yet, but with
6 the D.R. program, with the enhanced-energy efficiency
7 and with what's before you today in the NPA
8 solutions, it's -- it's unlikely that the Company
9 would be able to lift the moratorium, if all these --
10 all these solutions do come to fruition.

11 COMMISSIONER BURMAN: It's hard to
12 say?

13 MR. RIEDER: It's -- it -- it -- it's
14 unlikely that they'll be able to lift the moratorium.

15 COMMISSIONER BURMAN: It's unlikely
16 that they'll be able to lift the moratorium, even if
17 all of these come to fruition?

18 COMMISSIONER BURMAN: That's pretty
19 startling and -- and that is troubling because that's
20 what we should be focusing on.

21 Not surprising, especially if you look
22 at some of my past comments at sessions since 2013,
23 but I do think that what we're hearing -- what we
24 have heard, is that the alternatives -- we're going
25 to be able to address this. If we're hearing that

1 Monthly Meeting - 2-7-19
2 there's still going to be a moratorium, we should
3 know what that is and we should be addressing because
4 it's not -- it's -- it's not like you can take care
5 of this, overnight. So, we should already be
6 knowing, you know, what that scenario may be and
7 addressing that and making some projections, rather
8 than wait.

9 I mean -- okay. I've spoken on that,
10 so I -- I don't need to repeat myself. I know I
11 have. So, I apologize.

12 I just want to underscore the
13 importance of this and folks hearing the non-pipes
14 alternatives are not -- and smart solutions are not
15 going to address 100 percent, the issues. And so, we
16 need to understand that.

17 And the non-pipes alternatives are not
18 all going to be satisfactory to those folks who want
19 100 percent renewables because the non-pipes
20 alternatives don't just have that in there. So --.

21 CHAIRMAN RHODES: Commissioner, may I?

22 COMMISSIONER BURMAN: Yeah.

23 CHAIRMAN RHODES: So -- so -- so Mike,
24 but this is not the last round of solutions that
25 we're looking for, is that correct?

1 Monthly Meeting - 2-7-19

2 MR. RIEDER: That's correct.

3 We've -- in the order before you,
4 we've directed Con Edison to continue to look for
5 other non-pipe solutions and other alternatives, in -
6 - also, in within the context of the Accelerated
7 Energy Efficiency Order.

8 CHAIRMAN RHODES: So, I think it's a
9 partial response to your concern, Commissioner, that
10 we're not stopping and we're not --

11 COMMISSIONER BURMAN: Uh-huh.

12 CHAIRMAN RHODES: -- looking to -- to
13 the -- to Con Ed to stop.

14 COMMISSIONER BURMAN: Right.

15 I take that -- I note that.

16 CHAIRMAN RHODES: Okay.

17 COMMISSIONER BURMAN: Okay. I do
18 think though, that underscoring that, even if Con Ed
19 succeeds while we're still asking them to do more and
20 they get the full benefits from this non-pipes
21 alternative portfolio, they're not going to be able
22 to material reduce and lift -- lift the moratorium
23 part in, you know, in -- in full.

24 So, the risk of an expanded
25 moratorium, not just in -- in Westchester, is real.

1 Monthly Meeting - 2-7-19

2 Am I correct in that?

3 MR. RIEDER: Yes.

4 You're correct.

5 COMMISSIONER BURMAN: Okay. The item
6 also speaks to using energy efficiency and heat
7 pumps, as part of the solution.

8 I do support these types of
9 initiatives, as they may be part of the answer. But
10 we have to really look at them from a cost-effective
11 perspective and also where they're being utilized.
12 We are looking at them in -- in other scenarios.

13 They will not address the problem
14 alone. Under the scenario of you -- of customers
15 facing moratoriums, are fear of future supply
16 constraints. When faced with the decision of how to
17 heat their homes, or their buildings, or operate
18 their business processes, folks may opt for lower
19 cost energy solutions, such as oil, or propane and --
20 compared to heat pumps, or electricity. We need to
21 recognize that.

22 We also need to look at the
23 environmental footprint and the environmental and
24 unattended consequences that happen with this
25 moratorium, as well. And also, be looking at the

1 Monthly Meeting - 2-7-19

2 stark reality of the number of customers -- potential
3 customers who do not benefit from, you know, this
4 moratorium -- I mean, or who -- who drastically are
5 affected by this moratorium because of each year of
6 the increase that we've seen from the demand.

7 I'm not against many of the specifics
8 in this item. In fact, I -- I welcome some of them
9 and I appreciate Staff, the Company and the parties
10 efforts and contribute -- contributions.

11 It just doesn't go far enough in
12 supplying the -- in -- in addressing the issues that
13 we have. It just doesn't. Not in Westchester, not
14 in New York City and not -- certainly not statewide.
15 It -- overall, we need to address it.

16 We need, as I said before, a clear,
17 comprehensive, fair, unbiased, statewide strategy and
18 policy for natural gas and that strategy must
19 recognize that many New York customers are choosing
20 and demanding natural gas. And even doing so, while
21 being, you know, constrained by some of our own
22 decisions, that seems to suggest that they don't want
23 gas, are focused on other things.

24 This demand has to be met with
25 sufficient access to supply. Again, it's not about

1 Monthly Meeting - 2-7-19

2 not having -- not having supply. It's about the
3 access to that supply. It's that simple.

4 We have to really have a clear pathway
5 on our goals with renewals and how natural gas fits,
6 or doesn't fit, in making it a reality. We
7 desperately need a comprehensive energy plan, that
8 recognizes the urgency of the situation and seriously
9 lays out a plan, to ensure that we not only meet our
10 clean-energy goals and our emission-reduction
11 targets, but also our goal to attract businesses,
12 create jobs for New York, while carrying out our
13 responsibility for providing safe and reliable
14 service to New Yorkers.

15 I do believe we can do all of that.
16 We can't put at risk reliability and resiliency and
17 we can't keep trying to pretend that it's all good.

18 It can be all good. It should be all
19 good. We can work together. I do believe that there
20 are solutions. I do believe, just like back in
21 January of 2013, when Mayor Blumberg worked with the
22 EDF and Con Ed and the State on programs that were
23 focused on that, I do think that we can do it again
24 and I do think that we should. And I hope that we
25 can focus on that, real time.

1 Monthly Meeting - 2-7-19

2 One question I do have, relates to
3 this order and the next steps. So, we're looking at
4 how some of this goes into looking for the rate --
5 goes into the rate case, some of this -- some of
6 these issues, as to working with other proceedings,
7 etcetera. But to the extent that -- and there'll be
8 a hearing -- a public-statement hearing and Staff
9 will have investigation. I -- I do hope that we have
10 an independent -- a -- a -- a consultant, from an
11 R.F.P. that's issued, just like we do with auditors,
12 in some fashion, even if it's streamlined, to get it
13 out in a timely basis and comes to the Commission, as
14 a body.

15 But one of the questions that I do
16 have, is in the course of all of this, while we're
17 monitoring all this, what happens, if the crisis
18 continues? How does it come back to the Commission?
19 How do we look at it? How do we monitor?

20 I know Staff will be working closely
21 with Con Ed. I know Staff is working with National
22 Grid. How do we -- how do we make sure that -- not
23 just okay, don't worry Commissioner Burman. I'll
24 talk to you, or you can talk to, you know, the Chair.
25 Like, how do we actually make sure?

1 Monthly Meeting - 2-7-19

2 If we're looking at this order, how do
3 we make sure that the Commission, in carrying out its
4 duty, is actually looking at this and making some
5 decision points?

6 Because again, I'm looking at that 19
7 -- the 1970's order and recognizing, that was a
8 crisis. That -- that -- that order was not -- that
9 was not good for that order, in having to do that.
10 That was the statewide, there's no gas, we got to
11 make some decisions here.

12 I'm now looking at before we get to
13 the crisis, what are we doing? How are we coming to
14 those decisions?

15 I don't know that we have the answers,
16 but that's something that I recognize and that's
17 something that I'd like us to do.

18 CHAIRMAN RHODES: Understood and --

19 COMMISSIONER BURMAN: Okay.

20 CHAIRMAN RHODES: -- understood and
21 noted.

22 Thank you.

23 COMMISSIONER BURMAN: All right. Oh.

24 I'm sorry.

25 CHAIRMAN RHODES: Is that --?

1 Monthly Meeting - 2-7-19

2 COMMISSIONER BURMAN: I'm -- I thought
3 you could read my mind too.

4 I have no more questions.

5 CHAIRMAN RHODES: Okay.

6 COMMISSIONER BURMAN: I -- I -- I will
7 -- I will be concurring in part and dissenting in
8 part.

9 As I said, I do appreciate much of
10 what's in this order. I -- I do have some concerns.
11 I do think that we are needing to have much-more
12 conversation at the front end and I -- I think we're
13 in a critical -- a critical juncture and we need to
14 take this really much more seriously, in -- in the
15 Commission, as a whole.

16 CHAIRMAN RHODES: Thank you very much.
17 Commissioner Alesi?

18 COMMISSIONER ALESI: Thank you, Mr.
19 Chairman.

20 Thanks for your good work. Thanks for
21 your follow-up emails too, by the way.

22 I can support this as a workable
23 approach, a comprehensive look, with the focus on the
24 demand and supply side's efforts. It just moves us
25 in the right direction and I support the

1 Monthly Meeting - 2-7-19

2 recommendation.

3 CHAIRMAN RHODES: Thank you very much.

4 So, with that, we will move -- I will
5 move to call for a vote. My own vote is in favor of
6 the recommendation to approve the petition, with
7 modifications, as discussed.

8 Commissioner Sayer, how do you vote?

9 COMMISSIONER SAYER: Aye.

10 CHAIRMAN RHODES: Commissioner Burman,
11 how do you vote?

12 COMMISSIONER BURMAN: I concur in part
13 and dissent in part.

14 CHAIRMAN RHODES: Commissioner Alesi,
15 how do you vote?

16 COMMISSIONER ALESI: Aye.

17 CHAIRMAN RHODES: The item is approved
18 and the recommendation is adopted.

19 Thank you, all.

20 The second item for discussion is Item
21 102, Cases 16-G-0058, et al., as they relate to the
22 report filed by the Brooklyn Union Gas Company and
23 Keyspan Gas East Corporation, regarding policies for
24 temperature-controlled and interruptible customers,
25 presented by Aric Rider, Utility Supervisor Gas and

1 Monthly Meeting - 2-7-19

2 Water Rates and Supply section. Cindy McCarran,
3 Deputy Director for Gas and Water, Mike Rieder, Chief
4 for Gas and Water Rates and Supply and Brandon
5 Goodrich, Assistant Counsel, are available for
6 questions.

7 Aric, please begin.

8 MR. RIDER: Good morning, Chair and
9 Commissioners.

10 Item Number 102, before you today, is
11 a Draft Order for the Brooklyn Union Gas Company,
12 doing business as National Grid, New York, or KEDNY
13 and Keyspan Gas East Corporation, doing business as
14 National Grid or KEDLY, collectively National Grid,
15 or the Companies.

16 On September 17th, 2018, the Companies
17 filed a report, regarding the policies for
18 temperature-controlled, or TC and interruptible-
19 transportation or IT customers.

20 The Companies put forth a number of
21 recommendations in the report, including certain
22 changes to the Companies' tariffs and gas
23 transportation-operation procedures or G Top manuals.
24 The Companies also propose, in the report, to modify
25 the provision of their respective tariffs, that

1 Monthly Meeting - 2-7-19

2 allows them to impose penalties for the on or off --
3 unauthorized use of gas by TC and IT customers.

4 The Draft Order recommends the
5 Commission approve the proposal to modify the tariff-
6 penalty provisions. The Draft Order also recommends
7 directing the Companies to file proposed tariff
8 revisions, to create a new non-firm service class for
9 each service territory, file tariff revisions that
10 propose solutions that address interruptible
11 reliability and require the Companies to file tariff
12 revisions, to allow resumption of adding new TC
13 customers.

14 In National Grid's last downstate-rate
15 cases, the Commission required the Companies to
16 convene a collaborative, to consider IT and TC
17 service issues and subsequently file a report. The
18 collaborative was to examine the structure and
19 pricing of the Companies interruptible-service
20 offerings, considering demand for natural gas and
21 alternative fuel-market dynamics. The Rate Order
22 also required the Companies to stop adding new TC
23 customers.

24 On September 17th, 2018, National Grid
25 filed the report, in which the Companies summarized

1 Monthly Meeting - 2-7-19
2 the results of the collaborative and made
3 recommendations that could take place in short order,
4 or in the Companies next rate filings. Notably, the
5 report recommended a change to the Companies TC and
6 IT tariff-penalty provisions, as well as the creation
7 of a new non-firm service class for each territory
8 and the resumption of adding new TC customers in the
9 Companies next rate filings.

10 Two months after the report was filed,
11 on November 27th, 2018, Staff convened a technical
12 conference with Con Edison, National Grid and other
13 stakeholders, to discuss issues related to
14 interruptible service and gather input on the best
15 approach to resolve reliability issues, related to
16 both Con Edison and National Grid's interruptible
17 gas-service programs.

18 On December 31st, 2018, New York City
19 submitted comments that stated the report was
20 reasonable summary of the TC/IT collaborative
21 discussions, but demonstrates that many issues were
22 not resolved and only proposes a process that will
23 permit resolution of all the issues, in the next base
24 rate proceedings for the Companies. New York City
25 does not support National Grid's request to defer

1 Monthly Meeting - 2-7-19

2 resolution of the non-firm rate design issues, to
3 future rate proceedings.

4 Staff has considered the comments
5 received from all parties, including New York City,
6 in written form and verbally, at the technical
7 conference held in November 2018. Staff recognizes
8 that providing customers with IT and TC service,
9 allows the Companies to reduce gas demand during
10 periods of peak usage, by offering a reduced delivery
11 rate to those customers who agree to interrupt gas
12 service when demand peaks.

13 This type of demand-response service,
14 benefits all current customers, by using the gas
15 distribution system more efficiently, as IT and TC
16 customers utilized the distribution network, when the
17 system is free of capacity constraints, but during
18 times of peak demand, remove their usage from the
19 system.

20 Last year, the Commission granted a
21 waiver of KEDNY's tariff and lowered the applicable
22 penalties for certain TC customers, that did not
23 interrupt service when requested. In that case, the
24 Commission noted that the limited firm gas
25 transportation capacity downstate, had a direct

1 Monthly Meeting - 2-7-19
2 impact on the price of natural gas during the period
3 of very cold weather.

4 Due to the price -- due to the spike
5 in natural gas prices at the time of interruption,
6 the Commission found that the penalty charges
7 indicated by the tariff, exceeded the level necessary
8 to ensure future compliance by the affected
9 customers.

10 Likewise, the report came to the same
11 conclusion, on the current penalty structure. The
12 Draft Order approves the report's recommendation to
13 modify the penalty charges applicable to IT and TC
14 customers, which will lower their risk, but still
15 provide a strong incentive for these customers to
16 switch to their alternative fuels, when required.

17 Prior to the issuance of the Rate
18 Order, many National Grid IT and TC customers, were
19 migrating to firm service. This trend continues. IT
20 and TC customers primarily rely on fuel oil, when
21 their use of natural gas is interrupted. IT and TC
22 customers can face difficulty when seeking to
23 replenish their fuel oil, during the winter and
24 alternative fuels, like fuel oil, emit more
25 greenhouse gasses and particulate matter, when

1 Monthly Meeting - 2-7-19

2 consumed in place of natural gas.

3 Moreover, while the Rate Order
4 attempted to correct the price inequity that caused
5 many IT and TC customers to request firm service, the
6 Rate Order established the IT/TC collaborative, to
7 address several issues that support the service,
8 which benefits gas-distribution network reliability.

9 The Rate Order better aligned the
10 pricing of interruptible service, but in -- in --
11 inequities remain, as IT customers not only have a
12 lower-level of service and pay less than TC
13 customers, yet TC customers are interrupted more
14 often, than IT customers.

15 Instead of waiting to address the
16 issue in its next base-rate proceedings, as proposed
17 in the report, the Draft Order recommends that the
18 Commission direct the Companies to move forward with
19 the report's recommendations, to establish a new
20 service class for each service territory, to align
21 the current pricing and level of service through the
22 tariff filings, independent of their next rate --
23 base-rate filings, in advance of the upcoming
24 2019/2020 heating season. Those proposed tariffs
25 will be subject to comment from interested parties,

1 Monthly Meeting - 2-7-19

2 prior to the -- this Commission taking action on
3 them.

4 The Draft Order also recommends that
5 National Grid be directed to align -- or, I'm sorry.
6 Excuse me.

7 Directed to again allow willing
8 customers, to enroll in TC service. This will allow
9 National Grid to serve customers needing gas service,
10 without installing the potential additional
11 infrastructure, that might be necessary, if those
12 customers required firm service. The Draft Order
13 lifts the restriction now, which will allow the
14 Companies to incorporate the demand changes into
15 future capital-investment plans and will benefit firm
16 customers.

17 The technical conference held in
18 November 2018, provided a venue, to increase all
19 interested parties' understanding of reliability
20 issues, associated with TC and IT customers and
21 collaboratively explore ways to provide them as much
22 flexibility as possible, while also maintaining the
23 natural-gas distribution system's reliability and
24 integrity for firm customers. At the technical
25 conference, Staff proposed several ideas to enhance

1 Monthly Meeting - 2-7-19

2 the visibility of alternative-fuel situation, during
3 the winter period, to further minimize any potential
4 threat to the health and safety of all customers, due
5 to the issues related to on-hand inventory of
6 alternative fuels and non-compliant customers.

7 The Commission recently directed Con
8 Edison to file additional proposed tariff
9 modifications, addressing the potential negative
10 impact of interruptible gas-service customers,
11 failing to stop using gas when directed. The
12 Commission also encouraged Con Edison to work with
13 National Grid, on tariff language that can be uniform
14 across both service territories.

15 In an effort to have consistency, the
16 Draft Order directs National Grid to file proposed
17 modifications to its tariffs that address the same
18 issues from the technical conference asked of Con
19 Edison, so that uniformity can be achieved where
20 possible. The Draft Order directs National Grid to
21 file proposed tariff modifications within ninety days
22 of the date of this order. These proposed tariffs
23 will be subject to comment from interested parties,
24 prior to this Commission taking action on them.

25 This concludes my presentation and my

1 Monthly Meeting - 2-7-19
2 colleagues and I will be happy to answer any
3 questions.

4 CHAIRMAN RHODES: Thank you, Aric.

5 My take is that these modifications
6 are -- represent a thoughtful and timely and helpful
7 solution and that they do a good job of balancing
8 customer benefits and risk, as well as system-useful
9 signals. I am going to be supporting this item.

10 Commissioner Sayer?

11 COMMISSIONER SAYRE: This is another
12 example of the success of the collaborative process,
13 to address very-difficult issues that -- both
14 technical and policy, by a group of interested
15 parties with divergent positions.

16 As we do, in all of these situations,
17 we -- we took the results of the collaborative and
18 put them out for comment and we're taking a hard look
19 at those results, from the viewpoint of the public
20 interest. In this case, Staff recommend --
21 recommends a -- a number of improvements in the
22 public interest and I support those changes. I view
23 them as comparatively minor and not as a rejection of
24 the collaborative result.

25 So, I commend Staff for a good process

1 Monthly Meeting - 2-7-19

2 and a good set of recommendations and I support the
3 order.

4 CHAIRMAN RHODES: Thank you.

5 Commissioner Burman?

6 COMMISSIONER BURMAN: Thanks.

7 I'll be concurring on this item.

8 I want to incorporate, by reference,
9 my comments that I made, as it related to the Con Ed
10 item that dealt with the TC customers, as well. I
11 think it was at the November --

12 MR. RIEDER: December.

13 COMMISSIONER BURMAN: -- December
14 session.

15 I do think that while we're addressing
16 this, we do need to look at it more holistically in
17 as it incorporates in what we're doing with getting
18 access to energy, in -- itself and what it means,
19 switching from TC to a firm, you know, back and
20 forth, etcetera and some of those issues.

21 So, I don't think that this -- it
22 should be the end of the story. I think we should
23 continue and look how it -- at how it effects and
24 access to that, as well.

25 So, thank you.

1 Monthly Meeting - 2-7-19

2 CHAIRMAN RHODES: Thank you.

3 Commissioner Alesi?

4 COMMISSIONER ALESI: Thank you, Mr.

5 Chairman.

6 I think that I can support this effort
7 here. It -- it does provide a certain level of
8 reliability. It lowers risk. It establishes a
9 powerful incentive through its offering protection
10 with flexibility and I think that overall, it's just
11 a good approach for us to support.

12 So, I'll be supportive of it.

13 CHAIRMAN RHODES: Thank you.

14 With that, I will proceed to call for
15 a vote.

16 My vote is in favor of the
17 recommendations to approve the proposed tariff
18 revisions and direct further tariff filings, as
19 discussed.

20 Commissioner Sayer, how do you vote?

21 COMMISSIONER SAYER: Aye.

22 CHAIRMAN RHODES: Commissioner Burman,
23 how do you vote?

24 COMMISSIONER BURMAN: I concur.

25 CHAIRMAN RHODES: Commissioner Alesi,

1 Monthly Meeting - 2-7-19

2 how do you vote?

3 COMMISSIONER ALESI: Aye.

4 CHAIRMAN RHODES: The item is approved
5 and the recommendations are adopted.

6 We will now move to the third item for
7 discussion, Item 201, Case 16-M-0610, which is in the
8 matter of Comprehensive Management and Operations
9 audits of New York State Electric and Gas Corporation
10 and Rochester Gas and Electric Corporation, presented
11 by Jeff Hogan, Deputy Director Management and
12 Operations Audit.

13 John D'Aloia, Audit Engagement
14 Director and Elizabeth Katz (phonetic spelling)
15 Toohey, Audit Project Manager, are available for
16 questions.

17 CHAIRMAN RHODES: Jeff, please begin.

18 MR. HOGAN: All right. Good morning,
19 Chair. Good morning, Commissioners.

20 The Draft Order you have before you,
21 for Case 16-M-0610, authorizes the issuance of the
22 final report in the comprehensive management and
23 operations audit, of New York State Electric and Gas
24 and Rochester Gas and Electric Corporation. NYSEG
25 and RG&E are affiliates of Avangrid, USA.

1 Monthly Meeting - 2-7-19

2 In December 2016, you authorized the
3 issuance of a request for proposal, or R.F.P. from
4 consultants to conduct -- conduct these audits. The
5 scope of the audit was primarily focused on the
6 Companies' construction program, planning processes,
7 REV and electric-system planning, including outage
8 readiness and gas-system planning and safety.

9 In April 2017, you approved the
10 selection of Overland Consulting, to perform the
11 audits. Overland begun -- began its audit-field work
12 in June 2017. Throughout the remainder of 2017 and
13 into 2018, Overland conducted numerous interviews and
14 asked over 1,200 information requests, to gain an
15 understanding of how the conduct -- Companies conduct
16 their business and to identify areas where the
17 Companies were -- might be able to improve their
18 processes.

19 This past November, Overland submitted
20 its final report. While Overland found that the
21 Companies were generally well-run, with effective
22 processes in place, they did identify several
23 opportunities for improvements at NYSEG and at RG&E.
24 These opportunities are enumerated in the final
25 report's 81 recommendations to the Companies.

1 Monthly Meeting - 2-7-19

2 It is important to keep in mind, that
3 the final report and its findings are the product of
4 independent consultants and not of Staff. It should
5 also be re -- be remembered, that the audits
6 findings, are limited to the areas covered by the
7 scope of the audit.

8 Our management and operations audits
9 focus on the processes and procedures a utility has
10 in place to run its operations. The consultants
11 bring their ex -- expertise to the audit and
12 recommend improvement opportunities. These may be
13 based on best practices, that have been observed in
14 other utilities within New York, or other
15 jurisdictions, or even non-utility companies.

16 It is important to note that the audit
17 is not focused on specific utility performance, over
18 certain periods of time. For instance, the scope of
19 the electric outage management portion of this audit,
20 reviewed the procedures the utilities have in place,
21 to deal with storms and other possible disruptions to
22 service. And while the audit finds several
23 improvement opportunities in this area, which I will
24 go into shortly, the audit was not a review of the
25 Companies' performance during any -- any actual storm

1 Monthly Meeting - 2-7-19

2 event.

3 In fact, the final report states that
4 the consultants were aware of NYSEG and RG&E's
5 performance during the 2017 and 2018 -- I -- I'm --
6 I'm sorry. The -- the consultants were aware that
7 NYSEG and RG&E's performance, during the 2017 and
8 2018 storms, was under review by Staff investigations
9 and that readers of the final report, should turn to
10 those investigations for insight into how the
11 utilities implemented their outage-management
12 procedures.

13 Per the Public Service Law, the core
14 focus of management and operations audits, is
15 construction program planning and operational
16 efficiency. This focus is warranted, given the
17 capital-intensive nature of our utilities. In
18 previous management and operations audits of NYSEG
19 and RG&E, there were concerns regarding a lack of
20 capital spending controls at the Companies. The
21 current audit found that those issues have largely
22 been addressed.

23 There are recommendations in the final
24 report, which look to improve management oversight
25 and communication with respect to the prioritization

1 Monthly Meeting - 2-7-19
2 of capital projects. Overland recommends that the
3 Companies develop a more robust inner -- enterprise-
4 wide system, to -- for project and program
5 management. In addition, the final report recommends
6 that more robust written procedures are needed, to
7 document why the prioritization of any particular
8 project has changed.

9 One area the audit covers, is REV and
10 electric-system planning. Overland investigated the
11 Companies' governing structure, supporting the
12 Commission's REV issues -- initiatives and found that
13 there was strong support. That said, the final
14 report does recommend that the Companies develop a
15 set of indicators, to gauge REV-demonstration project
16 performance.

17 The final report also recommended that
18 the Companies should benchmark against -- against REV
19 best practices used by other New York utilities and
20 use this framework to effectively assess and
21 appropriately scale up successful REV-demonstration
22 projects. The audit also recommends the -- the
23 Companies should strengthen REV-employee engagement
24 activated, to -- to promote fundamental knowledge and
25 good decision-making, at all levels within the

1 Monthly Meeting - 2-7-19

2 organization.

3 Regarding long-term electric
4 forecasts, the final report states that the -- states
5 that the Companies needs to improve the granularity
6 of those long-term electric forecasts. In addition,
7 the report found that the Companies should implement
8 a predictive-asset maintenance and management system.

9 As I mentioned earlier, Overland
10 assessed the Companies' management and systematic
11 preparation for outages and other emergency events.
12 During this review, Overland identified several,
13 critical-improvement opportunities to important
14 functions, including outage and emergency planning,
15 resourcing and event tracking.

16 Overland found that the Companies
17 should perform additional benchmarking and assess
18 industry-best practices, for defining and resourcing
19 support staff roles. The final report states that
20 supporting-staff roles, were defined generically and
21 that the lack of clearly-defined roles, could lead to
22 confusion during activation and could make finding
23 additional resources more difficult during an event.

24 The final report also states that the
25 Companies should fully complete the event-activation

1 Monthly Meeting - 2-7-19
2 process-improvement initiative. Overland stated that
3 this recommendation should be a priority, as
4 activation issues could impact event response,
5 especially in the case of rapidly-developing storms.

6 This initiative will implement a new
7 mobilization system, that will reduce overlap and
8 confusion in assigning staff. Overland points out
9 that such confusion, could lead to delays in
10 resourcing and require additional work to resolve
11 conflicts.

12 The audit also found that the
13 Companies need to improve post-event reporting and
14 lessons-learned efforts. While the Companies do use
15 a spreadsheet tool, to track key-event data and
16 milestones, the final report points out, that there
17 is not a systemized tool, to allow robust cross-event
18 comparisons.

19 The other major-scope area of the
20 audit where recommendations were made, was in regard
21 to gas-system planning and safety. Here, Overland
22 reports that the Companies have not completed a
23 comprehensive gas-strategic plan in recent years and
24 recommends that a plan for 2019 and beyond, should be
25 completed.

1 Monthly Meeting - 2-7-19

2 In addition, the final report
3 recommends that a Gas Senior Vice President, at the
4 Avangrid Networks level, should be added, to provide
5 additional executive-level oversight of the gas
6 businesses.

7 With regards to the important topic of
8 gas safety, Overland made several recommendations.
9 One of these, was that the Companies should
10 prioritize the replacement of all remaining high-
11 pressure bare steel and associated services. I'm
12 sorry. Bare steel main and associated services. In
13 addition, the final report recommends that the
14 Companies review and enhance their reporting to the
15 Federal government.

16 Part of the scope for this audit, re -
17 - required Overland to assess the potential costs,
18 risks and benefits associated with implementation of
19 all of the recommendations made. This type of
20 analysis can be used, along with the Companies' own
21 estimates, in determining the appropriateness of the
22 Utilities' proposed plan to implement the
23 recommendations.

24 While Overland provided costs from
25 some of these recommendations, the nature of some of

1 Monthly Meeting - 2-7-19
2 the proposals do not lend themselves to the
3 quantification of benefits. We expect that the
4 benefit-cost analysis, will be further refined
5 through the implementation phase, as well as being
6 able to use rate-case quality data during that phase,
7 to make sure that we get the correct focus, at that
8 time.

9 The Companies Have submitted comments
10 regarding the audit. They indicate satisfaction with
11 the audit process and general agreement with the
12 audit results. The Companies do note, that some of
13 the recommend -- the recommendations have become
14 dated, given the time needed to finalize the report,
15 but state they will provide relevant plans to address
16 all of the recommendations in their forthcoming
17 draft-implementation plan filing.

18 The key next step, is filing -- is the
19 filing of a draft implementation plan. The Draft
20 Order requires the Companies to file such a plan
21 within 30 days of the issuance of the order,
22 releasing the final report.

23 NYSEG and RG&E will address the
24 implementation of each specific recommendation
25 contained in the audit and address whether they

1 Monthly Meeting - 2-7-19
2 believe the Commission should adopt, reject, or
3 modify, in whole, or in part, any recommendations.
4 If the Companies are proposing to not implement any
5 particular recommendation, they should give their
6 reasons for opposing the recommendation and any
7 alternative proposal they may have, to address the
8 root cause, or spirit and intent of the recommend --
9 recommendation, which they are rejecting.

10 Staff will work closely with the
11 Companies in the coming weeks, to ensure that the
12 implantation plan that is filed, is responsive to the
13 final report and has a realistic timeline, for
14 addressing each recommendation.

15 In conclusion, I would like to thank
16 my staff and the subject-matter experts from the
17 other offices, for their diligent work on this audit,
18 over a long period of time. Thank Overland
19 Consulting for their professionalism and expertise
20 throughout the audit and NYSEG and RG&E for fostering
21 a receptive environment, for this audit to take
22 place. That concludes my presentation.

23 If there are any questions, John
24 D'Aloia, the Audit's Engagement Director, Betsy
25 Toohey, the audit's Project Manager and I, will be

1 Monthly Meeting - 2-7-19

2 glad to assist you.

3 Thank you.

4 CHAIRMAN RHODES: Thank you, Jeff.

5 So, management and operations audits
6 take a comprehensive look at utilities -- at -- at
7 their management and at their operations and they're
8 an essential element, of how we attend to the
9 capacity to the ability of utilities to serve New
10 Yorkers well.

11 The -- the focus here was appropriate.
12 Construction, systems planning, systems readiness.
13 Those are fundamental and I find that the -- this
14 report is professionally done and timely and delivers
15 on its intended scope.

16 I will be supporting the release of
17 this report and the order of an -- of a -- of the
18 submission of an implementation plan. Commissioner
19 Sayre?

20 COMMISSIONER SAYRE: I agree with the
21 Chair's remarks, whole heartedly.

22 In my view, the Commission's audit
23 process is working well. Every time we go through
24 it, the auditors find significant areas for
25 improvement, for Utilities to -- to develop better

1 Monthly Meeting - 2-7-19
2 processes and the vast majority of those
3 recommendations are in fact, agreed to and
4 implemented by the Utilities. This is another
5 example of that process. In a field as complex as
6 utility service, perfection is not achievable.
7 Continuous improvement, however, is possible and
8 necessary.

9 NYSEG and RG&E know very well, that
10 we'll be back again in a few years, for another round
11 and that's okay. In fact, that's good. That's how
12 the process works.

13 I support the recommendation.

14 CHAIRMAN RHODES: Thank you.

15 Commissioner Burman?

16 COMMISSIONER BURMAN: Thank you.

17 I -- I was really impressed with
18 Staff, during this audit process. I thought Staff
19 worked really well together, plus Staff really worked
20 well at making sure that Commissioners had the
21 information and it really was very good.

22 An audit process is one that should,
23 by its nature, give us information, so that we can
24 all improve, whether it's the Company, or us, as the
25 Commission overseeing it. So, I think it was really

1 Monthly Meeting - 2-7-19

2 helpful.

3 I am going to vote for it.

4 I -- I did just want to note, you
5 know, two things from -- the -- the final report is
6 not public yet, is that correct? An --?

7 MR. HOGAN: Yes. That is correct.

8 It would, you know, be issued with the
9 order, presumably within the next day, or so.

10 COMMISSIONER BURMAN: Okay. So, I --
11 I won't speak to it, you know, because I -- I do
12 think it's important that the order itself, comes
13 out. But I do think it is worth noting, that folks
14 look through it carefully, rather than just looking
15 at the order as the be-all and end-all because I do
16 think that it -- it does tell a -- a good story. It
17 does tell a positive story and where there are
18 improvements to be made. It is also a snapshot in
19 time and so some of those things already may be in
20 place, or going to be in place, or -- or have -- the
21 dynamics have changed a little bit. So, for that --
22 for what it's worth, I do think it's -- it is
23 important to point out.

24 One of the things that I was also
25 struck with, was some of the thoughtfulness, in terms

1 Monthly Meeting - 2-7-19
2 of the auditor focusing on REV and --and also, as an
3 aside, some of the focus on the natural-gas issues,
4 like the neighborhood-gas expansions and the
5 positiveness of the -- how the Company was working on
6 that, as it -- and -- and also focusing on the non-
7 pipes alternatives and whether or not there should be
8 a -- a policy, at -- at the Company, in looking at
9 when they should be addressing and potential non-
10 pipes alternatives should be utilized.

11 I do think that is something that we,
12 as a Commission -- and -- and I've spoken publicly on
13 this, we as a Commission have been grappled with, as
14 well, in terms of what is the standard, so you don't
15 go down that rabbit hole, focused on that. But
16 overall, I think it really gave us a lot and will
17 give the Company a lot to -- to work with.

18 So, thank you very much and I really
19 do want to give kudos to Staff.

20 So, thanks.

21 CHAIRMAN RHODES: Thank you.

22 Commissioner Alesi?

23 COMMISSIONER ALESI: Thank you, Mr.
24 Chairman.

25 I think -- first of all, thanks for

1 Monthly Meeting - 2-7-19
2 your good work, as always and I should state that we
3 and the -- the public, in general, probably sometimes
4 hears nothing but all the bad news about the
5 utilities that provide crucial services to us, in
6 this state. So, this is one of those times I think
7 the overview is, that it seems to be that these are
8 very well-run companies, at least from the report,
9 with some room for improvement, which you would
10 expect. But, it's encouraging and I think the report
11 is well received.

12 I'll be supporting it.

13 CHAIRMAN RHODES: Thank you.

14 With that, I will proceed to call for
15 a vote.

16 My own vote is in favor of the
17 recommendation to release the audit report and direct
18 the Companies to file an implementation plan, as
19 discussed.

20 Commissioner Sayre, how do you vote?

21 COMMISSIONER SAYER: Aye.

22 CHAIRMAN RHODES: Commissioner Burman,
23 how do you vote?

24 COMMISSIONER BURMAN: Yes.

25 CHAIRMAN RHODES: Commissioner Alesi,

1 Monthly Meeting - 2-7-19

2 how do you vote?

3 COMMISSIONER ALESI: Aye.

4 CHAIRMAN RHODES: The item is approved
5 and the recommendation is adopted.

6 We will move to the four -- fourth
7 case, for -- fourth item for discussion. Item 301,
8 Case 18-E-0138, as it relates to the consensus
9 proposal for direct-current fast-charging for
10 electric vehicles, presented by Mary Ann Sorrentino,
11 Acting Chief Electric Rates and Tariffs.

12 Christopher Graves, Principal
13 Economist and Bridget Woebbe, Assistant Counsel, are
14 available for questions.

15 MR. GRAVES: Fair enough.

16 CHAIRMAN RHODES: Mary Ann, please
17 begin.

18 MS. SORRENTINO: Good morning, Chair
19 Rhodes and Commissioners. Item 301 is a Draft Order,
20 implementing a per-plug incentive program, at each of
21 New York's electric investor-owned utilities. The
22 per-plug incentive program is intended to encourage
23 development of a publicly-accessible direct-current
24 fast-charging, or DCFC network, to support electric-
25 vehicle use and adoption.

1 Monthly Meeting - 2-7-19

2 By implementing this program, the
3 Commission is addressing the corn -- con -- consensus
4 proposal, to encourage statewide deployment of
5 direct-current fast-charging facilities, for EV's,
6 filed by Central Hudson, Con Ed, NYSEG, NYPA, the
7 DEC, the DOT, NYSERDA, the Thruway Authority,
8 National Grid, Orange and Rockland and Rochester Gas
9 and Electric, or the consensus parties.

10 The Draft Order also addresses the
11 joint petition for immediate and long-term rate
12 relief, to encourage statewide deployment of DCFC
13 facilities, for EV's, filed by NYPA, the DEC, the DOT
14 and the Thruway Authority, or the joint petitioners.
15 The joint petitioners requested the Commission
16 commence proceeding, to establish principals, to
17 guide investor-owned utilities in redesigning rates,
18 applicable to DCFC accounts.

19 The joint petitioners indicate that
20 the amount of electricity used and the applicable
21 electric tariff, are primary drivers of DCFC
22 operating costs, noting that stations take service
23 under service classes, that include both demand and
24 energy-charge components. The joint petitioners
25 stated that when DCFC station-utilization rates are

1 Monthly Meeting - 2-7-19

2 very low, demand charges can account for up to 90
3 percent of a station's monthly electricity bill, in
4 New York.

5 The joint petitioner, therefore,
6 requested the Commission direct investor-owned
7 utilities, to modify their tariffs to provide
8 immediate relief for DCFC stations. Specifically,
9 the joint petitioners requested the DCFC stations be
10 allowed to qualify for service, under a non-demand
11 billed service classification, be exempt from any
12 kilowatt, or kilowatt-hour limits that would
13 jeopardize their entitlement, to take non-demand
14 billed service and be provided a one-time opportunity
15 to elect to take service under the applicable demand-
16 billed service classification.

17 Shortly after the joint petition was
18 filed, the Commission commenced a proceeding to
19 consider the role of electric utilities and providing
20 infrastructure and rate-design options, to ensure
21 that the utilities EV readiness framework, can meet
22 the future EV market development and accommodate the
23 needs for electricity demand of electric-vehicle
24 supply equipment and infrastructure. The
25 commencement of this proceeding, satisfies the joint

1 Monthly Meeting - 2-7-19

2 petitioner's broader request.

3 Staff, in coordination with NYSERDA,
4 convened a technical conference, in July of 2018, to
5 consider the various topics outlined by the
6 Commission in its order, instituting the proceeding.
7 Rate design was highlighted as a critical issue, for
8 DCFC development and Staff hosted a working-group
9 meeting to discuss rate-design principals, on
10 September 21st.

11 At that meeting, Con Edison proposed
12 an annual per-plug incentive program, to offset
13 operating costs, for DCFC stations. This per-plug
14 incentive was designed to provide a combined benefit,
15 in conjunction with the delivery-rate discount,
16 offered under Con Edison's exiting EV quick-charging
17 station business-incentive rate.

18 After the rate-design working-group
19 meeting, the joint utilities, NYPA, NYSERDA, the City
20 of New York, the UIU and Long Island Power Authority,
21 collaborated in the development of this consensus
22 proposal. The consensus parties explained that the
23 per-plug incentive program contained in the proposal,
24 provides for limited-term cost relief for DCFC
25 stations, to address the short-term economic

1 Monthly Meeting - 2-7-19
2 challenges associated with low-station utilization
3 levels and are of appropriate size and scope, to
4 encourage the development of DCFC infrastructure, in
5 line with supporting the State's ZEV goals of 800,000
6 ZEV vehicles, in New York State, by 2025.

7 The consensus parties urge the
8 Commission to approve the proposed incentive program,
9 as an appropriate measure, that balances the public
10 policy of increasing EV adoption, as a tool to
11 support clean-energy goals, with the interest of
12 maintaining the integrity of cost-based rate design.

13 The per-plug incentive in the Draft
14 Order adopts many of the provisions contained in the
15 consensus proposal. Specifically, the Draft Order
16 adopts a per-plug incentive program that is available
17 to 1,074 new publicly-available DCFC plugs, across
18 the utility-service territories.

19 Plugs must have a minimum
20 simultaneous-charging capability, of 50 kilowatts to
21 qualify for the program and to incent installation of
22 faster-charging plugs, higher incentives are provided
23 to plugs with a minimum simultaneous-charging
24 capability of 75 kilowatts. The program lasts for 7
25 years and provides an annual declining per-plug

1 Monthly Meeting - 2-7-19

2 incentive to DCFC owners, that is to be paid, after
3 each complete year of electric service.

4 The Draft Order also address --
5 addresses some notable differences in the utility
6 specific programs contained in the consensus
7 proposal. For example, pursuant to the consensus
8 proposal, the Con Ed and Orange and Rockland per-plug
9 incentives, were designed to provide a combined
10 benefit, in conjunction with delivery-rate discounts,
11 offered under the business-incentive rate and
12 economic-development rate, respectively, whereas the
13 other utilities' per-plug incentives were designed,
14 assuming that DCFC stations, will not receive other
15 delivery-rate discounts.

16 The Commission approved Con Ed's EV
17 quick -- quick-charging station program business-
18 incentive rate, in April of last year. Orange and
19 Rockland does not currently have a similar EDR
20 program, but requests implementing one in the
21 consensus proposal.

22 The Draft Order rejects Orange and
23 Rockland's EDR proposal and instead adopts a per-plug
24 incentive that is sized to incent development,
25 without such a rate discount. The Draft Order does,

1 Monthly Meeting - 2-7-19

2 however, approve Con Edison's proposals, to eliminate
3 the requirement that economic incentives be received
4 from other governmental authorities, to qualify for
5 the EV quick-charging station component of its BIR
6 and to broaden the applicability, such that
7 governmental entities may qualify for the discount.
8 As such, entities will be providing a direct-capital
9 investment, to build critical infrastructure, that
10 will be used to serve the public's charging need.

11 The Con Ed and Orange and Rockland
12 programs, in the consensus proposal, were also
13 unique, in that they contain a separate load-factor
14 incentive, whereby station owners would earn a 500
15 dollar incentive annually, for achieving a 5 percent
16 load factor and 1,500 dollars annually, for achieving
17 a 10 percent load factor. The Draft Order finds the
18 load-factor incentive, to be unnecessary at this
19 time, as station owners have a natural incentive to
20 max -- to maximize station utilization.

21 In addition to these differences, Con
22 Edison, Orange and Rockland and Central Hudson
23 propose to provide initial incentives, at the maximum
24 value, independent of when a DCFC station qualifies
25 for the program. NYSEG, RG&E and National Grid,

1 Monthly Meeting - 2-7-19

2 however, tied the initial incentive-payment amounts
3 to the year, in which the station qualifies for the
4 program.

5 To capture cost savings from -- from
6 potential technology-cost declines, the Draft Order
7 requires that initial incentive amounts, be tied to
8 the year, in which the station qualifies for the
9 program. The Draft Order also establishes a cap, on
10 incentive payments, such that each station's annual
11 incentive payment cannot exceed the station's total-
12 delivery cost for the 12-month billing period, for
13 which the incentive is provided, similar to the NYSEG
14 and RG&E proposals.

15 Finally, the utility-specific programs
16 contained in the consensus proposal, include a
17 variety of mechanisms, to recover the costs
18 associated with incentive payments, such as the use
19 of deferrals, surcharges and the revenue-decoupling
20 mechanism.

21 The Draft Order provides funding for
22 the incentive programs, using a combination of
23 NYSERDA-legacy funds and a new surcharge to be
24 assessed to customer groups, that did not contribute
25 to such funds. In addition to these modifications,

1 Monthly Meeting - 2-7-19
2 the Draft Order expands the public-accessibility
3 qualification criteria, expands reporting
4 requirements and establishes an interim review, that
5 will allow the Commission to evaluate the success of
6 the program and to make any prudent changes. This
7 concludes my presentation of the Draft Order.

8 Chris Graves, Bridget Woebbe and I,
9 are available to answer any questions you may have.

10 CHAIRMAN RHODES: Thank you, Mary Ann.

11 A complicated topic, but, you know, my
12 take is that the portfolio of actions that the order
13 proposes, are practical and smart and timely steps,
14 to enable new and needed infrastructure, at sensible
15 budgets and at sensible payment structures. And it
16 puts a wide range of partners in a position, to
17 invest their money in our agenda, for the benefit of
18 all New Yorkers.

19 I'm going to support this item.

20 Commissioner Sayer?

21 COMMISSIONER SAYER: In my view, the
22 increasing electrification of transportation, is
23 obviously going to be good for the environment. But
24 I also see it as good for utilities and for
25 customers. For utilities, the additional electricity

1 Monthly Meeting - 2-7-19

2 demand, will provide more revenues and that reduces
3 the burden, on utility customers.

4 But EVs, as is well-known, have a
5 chicken and an egg problem. Chargers aren't being
6 built because there aren't enough EV's and EV's
7 aren't being bought because there aren't enough
8 chargers.

9 This item helps us get out of that
10 cycle and also addresses one of the issues of EV
11 adoption, which is the amount of time that it takes
12 to charge vehicles, while away from home base. It
13 focusses on -- on high-capacity charging.

14 This order is far from the end of the
15 road of the Commission's consideration of
16 transportation electrification, but it takes us a few
17 good steps in the right direction.

18 I support it.

19 CHAIRMAN RHODES: Commissioner Burman?

20 COMMISSIONER BURMAN: Thank you.

21 So, just a couple of points.

22 In April -- at the April session, I
23 voted in concurrence with -- voting for this item,
24 the generic proceeding, to open this. I did not vote
25 for the Con Ed BIR I was concerned why we were doing

1 Monthly Meeting - 2-7-19
2 that, at the time, when we were opening a generic
3 proceeding, looking at EV's and it didn't make sense
4 to me and in light of the fact that there are now
5 significant changes, to -- or modifications, to the
6 Con Ed BIR, as well as a denial of the O and R BIR
7 filed, as well as folding in the petition -- the NYPA
8 petition to this, I didn't think it was prudent at
9 the time, in April, to be addressing that,
10 separately. And so, I think in actuality my
11 decision, at that time, to say no to that, was one
12 that I feel even-more comfortable with.

13 I am -- I -- I -- I -- I am
14 comfortable with aspects of this. I think Staff did
15 a really good job, frankly, of trying to make sure
16 that consumers were protected here and also trying to
17 weave a fine line, on what was appropriate to help
18 jump start this market, understanding that we were
19 really putting forth, kind of a half loaf and we
20 still have a lot more to do.

21 I -- I -- I struggle with this item,
22 the way I struggled with it back in April at session
23 and I went back to the April transcript, to remind
24 myself, if I was correct in -- or if my answers -- my
25 questions to my answers had been alleviated by this

1 Monthly Meeting - 2-7-19
2 item and some were, but many weren't. The ones that
3 weren't, really related to NYPA's role, the Utility's
4 role, long term and the V.W. settlement and the
5 funding with that.

6 Let's talk first about the V.W.
7 settlement. Part of my concern and the reason I'm
8 focused on it, is that while I understand there's a
9 separate track for that and I'm not looking to get
10 involved in stuff that's outside of our jurisdiction,
11 I don't think it's appropriate, nor prudent to do so.
12 To the extent that it complements us and also that
13 our state policies, as they affect other state
14 agencies and state parties and those that are in --
15 that are under our jurisdiction, are affected, it --
16 it is extremely important and it's extremely
17 important that we are complimenting each other, in a
18 way that makes sense.

19 Here, we're talking about taking
20 unencumbered legacy funds, that seem to never ever be
21 ending over at NYSERDA and utilizing them now, for
22 part of this, for the -- the -- the monies here. But
23 there have been a number of different focus points
24 that have been focused on, monies from the V.W.
25 settlement, NYPA's also issued press releases, or at

1 Monthly Meeting - 2-7-19

2 least one, on 250 million dollars for electric
3 vehicles. And I think I saw something the other day,
4 on some other fast-charging stations and things that
5 they're doing.

6 And to the extent that those trip into
7 our jurisdiction, I do think it's important that I
8 fully understand those funding streams, those
9 mechanisms and exactly what -- how they align, or
10 don't, how separate they are, or not from us because
11 one of my sort of focuses, is I want to make sure
12 that whatever the -- the pots of money that are
13 getting used, are being used in a way that helps to
14 do it, in a thoughtful way, in a way that is working
15 and that -- at the end of the day, we don't say, oh,
16 we -- we -- we -- we didn't use it effectively. We
17 were working across purposes. We had a lot of
18 administrative-overhead costs, that we could have,
19 you know, done differently. And, by the way, we were
20 using rate-payer funding, when we should have been
21 using maybe someone -- some other pot of funding.
22 And to the extent that that is important for me,
23 before we dip into the rate-payer funding, I want to
24 make sure that we're -- we're utilizing it.

25 Now, I do understand that some of the

1 Monthly Meeting - 2-7-19
2 Volkswagen settlement funding, would be used for
3 other things that are outside of our wheelhouse, as
4 it relates to transportation but you can't really
5 separate a lot of that because it is aligned, some of
6 these initiatives. So, it's a little -- sort of this
7 gray-area confusion. So, those are some of the
8 questions I was hoping was getting answered, when we
9 talked about and the order talks itself, about the
10 white paper that would come out from Staff, that
11 would address that.

12 So, I look at this now, this order,
13 more as an interim order because this order that
14 we're looking at today, is looking at that white
15 paper that we talked about, in the April order, now
16 being done. I don't remember -- there's no time line
17 for that paper, right?

18 MS. WOEBBE: That's correct.

19 There's no specific time line, or due
20 date, for the Staff's white paper.

21 COMMISSIONER BURMAN: Okay. I think I
22 might have a sign soon that says no white papers.

23 So, the thing for me is that I fear
24 that the failure to know where it will fit, will go
25 into the ever-increasing bucket of white-papers

1 Monthly Meeting - 2-7-19

2 reports, that sometimes will either wind up in other
3 proceedings, or drop unexpectedly, or somehow doesn't
4 necessarily get the right attention, that -- that it
5 should be, or may wind up in this case, not getting
6 seen until the interim-review process, which isn't
7 until 2023 and I'm concerned about that 2023 review.

8 The reason I'm concerned, is this
9 really is only dealing with -- this order's really
10 only dealing with the DCFC, right? It's not dealing
11 with the larger make-ready issues, grid-integration
12 issues, all of those different sort of issues, that I
13 think, are percolating. Utility-ownership issues,
14 which are -- are, I think, needing to be tackled.
15 How it fits in terms of energy planning itself,
16 working with other entities, etcetera.

17 And -- and, to the extent that without
18 it being necessarily clearer, especially as it
19 relates to other state agencies and others having
20 some hand in it, I fear that these things will get
21 done, without the benefit of the Commission's thought
22 process. And so, these -- the white paper may wind
23 up being a compilation of other things being done,
24 outside of us having weighed in.

25 And so Staff, I really would like to

1 Monthly Meeting - 2-7-19
2 have more of an understanding of exactly what we're
3 asking you to do, in what time, rather than just
4 okay, take care of doing this because maybe it's just
5 make work that doesn't need to be, or giving more of
6 a leadership in what we, as the Commission, are
7 looking to do. Because the proceeding itself, when
8 it was done, one of my concerns had been that it was
9 a little bit clunky on exactly what we're asking and
10 we had a whole host of comments, or questions that we
11 were seeking to identify and we're still -- we're
12 still kind of working through that.

13 However, what I will say, I do think,
14 that as to the DCFC, you have weaved a very good --
15 taken the consensus proposal and weaved a very-good
16 modification to it and have really tried to address
17 that issue, in a way that I think makes sense.

18 Now, let's look at the concerns I
19 have, as it relates to NYPA. NYPA has a lot in this
20 space, not only the 250 million EV demos. There's
21 been other things.

22 My concern, is we don't oversee NYPA.
23 So, to the extent that we are also giving them this,
24 through the DCFC, I want to see some of the
25 accountability and this gets to, I mean, the larger

1 Monthly Meeting - 2-7-19
2 issue and I've talked about this before. I do think
3 that -- and while we know -- we've talked about this,
4 while we know that NYPA does volunteer -- voluntarily
5 agree, to be a part of many of our programs, CES,
6 etcetera and in here, they're going to have to come
7 under the hood and -- and look because we identify it
8 clearly, that, you know, they're -- they haven't paid
9 and they're going to have to.

10 We do need to look at some of the
11 things that we would be able to get, if they were a
12 jurisdictional utility and I think that is important
13 because it's not enough that they just are captured
14 through the monetary aspect of it, but to the extent
15 that they also are being looked at for this purposes
16 also, in -- in being able to give to the Commission
17 itself, information that we would get also from a
18 utility, especially as we're looking at it, in -- in
19 what makes sense, as we go into what the role is of
20 the utility, or in -- in this case, NYPA and -- and
21 LIPA frankly. I think it's important.

22 The change to Con Ed's BIR, as it
23 relates to -- there were three things -- substantive
24 changes, including -- one was the elimination of the
25 government-incentive requirement. The second was --

1 Monthly Meeting - 2-7-19

2 the second was permitting government participation
3 and the third was extending the date from December
4 31st -- or, I -- extending it from December 31st,
5 from the current date of April 30th.

6 So, the third date is fine. I
7 understand the -- the extension. The two that relate
8 to the elimination of the government-incentive
9 requirement and permitting government participation,
10 can you explain why we're choosing to -- to do those
11 changes?

12 MS. WOEBBE: Yes.

13 So, this BIR has been open to electric
14 vehicle-quick-charging station developers, since
15 April and that market has not materialized. The
16 private developers have not shown up and built these
17 DCFC stations, in the numbers that we need them, in
18 order to meet our zero-emissions vehicle goals.

19 Removing the restrictions, really
20 allow site hosts that are providing a direct capital
21 investment, by building the critical infrastructure,
22 to receive the appropriate incentive to deliver the
23 public good of the DCFC, being available. So, in
24 terms of government entities being eligible to
25 receive the business-incentive rate, those government

1 Monthly Meeting - 2-7-19
2 entities are DCFC station hosts and developers,
3 making capital contributions to this public
4 infrastructure.

5 COMMISSIONER BURMAN: Okay. So, the
6 reason I have concern, or at least pause for concern,
7 is that that really means that now, it could be that
8 government entities, rather than private entities,
9 are able to access this. Not necessarily a bad
10 thing, but it may mean that, for example and it
11 sounds like I'm beating up on NYPA, but I probably am
12 at this point, NYPA could take advantage of that.

13 Now, that would mean, to me, I want to
14 have -- because -- I want to have a -- a -- I want
15 them to show like a private customer -- private
16 participant, they would have an incentive. They
17 wouldn't -- they wouldn't want to participate, unless
18 they were actually going to be having a lot of people
19 using them, right?

20 I'm not -- I don't necessarily know if
21 that would be NYPA's incentive. So, we want to be
22 able to make sure, that they're not just utilizing it
23 in a way that then says, check the box. We've now
24 gotten people to participate and not necessarily
25 caring.

1 Monthly Meeting - 2-7-19

2 We want to make sure that that
3 connection is there, right? So, we also want to make
4 sure that they're not -- not only -- I mean, we -- we
5 -- the wrap is -- is in EVgo in the -- in this -- in
6 this proceeding, I think very eloquently explained
7 what a lot of people's concerns are, rightly, or
8 wrongly, is that NYPA does seem to crowd the market,
9 in a way that makes them feel that they're -- that --
10 that they can't have a role in the market, which is -
11 - EVgo talked in -- in one of their filings, in this
12 proceeding, that that's why they didn't put in an
13 R.F.P. in the J.F.K. item.

14 So, here I am, looking now at
15 recognizing that we are changing -- modifying the
16 C.I. -- Con Ed's BIR, to be helpful to government
17 entities, which would include NYPA, LIPA, SUNY, I
18 guess, others. I mean, it's not just them. But in
19 the space, we need to be mindful, that we are not
20 necessarily then just making it easy to just go to
21 the government entities, to get the participation, to
22 be able to show the success, versus figuring out what
23 the issue is, on the private side. So, that's why I
24 just flag -- that's a concern of mine.

25 MS. SORRENTINO: So, Staff recognizes

1 Monthly Meeting - 2-7-19

2 and appreciates that concern and you know, one of the
3 goals of the REV, is to only step forth, when the
4 market place has not yet materialized.

5 For these 7-year policy goals, we
6 think it's appropriate to open up the business-
7 incentive rate, to allow government entity
8 participation. The stations that are built by any
9 government entities, will be subject to the same
10 data-reporting requirements, as the private-market
11 participants will be. And, so that station data is
12 going to inform future Commission action, regarding
13 government ownership and it will help, with deciding
14 utility-ownership levels, as well.

15 So, as far as accountability goes, in
16 order to receive the benefit of this incentive
17 program, all participants, whether they be private-
18 market developers, or a government entity, are
19 subject to the same station data-reporting
20 requirements.

21 COMMISSIONER BURMAN: Okay. I think
22 that's excellent.

23 Thank you. That's very helpful.

24 And -- and as to, you know, the J.F.K.
25 Airport reference, which was -- which was EVgo's

1 Monthly Meeting - 2-7-19

2 comments, the only thing I will say, is as to DCFC --
3 DCFC's, I would really think that they would not be
4 at airports, at least at where folks are going and
5 dropping off their car, to get on a plane.

6 It's very different, you know, I mean,
7 that to me, you won't want them there. You want
8 charging stations there, but you -- at least in long-
9 term parking, you don't need a -- a fast-charging
10 station.

11 UNIDENTIFIED SPEAKER: That's correct.

12 MS. WOEBBE: I don't think any
13 developers would disagree with you.

14 COMMISSIONER BURMAN: Right.

15 Okay. So, I just wanted to -- the
16 EVgo's comment, was really on a more-generic process,
17 with the EV charging stations, in general. So --.

18 MS. WOEBBE: Yes.

19 EVgo's comment and NYPA's reply, which
20 are filed in this docket, is not really very specific
21 to the DCFC program incentive, that this order
22 recommends.

23 COMMISSIONER BURMAN: Right.

24 MS. WOEBBE: It's -- it's more about
25 NYPA's R.F.P. process, in general.

1 Monthly Meeting - 2-7-19

2 COMMISSIONER BURMAN: Yeah.

3 And I think -- I think it's -- it's --
4 I think it -- it's well noted and I think it's
5 something that I think -- I think we should take note
6 of, just to the extent, that that is something that I
7 think many folks also have a concern about. NYPA,
8 itself, doesn't want to crowd the market,
9 inappropriately and so therefore, we need to be
10 mindful of making sure that we're doing everything to
11 -- to -- to make sure that the market is robust and
12 need to take a look at that and it -- it happens in
13 other spaces too and so, it's something for us to
14 consider. Okay. Thank you.

15 So, I did -- I addressed the -- the --
16 the money issue. I will say we looked at that. We
17 looked at the BIR changes, my concerns, EVgo's
18 concerns on crowding the market, the D.C.-V.W.
19 settlement issues, the Staff white paper and the
20 interim-re -- review process, which I think is too
21 long of a review process.

22 I do know that they're filing annual
23 60-days reports, but I do think that as to the DCFC,
24 I -- I get that. As to the larger EV issues and what
25 we're doing, especially as it relates, overall, I

1 Monthly Meeting - 2-7-19

2 would like to see that. I believe it would be in
3 other tracks, too, but I think it is important for us
4 to consider how that fits and make sure that we're
5 clear about that, especially my mantra on the
6 different proceedings that things seem to pop and to
7 make sure we're carefully looking at that.

8 I do want to note something and -- and
9 this is just meant for thoughtful comments, not as
10 criticism on the consensus proposal. I did very-
11 carefully look to make sure how the consensus
12 proposal came through. It was during an open
13 working-group meeting, that was noticed -- a
14 stakeholder meeting that was noticed by the parties.
15 The parties were there. It was presented. There was
16 a Power-Point presentation. Folks got together, did
17 look at it and it did involve several different --
18 several different stakeholders, from the -- the
19 proceeding. However, I do think that we do need to
20 be -- and then consensus proposal, when finalized,
21 was submitted, put on DMM and then 2 days later, it
22 was issued for comments by the Secretary.

23 I do think that we do need to be
24 mindful of noting for others, that -- that --
25 flagging, that there are discussions among parties,

1 Monthly Meeting - 2-7-19
2 especially when those parties involved state
3 agencies, that they are engaged in -- in discussions
4 that may lead to some joint-consensus proposals. We
5 do have, you know, we do have processes and
6 regulations in place when we're dealing with
7 settlement discussions, but we don't really have,
8 when we're dealing -- in this particular matter, it
9 was followed, at least to the extent that there was a
10 pathway, when looking at it from the open process,
11 through the -- the meeting itself.

12 But, I do just note that, you know, we
13 do need to be mindful. We should take extra
14 precautions, especially when State agencies are
15 involved and especially when we take up that
16 consensus proposal, so quickly after and put it out
17 there and then adopt it, with modifications. It is
18 something that, I think, I would rather play safer,
19 rather than, you know, loose on the issue. So, it's
20 something I just wanted to flag for folks.

21 Thank you.

22 I will be voting in -- in concurrence
23 with the item. Thanks.

24 CHAIRMAN RHODES: Thank you very much.

25 Commissioner Alesi?

1 Monthly Meeting - 2-7-19

2 Sorry. I caught you coughing.

3 COMMISSIONER ALESI: Thank you, Mr.
4 Chairman.

5 I'm going to support this effort. I
6 think it's exciting, in a way, to look down the road,
7 no pun intended and see more and more energy-
8 efficient electric vehicles out there.

9 I think the competition will start to
10 become more and more fierce, as those that sell and
11 marked gasoline-powered engines, are going to respond
12 to this, but we have to do it anyways and then let
13 the marketplace decide.

14 But if you look at what has happened
15 with cell phones and I know I travel quite a bit,
16 maybe a year and a half ago, 2-years ago, if you're
17 in an airport, you couldn't find a single place where
18 you could plug in your cell phone to charge it. Now,
19 they're pretty much everywhere. You go in a coffee
20 shop, you go in a grocery store, you definitely go in
21 a -- mass-transit hubs and there are places to charge
22 your phones, literally everywhere. Why is that?
23 Because of the market demanding that opportunity.

24 So, if we give this a little bit of a
25 leg up, then the market will probably start to feel

1 Monthly Meeting - 2-7-19

2 more comfortable, with the -- the growth of electric
3 vehicles and this is what will be necessary to help
4 that growth go along.

5 So, of course, I'll support it and
6 look forward to doing more things of this nature,
7 that will help us get into the future, as we look at
8 our environment, as a safe and healthy place to live.

9 CHAIRMAN RHODES: Thank you very much.
10 With that, I will proceed to call for
11 a vote.

12 My own vote is in favor of the
13 recommendation to adopt the consensus proposal, with
14 mod -- with modifications, as discussed.
15 Commissioner Sayer, how do you vote?

16 COMMISSIONER SAYER: Aye.

17 CHAIRMAN RHODES: Commissioner Burman,
18 how do you vote?

19 COMMISSIONER BURMAN: I concur.

20 CHAIRMAN RHODES: Commissioner Alesi,
21 how do you vote?

22 COMMISSIONER ALESI: Aye.

23 CHAIRMAN RHODES: The item is approved
24 and the recommendation is adopted.

25 We will now move to the consent

1 Monthly Meeting - 2-7-19

2 agenda.

3 Do any Commissioners wish to comment
4 on, or recuse from -- from voting on any items on the
5 consent agenda?

6 COMMISSIONER SAYRE: No.

7 CHAIRMAN RHODES: Commissioner Burman?

8 COMMISSIONER BURMAN: Yes.

9 I am --.

10 CHAIRMAN RHODES: Okay. It can wait.

11 Sorry.

12 COMMISSIONER BURMAN: That's all

13 right.

14 CHAIRMAN RHODES: Immature.

15 COMMISSIONER BURMAN: I am going to
16 be, on Item 368 concurring, on Item 562 concurring,
17 on Item 563 for the 6th time, I will be voting no.

18 CHAIRMAN RHODES: Commissioner Alesi?

19 COMMISSIONER ALESI: Nothing.

20 CHAIRMAN RHODES: With that, I will
21 proceed to vote -- to call for a vote.

22 My own vote is in favor of the
23 recommendations on the consent agenda.

24 Commissioner Sayer?

25 MS. SAYER: Aye.

1 Monthly Meeting - 2-7-19

2 CHAIRMAN RHODES: Commissioner Burman?

3 COMMISSIONER BURMAN: Aye, except for
4 the ones I noted.

5 CHAIRMAN RHODES: As noted.

6 Thank you.

7 Commissioner Alesi?

8 COMMISSIONER ALESI: Aye.

9 CHAIRMAN RHODES: The items are
10 approved and the recommendations are adopted.

11 Commissioner Burman, may I give you
12 the floor?

13 COMMISSIONER BURMAN: Sure.

14 Thank you so much for letting me
15 speak.

16 As February is Black History Month,
17 I'm honored to have been chosen to make a few
18 comments to recognize an amazing woman, I never knew,
19 but admire greatly. Her name was Carmel Carrington
20 Marr.

21 Ms. Carrington Marr was a Republican,
22 appointed by Rockefeller. She was both the first
23 woman and the first African American appointed as a
24 Commissioner of the New York Public Service
25 Commission. She served from 1971 to 1986. She was

1 Monthly Meeting - 2-7-19

2 also the Chair of the Committee on Gas.

3 She sat on numerous committees,
4 including the U.S. Department of Transportation,
5 Technical Pipeline Safety Standards Committee and Gas
6 Research Institute Advisory Council. She was an
7 accomplished attorney, civic-minded volunteer and the
8 beloved mother of 2 boys.

9 She was also the first African
10 American woman appointed to the permanent staff of
11 the U.S. Mission to the United Nations. Ms.
12 Carrington Marr set a high bar, for all regulators,
13 that continues today.

14 I keep her legacy close, to remind me
15 of the true essence of public service. She helped to
16 make my road easier here. I thank her for her
17 dedication to public service and it's fitting that we
18 honor her on Black History Month.

19 Thank you.

20 CHAIRMAN RHODES: Here. Here.

21 Thank you very much.

22 It's -- it's great to contemplate. It
23 really is.

24 So, anti-climatically, I will now call
25 for an adjournment.

1 Monthly Meeting - 2-7-19

2 Thank you very much.

3 Sorry. Excuse me.

4 Secretary Burgess, is there anything
5 further to come before us?

6 SECRETARY BURGESS: There is nothing
7 further --

8 CHAIRMAN RHODES: Okay.

9 SECRETARY BURGESS: -- to come before
10 you today.

11 CHAIRMAN RHODES: Well, with then --
12 with that, I now adjourn. Thank you.

13 (The meeting adjourned.)

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1 Monthly Meeting - 2-7-19

2 STATE OF NEW YORK

3 I, DONNA LaFOREST, 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 99, 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 13th day of February, 2019.

11

12

13 DONNA LaFOREST, Reporter

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A	
a.m 1:13	addresses 26:8 70:10 74:5 78:10
abandon 25:8	addressing 14:10 15:8 24:12 34:3,7 37:12 50:9 52:15 63:14 67:9 70:3 79:9
ability 26:14 64:9	adequate 28:16
able 15:6 25:2,3,5,18,23 30:4 31:4,8,9,21 33:9,14,16,25 35:21 55:17 62:6 85:11,16 87:9,22 88:22	adjourn 99:12
accelerate 18:3	adjourned 99:13
accelerated 8:23,25 9:8,25 10:5 10:12,18 11:15 35:6	adjournment 98:25
accept 23:17,19	adjustment-clause 7:20
acceptable 25:6	adjustments 11:14
access 25:2,4 37:25 38:3 52:18 52:24 87:9	admin 8:12
accommodate 71:22	administrative 6:12 8:13
accomplished 98:7	administrative-overhead 81:18
account 71:2	admire 97:19
accountability 84:25 89:15	adopt 26:7,10 63:2 93:17 95:13
accounts 6:6 70:18	adopted 26:4 42:18 54:5 69:5 95:24 97:10
achievable 65:6	adopting 8:23
achieve 8:9 11:3 18:17	adoption 9:3 69:25 73:10 78:11
achieved 50:19	adopts 73:14,16 74:23
achieving 75:15,16	advance 48:23
acted 9:13	advantage 87:12
Acting 69:11	advisable 10:9
action 49:2 50:24 89:12	advisor 27:22,25 28:5
actionable 10:7	Advisory 98:6
actions 77:12	affect 80:13
activated 58:24	affiliates 54:25
activation 59:22 60:4	African 97:23 98:9
activities 9:18 16:25	agencies 28:2 80:14 83:19 93:3 93:14
activity 16:7,10	Agency 1:14
actual 27:15 56:25	agenda 2:5,9 77:17 96:2,5,23
actuality 79:10	ago 17:3 94:16,16
added 61:4	agree 46:11 64:20 85:5
adding 44:12,22 45:8	agreed 65:3
addition 3:18 58:5 59:6 61:2,13 75:21 76:25	agreement 62:11
additional 3:19,24 7:14 10:22 49:10 50:8 59:17,23 60:10 61:5 77:25	air 17:24
address 3:6 10:15 13:6 14:8,20 14:21,24 15:6,20 20:15 22:14 33:25 34:15 36:13 37:15 44:10 48:7,15 50:17 51:13 62:15,23 62:25 63:7 72:25 74:4 82:11 84:16	air-source 4:18
addressed 57:22 91:15	airport 89:25 94:17
	airports 90:4
	al 42:21
	Albany 1:15
	Alesi 1:24 41:17,18 42:14,16 53:3,4,25 54:3 67:22,23 68:25 69:3 93:25 94:3 95:20,22 96:18,19 97:7,8
	align 7:10 48:20 49:5 81:9
	aligned 18:25 48:9 82:5
	alleviated 79:25
	allow 14:22 22:17 44:12 49:7,8

49:13 60:17 77:5 86:20 89:7
allowed 71:10
allowing 14:21
allows 10:15 44:2 46:9
alternative 3:9 15:6 35:21
 44:21 47:16,24 50:6 63:7
alternative-fuel 50:2
alternative-like 5:19
alternatives 5:15 9:22 12:24,25
 13:2 14:16,17 15:2 22:13
 33:24 34:14,17,20 35:5 67:7
 67:10
altogether 25:9
amazing 97:18
amended 26:18
American 97:23 98:10
amount 70:20 78:11
amounts 76:2,7
analysis 29:20 61:20 62:4
Ann 69:10,16 77:10
annual 11:4 72:12 73:25 76:10
 91:22
annually 75:15,16
answer 14:11 36:9 51:2 77:9
answered 82:8
answers 40:15 79:24,25
anti-climatically 98:24
anticipated 9:13
anyways 94:12
apologize 34:11
Apologizes 12:18
applicability 75:6
applicable 46:21 47:13 70:18,20
 71:15
appointed 97:22,23 98:10
appreciate 37:9 41:9
appreciates 89:2
approach 5:9,24 7:13 41:23
 45:15 53:11
appropriate 5:19 6:22 7:20
 64:11 73:3,9 79:17 80:11
 86:22 89:6
appropriately 11:16 58:21
appropriateness 61:21
approval 2:14 10:19 29:12
approve 4:3,9 29:4 42:6 44:5
 53:17 73:8 75:2
approved 5:6 11:7 42:17 54:4
 55:9 69:4 74:16 95:23 97:10
approves 47:12
approving 8:20
approximately 11:3 17:16
April 55:9 74:18 78:22,22 79:9
 79:22,23 82:15 86:5,15
area 14:18,21 22:11 56:23 58:9
 60:19
areas 10:9 22:19 55:16 56:6
 64:24
aren't 25:2 78:5,6,7,7
Aric 42:25 43:7 51:4
Article 26:4
aside 67:3
asked 16:8,14 50:18 55:14
asking 35:19 84:3,9
aspect 13:21 85:14
aspects 79:14
assess 58:20 59:17 61:17
assessed 59:10 76:24
assigning 60:8
assist 64:2
Assistant 2:20 43:5 69:13
associated 7:2 9:12 49:20 61:11
 61:12,18 73:2 76:18
assuming 74:14
attempted 48:4
attend 64:8
attention 83:4
attorney 98:7
attract 38:11
audit 29:2 54:12,13,15,23 55:5
 56:7,11,16,19,22,24 57:21
 58:9,22 60:12,20 61:16 62:10
 62:11,12,25 63:17,20,21 64:22
 65:18,22 68:17
audit-field 55:11
audit's 63:24,25
auditor 67:2
auditors 39:11 64:24
audits 54:9 55:4,11 56:5,8
 57:14,18 64:5
August 3:12
authentic 29:5
authorities 75:4
Authority 70:7,14 72:20
authorized 55:2
authorizes 54:21
available 2:20 11:20 43:5 54:15
 69:14 73:16 77:9 86:23
Avangrid 54:25 61:4
avoided 5:18

aware 57:4, 6
Aye 42:9, 16 53:21 54:3 68:21
 69:3 95:16, 22 96:25 97:3, 8

B

B 1:23
back 15:4 16:4 17:20 18:8 25:19
 27:6 32:8 38:20 39:18 52:19
 65:10 79:22, 23
background 14:20
bad 68:4 87:9
balanced 12:7
balances 73:9
balancing 51:7
bar 98:12
bare 61:11, 12
base 45:23 78:12
base-rate 48:16, 23
based 56:13
basis 39:13
be-all 66:15
beating 87:11
began 55:11
beginning 18:8
begun 55:11
believe 27:13 29:15 38:15, 19, 20
 63:2 92:2
believes 10:9
beloved 98:8
benchmark 58:18
benchmarking 59:17
benefit 25:15 37:3 49:15 72:14
 74:10 77:17 83:21 89:16
benefit-cost 62:4
benefits 35:20 46:14 48:8 51:8
 61:18 62:3
best 45:14 56:13 58:19
Betsy 63:24
better 48:9 64:25
beyond 10:25 28:13, 14 60:24
bi-annual 26:11 27:12, 12
big 31:22
bill 71:3
billed 71:11, 14, 16
billing 76:12
BIR 75:5 78:25 79:6, 6 85:22
 86:13 88:16 91:17
bit 26:2 27:21 30:22 66:21 84:9
 94:15, 24
Black 97:16 98:18

Blumberg 38:21
Board 26:7, 9, 11, 22, 24 27:18, 23
body 39:14
bought 78:7
box 87:23
boys 98:8
Brandon 43:4
Bridget 69:13 77:8
bring 56:11
broaden 75:6
broader 72:2
Bronx 4:19
Brooklyn 42:22 43:11
BTU 9:6
bucket 82:25
budget 4:10 6:8
budgets 11:7 12:8 77:15
build 25:12, 13 75:9
building 1:14 86:21
buildings 4:14 36:17
built 78:6 86:16 89:8
burden 78:3
Burgess 2:4, 6 99:4, 6, 9
Burman 1:24 13:10, 11 20:21, 24
 29:19, 24 33:11, 15, 18 34:22
 35:11, 14, 17 36:5 39:23 40:19
 40:23 41:2, 6 42:10, 12 52:5, 6
 52:13 53:22, 24 65:15, 16 66:10
 68:22, 24 78:19, 20 82:21 87:5
 89:21 90:14, 23 91:2 95:17, 19
 96:7, 8, 12, 15 97:2, 3, 11, 13
business 5:20, 22 17:15 25:11
 36:18 43:12, 13 55:16
business- 74:17 89:6
business-incentive 72:17 74:11
 86:25
businesses 25:14 38:11 61:6
buy 25:13

C

C 1:23
C.I 88:16
call 2:2 42:5 53:14 68:14 95:10
 96:21 98:24
can' t 23:16, 23 24:3, 3 32:9, 10
 38:16, 17 82:4 88:10
cap 76:9
capability 6:6 73:20, 24
capacity 4:10 21:18 22:19 46:17
 46:25 64:9

capital 6:10 7:4 57:20 58:2
 86:20 87:3
capital-intensive 57:17
capital-investment 49:15
capital-planning 6:20
caption 100:5
capture 76:5
captured 85:13
car 90:5
care 21:8 34:4 84:4
careful 11:25 15:21
carefully 66:14 92:7,11
caring 87:25
Carmel 97:19
Carrington 97:19,21 98:12
carrying 38:12 40:3
case 2:12 8:24 17:4 39:5 46:23
 51:20 54:7,21 60:5 69:7,8
 83:5 85:20
cases 16:13 42:21 44:15
caught 94:2
cause 26:10 32:11 63:8 100:4
caused 22:14 48:4
cell 94:15,18
Central 70:6 75:22
certain 43:21 46:22 53:7 56:18
certainly 37:14
certainty 22:4
certify 100:3
CES 85:5
Chair 1:23 2:7,24 8:6 39:24
 43:8 54:19 69:18 98:2
Chair's 64:21
Chairman 2:2,10 11:22 12:14,17
 12:20 13:9 20:20,22 34:21,23
 35:8,12,16 40:18,20,25 41:5
 41:16,19 42:3,10,14,17 51:4
 52:4 53:2,5,13,22,25 54:4,17
 64:4 65:14 67:21,24 68:13,22
 68:25 69:4,16 77:10 78:19
 93:24 94:4 95:9,17,20,23 96:7
 96:10,14,18,20 97:2,5,9 98:20
 99:8,11
challenge 15:13,24
challenges 5:21 73:2
change 45:5 85:22
changed 58:8 66:21
changes 2:5,8 43:22 49:14 51:22
 77:6 79:5 85:24 86:11 91:17
changing 88:15
charge 78:12 94:18,21
chargers 78:5,8
charges 4:11 47:6,13 71:2
charging 75:10 78:13 90:8,17
check 87:23
chicken 78:5
Chief 2:15 43:3 69:11
choosing 37:19 86:10
chosen 97:17
Chris 77:8
Christopher 69:12
Cindy 2:18 43:2
city 4:21 17:19,19,25,25 18:2,3
 18:13,15 37:14 45:18,24 46:5
 72:19
City's 17:24
civic-minded 98:7
class 44:8 45:7 48:20
classes 70:23
classification 71:11,16
clean- 5:4
Clean 2:16 18:3
clean-energy 38:10 73:11
clean-heat 17:20
clean-power 19:22
cleaner 18:23
cleanest 17:25
clear 21:9 37:16 38:4 92:5
clearer 83:18
clearly 85:8
clearly-defined 59:21
close 98:14
closely 5:10 19:24 39:20 63:10
clunky 84:9
coffee 94:19
cognizant 30:19
cold 47:3
coldest 23:21
collaborated 72:21
collaborative 44:16,18 45:2,20
 48:6 51:12,17,24
collaboratively 49:21
colleagues 51:2
collectively 43:14
combination 76:22
combined 72:14 74:9
come 13:12 14:17,19 15:4 20:9
 20:16 21:4 22:3 23:22 25:11
 25:13 28:20 29:13 30:16 31:17
 32:23 33:10,17 39:18 82:10

<p>85:6 99:5,9 comes 39:13 66:12 comfortable 79:12,14 95:2 coming 19:15 24:5 31:11 40:13 63:11 commence 70:16 commenced 71:18 commencement 71:25 commend 51:25 comment 3:21 48:25 50:23 51:18 90:16,19 96:3 commenters 9:15 commenting 5:2 comments 33:22 45:19 46:4 52:9 62:9 84:10 90:2 92:9,22 97:18 Commission 1:2,9 2:3 3:13 4:3,9 7:8 8:25 9:14 28:10 29:3 30:3 39:13,18 40:3 41:15 44:5,15 46:20,24 47:6 48:18 49:2 50:7 50:12,24 63:2 65:25 67:12,13 70:3,15 71:6,18 72:6 73:8 74:16 77:5 84:6 85:16 89:12 97:25 Commission's 58:12 64:22 78:15 83:21 Commissioner 12:20,21 13:10,11 20:21,24 29:19,24 33:11,15,18 34:21,22 35:9,11,14,17 36:5 39:23 40:19,23 41:2,6,17,18 42:8,9,10,12,14,16 51:10,11 52:5,6,13 53:3,4,20,21,22,24 53:25 54:3 64:18,20 65:15,16 66:10 67:22,23 68:20,21,22,24 68:25 69:3 77:20,21 78:19,20 82:21 87:5 89:21 90:14,23 91:2 93:25 94:3 95:15,16,17 95:19,20,22 96:6,7,8,12,15,18 96:19,24 97:2,3,7,8,11,13,24 Commissioners 1:22 2:7,25 8:6 43:9 54:19 65:20 69:19 96:3 Committee 98:2,5 committees 98:3 commodity 4:10 communication 57:25 communities 6:23 7:25 community 4:15 15:25 community's 15:15 companies 16:23 43:15,16,20,22 43:24 44:7,11,15,19,22,25 45:4,5,9,24 46:9 48:18 49:14</p>	<p>55:15,17,21,25 56:15,25 57:20 58:3,11,14,18,23 59:5,7,10,16 59:25 60:13,14,22 61:9,14,20 62:9,12,20 63:4,11 68:8,18 Companies' 55:6 company 3:7 4:23 5:9,16 7:12,15 7:22 8:7 10:6 11:5,10 15:16 32:2 33:8 37:9 42:22 43:11 65:24 67:5,8,17 Company's 3:14 5:18,20,22 6:3 6:19 7:4,5,18,19 8:20 9:21 11:17 comparatively 51:23 compared 36:20 comparisons 60:18 compete 9:19 competition 94:9 compilation 83:23 complement 9:18 complements 80:12 complete 59:25 74:3 completed 18:7 60:22,25 complex 65:5 compliance 26:22,23 27:6,6 47:8 complicated 77:11 complimenting 80:17 component 75:5 components 11:16 70:24 comprehensive 5:9 11:17 37:17 38:7 41:23 54:8,22 60:23 64:6 compressed 4:21 6:4,14 compressor 14:22 compressors 22:11 con 3:4,18,23 4:3,5,5,8 5:12 6:14,21,25 9:16 10:15 12:3 13:22 17:13 18:14 21:15 22:24 32:8 35:4,13,18 38:22 39:21 45:12,16 50:7,12,18 52:9 70:3 70:6 72:11,16 74:8,16 75:2,11 75:21 78:25 79:6 85:22 88:16 concern 35:9 80:7 84:22 87:6,6 88:24 89:2 91:7 concerned 21:12 78:25 83:7,8 concerning 32:6 concerns 30:8,9,10,10 41:10 57:19 84:8,18 88:7 91:17,18 concludes 50:25 63:22 77:7 conclusion 47:11 63:15 concur 42:12 53:24 95:19 concurrence 78:23 93:22</p>
---	---

<p> concurring 41:7 52:7 96:16,16 conditions 21:22,23 28:13 conduct 55:4,4,15,15 conducted 55:13 conference 17:10,11 45:12 46:7 49:17,25 50:18 72:4 conflicts 60:11 confusion 59:22 60:8,9 82:7 conjunction 72:15 74:10 connected 6:16 connecting 22:18 connection 88:3 consensus 69:8 70:3,9 72:21,22 73:7,15 74:6,7,21 75:12 76:16 84:15 92:10,11,20 93:16 95:13 consent 95:25 96:5,23 consequences 36:24 consider 8:2 44:16 71:19 72:5 91:14 92:4 consideration 10:4,22 32:17 78:15 considered 3:22 10:23 11:16 13:3 46:4 considering 44:20 consist 8:15 consistency 50:15 consistent 9:24 12:23 consisting 100:6 consists 6:10 Consolidate 3:2 Consolidated 2:13 3:3 constrained 10:9 37:21 constraint 4:25 constraints 9:23 21:14,20 36:16 46:17 construction 55:6 57:15 64:12 consultant 28:25 39:10 consultants 55:4 56:4,10 57:4,6 Consulting 55:10 63:19 consumed 48:2 consumers 79:16 contain 75:13 contained 6:2,7 62:25 72:23 73:14 74:6 76:16 contemplate 98:22 context 10:2 35:6 continue 26:18 35:4 52:23 continued 17:7 continues 5:11 39:18 47:19 98:13 </p>	<p> Continuous 65:7 contribute 37:10 76:24 contribution 5:3 contributions 37:10 87:3 control 5:18 controls 57:20 convene 44:16 convened 45:11 72:4 conventional 7:13 conventionally 7:18 conversation 41:12 conversions 17:16 18:6,16 19:3 coordination 72:3 core 57:13 corn 70:3 Corporation 42:23 43:13 54:9,10 54:24 correct 29:17,23 34:25 35:2 36:2,4 48:4 62:7 66:6,7 79:24 82:18 90:11 cost 6:25 7:9 10:21 25:4 36:19 72:24 76:5,12 cost-based 73:12 cost-effective 28:17 36:10 costs 3:11,15 4:11 6:10,12,13 7:16 8:12,13 9:12 10:22 61:17 61:24 70:22 72:13 76:17 81:18 coughing 94:2 couldn't 94:17 Council 98:6 Counsel 2:20 43:5 69:13 County 4:18,20,22 23:2 couple 78:21 coupled 10:7 course 10:13 39:16 95:5 covered 56:6 covers 58:9 create 38:12 44:8 creation 45:6 crisis 24:23 39:17 40:8,13 criteria 77:3 critical 4:15 13:15 28:11 41:13 41:13 72:7 75:9 86:21 critical-improvement 59:13 criticism 92:10 cross-event 60:17 crowd 88:8 91:8 crowding 91:18 crucial 68:5 crunch 28:11 </p>
---	--

Cully 2:19
cumbersome 29:7
cumulative 11:4
current 6:19 7:18 9:19,21 20:10
 46:14 47:11 48:21 57:21 86:5
current-pending 7:5
currently 3:20 6:14 74:19
customer 22:18 25:11,23 51:8
 76:24 87:15
customer- 7:8
customers 4:14,19 7:23,25 12:4
 16:23 22:20,22,23 23:3,6,6,9
 23:10,17,19 24:25 25:2,8
 36:14 37:2,3,19 42:24 43:19
 44:3,13,23 45:8 46:8,11,14,16
 46:22 47:9,14,15,18,20,22
 48:5,11,13,13,14 49:8,9,12,16
 49:20,24 50:4,6,10 52:10
 77:25 78:3
cycle 27:7 78:10

D

D.C. -V.W 91:18
D.R 33:6
D'Aloia 54:13 63:24
data 60:15 62:6 89:11
data-reporting 89:10,19
date 50:22 82:20 86:3,5,6
dated 62:14
day 23:21 66:9 81:3,15 100:10
days 50:21 62:21 92:21
DCFC 69:24 70:12,18,21,25 71:8
 71:9 72:8,13,24 73:4,17 74:2
 74:14 75:24 83:10 84:14,24
 86:17,23 87:2 90:2,21 91:23
DCFC's 90:3
deadline 30:11,12,21 31:2 32:6
deal 31:2 56:21
dealing 15:7 83:9,10,10 93:6,8
dealt 13:17 14:3,4 16:11,12
 52:10
DEC 27:24 70:7,13
December 3:23 8:22 45:18 52:12
 52:13 55:2 86:3,4
decide 25:8 94:13
deciding 25:11 89:13
decision 25:18 36:16 40:5 79:11
decision-making 58:25
decisions 21:7 37:22 40:11,14
declines 76:6

declining 73:25
dedication 98:17
defer 45:25
deferrals 76:19
defined 7:21 59:20
defining 59:18
definitely 94:20
dekatherms 6:5 8:10 10:25
delay 10:10
delays 60:9
deliver 86:22
delivers 64:14
delivery 46:10 76:12
delivery-rate 72:15 74:10,15
demand 3:6 8:3,4 12:5 13:4
 18:11 19:17 22:15,21 25:23
 31:22,23 37:6,24 41:24 44:20
 46:9,12,18 49:14 70:23 71:2
 71:23 78:2
demand- 10:20 71:15
demand-response 46:13
demand-side 8:9,21 9:16,23 11:2
 11:10
demanding 37:20 94:23
demonstrates 45:21
demos 84:20
denial 79:6
denied 7:3
Department 98:4
deployment 70:4,12
Deputy 2:16,18 43:3 54:11
design 46:2 72:7 73:12
designed 72:14 74:9,13
desperately 38:7
detail 3:24 5:16
determinations 3:13
determined 23:17,19,24
determining 61:21
develop 4:6 6:21 10:8 58:3,14
 64:25
developers 86:14,16 87:2 89:18
 90:13
development 6:22 19:7 25:10
 69:23 71:22 72:8,21 73:4
 74:24
DIANE 1:24
didn't 14:17 20:22 79:3,8 81:16
 88:12
diff 20:10
differences 74:5 75:21

different 5:21 13:18 29:6 80:23 83:12 90:6 92:6,17,18	24:10,11 30:14,23,25 31:4,7,8 33:4 34:10,20 37:22 39:23
differently 81:19	40:15 52:21 67:14 80:11 81:10
difficult 24:21 59:23	81:15 82:16 84:22 87:20 90:9
difficulty 47:22	90:12 93:7
diligent 63:17	DONNA 100:3,13
dip 81:23	dormant 16:8,9
direct 46:25 48:18 53:18 68:17 71:6 86:20	DOT 70:7,13
direct-capital 75:8	downstate 13:7 46:25
direct-current 69:9,23 70:5	downstate-rate 44:14
directed 6:21 11:5 35:4 49:5,7 50:7,11	DPS 27:23 28:3
directing 44:7	draft 3:16 4:2 8:19 13:21 20:14 27:16 43:11 44:4,6 47:12
direction 13:8 41:25 78:17	48:17 49:4,12 50:16,20 54:20
Director 2:16,18 43:3 54:11,14 63:24	62:19,19 69:19 70:10 73:13,15 74:4,22,25 75:17 76:6,9,21 77:2,7
directs 50:16,20	draft-implementation 62:17
disagree 90:13	drastically 37:4
discount 72:15 74:25 75:7	drivers 70:21
discounts 74:10,15	drop 83:3
discuss 5:15 45:13 72:9	dropping 90:5
discussed 42:7 53:19 68:19 95:14	due 47:4,4 50:4 82:19
discussion 2:12 26:13 27:17 42:20 54:7 69:7	duty 22:8 40:4
discussions 45:21 92:25 93:3,7	dynamics 44:21 66:21
disruption 20:6	
disruptions 56:21	E
dissent 42:13	E.E 8:25 9:8,25 10:5,12,18 11:15
dissenting 41:7	E.I.A 19:18
distinction 10:3	EAM' s 11:15
distribution 9:11 46:15,16 49:23	earlier 8:15 59:9
divergent 51:15	early 5:8
DMM 92:21	earn 75:14
docket 90:20	earning 11:14
document 58:7	easier 98:16
documentation 19:5	East 42:23 43:13
doesn' t 15:23 16:2 24:17,18 27:3 30:6 32:7 37:11,13 38:6 83:3 84:5 91:8	easy 15:22 31:14 88:20
doing 7:24 17:2 19:19 24:5 28:15,19 30:5 32:9 37:20 40:13 43:12,13 52:17 78:25 81:5 84:4 91:10,25 95:6	economic 15:9 19:7 25:7,10 72:25 75:3
dollar 4:10 75:15	economic-development 74:12
dollars 6:9,10,11,13 8:8,12,13 10:20 75:16 81:2	Economist 69:13
don' t 13:6 14:7 15:11,19 22:19	Ed 4:5 12:3 13:22 17:13 21:15 32:8 35:13,18 38:22 39:21 52:9 70:6 74:8 75:11 78:25 79:6
	Ed' s 22:24 74:16 85:22 88:16
	EDF 18:2 38:22
	Edison 2:13 3:4,18,23 4:5,8 6:14,21 10:15 18:14 35:4

45:12,16 50:8,12,19 72:11
 75:22
Edison's 4:4 5:13 6:25 9:16
 72:16 75:2
EDR 74:19,23
effected 6:23
effective 7:9 55:21
effectively 58:20 81:16
effects 25:17 52:23
efficiency 3:15 4:13 8:16 9:2
 10:11 11:13,18 18:18 33:6
 35:7 36:6 57:16
efficient 94:8
efficiently 46:15
effort 5:11 50:15 53:6 94:5
efforts 4:13 37:10 41:24 60:14
egg 78:5
eight 17:16
either 83:2
elect 71:15
electric 4:16 5:22 12:25 54:9
 54:10,23,24 56:19 59:3,6
 69:10,11,21 70:9,21 71:19
 74:3 81:2 86:13 94:8 95:2
electric- 69:24
electric-system 55:7 58:10
electric-vehicle 71:23
electricity 36:20 70:20 71:3,23
 77:25
electrification 4:16 8:17 77:22
 78:16
element 64:8
elephant 21:6
eligible 11:14 86:24
eliminate 17:22 75:2
eliminated 17:23 18:8,9
elimination 85:24 86:8
Elizabeth 54:14
eloquently 88:6
emails 41:21
emergency 59:11,14
emission-reduction 38:10
emissions 18:23
emit 47:24
Empire 1:14
employees 25:12
enable 77:14
encourage 7:8 69:22 70:4,12
 73:4
encouraged 5:9,22 50:12
encouraging 68:10
end-all 66:15
energy 2:17 4:12 5:5 8:16 9:2
 10:10 11:13,17 15:8 16:2 17:6
 18:18,23 23:11 24:15 25:3,4
 26:3,4,6,21,24 27:18,22 35:7
 36:6,19 38:7 52:18 83:15
energy- 3:14 94:7
energy-charge 70:24
energy-efficiency 3:8 8:23 9:4
 9:19
engaged 93:3
engagement 6:23 54:13 58:23
 63:24
Engineering 2:19
engines 94:11
enhance 49:25 61:14
enhanced 3:14
enhanced-energy 33:6
enhanced-gas 3:7
enhancing 19:6
enroll 49:8
ensure 28:15 38:9 47:8 63:11
 71:20
ensuring 28:16
enterprise- 58:3
entities 75:7,8 83:16 86:24
 87:2,8,8 88:17,21 89:9
entitlement 71:13
entity 28:24 89:7,18
enumerated 55:24
environment 63:21 77:23 95:8
environmental 36:23,23
environmentally-friendly 15:9
equipment 71:24
especially 16:17 18:17 19:2
 33:21 60:5 83:18 85:18 91:25
 92:5 93:2,14,15
essence 98:15
essential 64:8
establish 48:19 70:16
established 9:9 10:12,17 48:6
establishes 53:8 76:9 77:4
estimated 8:9 11:3
estimates 61:21
et 42:21
etcetera 19:8 39:7 52:20 83:16
 85:6
EV 71:21,22 72:16 73:10 74:16
 75:5 78:10 84:20 90:17 91:24

EV's 70:5,13 78:6,6 79:3
evaluate 13:19 77:5
evaluation 26:14
even-more 79:12
event 57:2 59:15,23 60:4
event-activation 59:25
events 6:17 59:11
ever-increasing 82:25
EVgo 88:5,11
EVgo's 89:25 90:16,19 91:17
evidenced 9:3
Evs 78:4
ex 56:11
exactly 21:9 81:9 84:2,9
examine 17:9 44:18
example 51:12 65:5 74:7 87:10
exceed 76:11
exceeded 47:7
excellent 89:22
exciting 94:6
excluding 4:10
excuse 20:17 28:25 49:6 99:3
executive-level 61:5
exempt 71:11
exercising 7:15
existing 6:14 7:4 22:21 23:3,6
exiting 72:16
expanded 35:24
expands 77:2,3
expansion 16:5,13,18 17:4,9
expansions 67:4
expect 62:3 68:10
expertise 56:11 63:19
experts 63:16
explain 86:10
explained 72:22 88:6
explore 30:22 31:21 49:21
expressed 8:25
extending 86:3,4
extension 86:7
extensions 19:11
extent 39:7 80:12 81:6,22 83:17
 84:23 85:14 91:6 93:9
extra 93:13
extremely 80:16,16
eye-opening 14:5

F

face 47:22
faced 14:2 36:16

faces 5:21
facilities 6:15 70:5,13
facing 13:25 36:15
fact 17:22 30:19 37:8 57:3 65:3
 65:11 79:4
factor 75:16,17
facts 31:20
fail 29:25
failing 50:11
failure 82:24
fair 37:17 69:15
far 13:24 15:14 24:19 37:11
 78:14 89:15
fashion 39:12
fast-charging 69:9,24 70:5 81:4
 90:9
faster-charging 73:22
favor 12:9 42:5 53:16 68:16
 95:12 96:22
Favreau 2:20
fear 36:15 82:23 83:20
February 1:13 97:16 100:10
Federal 61:15
feel 32:18 79:12 88:9 94:25
felt 32:14
fiduciary 22:8
field 65:5
fierce 94:10
figure 8:11
figuring 32:12,13 88:22
file 9:10 30:17 44:7,9,11,17
 50:8,16,21 62:20 68:18
filed 2:13 3:19,24 13:20 21:16
 22:10,16 42:22 43:17 44:25
 45:10 63:12 70:6,13 71:18
 79:7 90:20
filing 7:6 11:8 13:17 17:4 32:5
 62:17,18,19 91:22
filings 45:4,9 48:22,23 53:18
 88:11
final 2:5 26:13,24 27:11 54:22
 55:20,24 56:3 57:3,9,23 58:5
 58:13,17 59:4,19,24 60:16
 61:2,13 62:22 63:13 66:5
finalize 62:14
finalized 92:20
Finally 76:15
financial 7:10,14 18:17
find 11:25 12:6,6 64:13,24
 94:17

finding 59:22
findings 56:3, 6
finds 56:22 75:17
fine 79:17 86:6
fingers 20:6
firm 46:24 47:19 48:5 49:12, 15
 49:24 52:19
first 2:11 13:24 17:4 67:25
 80:6 97:22, 23 98:9
fit 6:19 38:6 82:24
fits 38:5 83:15 92:4
fitting 98:17
fix 5:7 15:22
flag 88:24 93:20
flagging 92:25
flexibility 22:18 49:22 53:10
floor 1:14 97:12
focus 13:14 17:18 18:21, 22 28:8
 38:25 41:23 56:9 57:14, 16
 62:7 64:11 67:3 80:23
focused 9:22 17:21 18:4 19:4
 28:18 37:23 38:23 55:5 56:17
 67:15 80:8, 24
focuses 81:11
focusing 33:20 67:2, 6
focusses 78:13
fold 18:14
folding 79:7
folks 12:10 22:2 25:15 34:13, 18
 36:18 66:13 90:4 91:7 92:16
 93:20
follow-up 41:21
followed 93:9
followed-up 22:12
following 26:12 27:10
food 29:9
footprint 36:23
forecasted 3:6
forecasting 19:18, 20 25:24
forecasts 19:21 59:4, 6
foregoing 100:3, 6
foreseen 25:19
form 46:6 63:16
formal 29:21
formally 16:14
forth 9:25 43:20 52:20 79:19
 89:3
forthcoming 62:16
forward 12:3 13:14 14:23, 24
 48:18 95:6

fostering 63:20
found 26:16 32:19 47:6 55:20
 57:21 58:12 59:7, 16 60:12
four 4:21 26:5, 6 69:6
fourth 69:6, 7
framework 58:20 71:21
frankly 79:15 85:21
free 46:17
frequently 26:10
front 41:12
fruition 32:23 33:10, 17
fuel 9:12 47:20, 23, 24
fuel-market 44:21
fuels 47:16, 24 50:6
full 35:20, 23
fully 59:25 81:8
functions 59:14
fundamental 58:24 64:13
funding 76:21 80:5 81:8, 20, 21
 81:23 82:2
funds 76:23, 25 80:20
further 50:3 53:18 62:4 99:5, 7
Furthermore 6:24
future 4:25 9:19 36:15 46:3
 47:8 49:15 71:22 89:12 95:7

G

G 43:23
gain 55:14
gaining 17:6
gas 2:15, 18 3:6 4:12, 22, 22 5:16
 5:20 6:4, 16, 16 7:19 12:25
 13:6 17:9 18:11, 14, 17 19:3
 22:15, 18, 23 24:14 31:2, 19
 37:18, 20, 23 38:5 40:10 42:22
 42:23, 25 43:3, 4, 11, 13, 22 44:3
 44:20 46:9, 11, 14, 24 47:2, 5, 21
 48:2 49:9 50:11 54:9, 10, 23, 24
 61:3, 5, 8 70:8 98:2, 5
gas-demand 3:9, 16
gas-distribution 48:8
gas-innovation 3:8, 20
gas-innovations 20:15
gas-service 17:14 22:17 45:17
 50:10
gas-specific 5:23
gas-strategic 60:23
gas-supply 4:25 6:19 21:13
gas-system 55:8 60:21
gasoline-powered 94:11

gasses 47:25
gather 45:14
gauge 58:15
general 62:11 68:3 90:17,25
generally 55:21
generate 16:24
generated 13:23
generic 78:24 79:2
generically 59:20
geothermal-heat 4:17
getting 15:2 21:20 31:13 52:17
 81:13 82:8 83:5
give 28:4 29:7 30:17 63:5 65:23
 67:17,19 85:16 94:24 97:11
given 10:5 28:22 30:15 57:16
 62:14
giving 84:5,23
glad 64:2
go 24:18 32:8 37:11 56:24 64:23
 67:15 82:24 85:19 88:20 94:19
 94:20,20 95:4
goal 9:4,11 38:11
goals 9:24 10:17 16:21 18:10
 38:5,10 73:5,11 86:18 89:3,5
goes 15:24 19:23 24:14 26:20
 28:13,14,14 39:4,5 89:15
going 14:8,23,23 17:12 24:20
 31:4,7,9 32:4,11,24,25 33:24
 34:2,15,18 35:21 51:9 66:3,20
 77:19,23 85:6,9 87:18 89:12
 90:4 94:5,11 96:15
good 2:6,24,24 8:6 12:14 14:11
 20:23 26:10 38:17,18,19 40:9
 41:20 43:8 51:7,25 52:2 53:11
 54:18,19 58:25 65:11,21 66:16
 68:2 69:18 77:23,24 78:17
 79:15 84:14 86:23
Goodrich 43:5
gotten 27:6 87:24
governing 58:11
government 4:14 5:10 61:15 86:2
 86:9,24,25 87:8 88:16,21 89:7
 89:9,13,18
government-incentive 85:25 86:8
governmental 75:4,7
Governor's 17:6
grant 5:12
granted 46:20
granularity 59:5
grappled 67:13

Graves 69:12,15 77:8
gray-area 82:7
great 98:22
greatly 97:19
greenhouse 47:25
GREGG 1:23
Grid 22:16 39:22 43:12,14,14
 44:24 45:12 47:18 49:5,9
 50:13,16,20 70:8 75:25
grid-integration 83:11
Grid's 44:14 45:16,25
grocery 94:20
group 51:14
groups 76:24
growing 3:6
grows 22:21
growth 19:8,9 95:2,4
guess 88:18
guide 70:17

H

half 6:6 79:19 94:16
hand 19:23,23 83:20
hanging 21:11
happen 24:17 30:6 36:24
happened 94:14
happening 14:18 15:12
happens 13:23 39:17 91:12
happy 51:2
hard 33:3,11 51:18
hasn't 16:6
haven't 85:8
health 50:4
healthy 95:8
hear 12:10
heard 12:16 33:24
hearing 33:23,25 34:13 39:8,8
 100:8
hears 68:4
heartedly 64:21
heat 4:18 8:18 9:7 18:3 36:6,17
 36:20
heat-pump 9:2 10:11 11:13
heating 8:16 17:23 48:24
heavy 17:22
held 46:7 49:17
help 16:22 30:23 79:17 89:13
 95:3,7
helped 98:15
helpful 20:5,8 51:6 66:2 88:16

89:23
helps 32:23 78:9 81:13
hereof 100:5
hereto 100:5
hereunto 100:9
hey 31:16
high 98:12
high- 61:10
high-capacity 78:13
higher 73:22
highlighted 72:7
highway 17:6
historical 16:4
historically 21:15
history 20:9 97:16 98:18
Hogan 54:11,18 66:7
hole 67:15
holistically 52:16
home 25:13 78:12
homes 36:17
honor 98:18
honored 97:17
hood 85:7
hope 13:13 14:5 38:24 39:9
hoping 82:8
host 84:10
hosted 72:8
hosts 86:20 87:2
hubs 94:21
Hudson 70:6 75:22
hundred 17:17

I

I'd 30:22 40:17
I'll 39:23 52:7 53:12 68:12
 95:5
I'm 12:10,14 15:14 30:13,14,24
 37:7 40:6,12,24 41:2 49:5
 57:6 61:11 77:19 80:7,9 83:7
 83:8 87:11,20 94:5 97:17
I've 26:2 27:20 34:9 67:12 85:2
ideas 49:25
identified 26:8 59:12
identify 55:16,22 84:11 85:7
Immature 96:14
immediate 70:11 71:8
immediately 11:6
impact 25:10 47:2 50:10 60:4
implantation 63:12
implement 3:5 8:20 26:15 59:7

60:6 61:22 63:4
implementation 10:17,20 11:6
 12:22 26:19 61:18 62:5,19,24
 64:18 68:18
implemented 57:11 65:4
implementing 69:20 70:2 74:20
importance 34:13
important 12:3 18:22 27:21 28:8
 29:7 32:17 56:2,16 59:13 61:7
 66:12,23 80:16,17 81:7,22
 85:12,21 92:3
impose 44:2
impressed 65:17
improve 55:17 57:24 59:5 60:13
 65:24
improvement 56:12,23 64:25 65:7
 68:9
improvements 51:21 55:23 66:18
inadequate 23:18,20
inappropriately 91:9
incent 73:21 74:24
incentive 7:14 8:12 47:15 53:9
 69:20,22 72:12,14,23 73:8,13
 73:16 74:2,18,24 75:14,15,18
 75:19 76:7,10,11,13,18,22
 86:22 87:16,21 89:7,16 90:21
incentive-payment 76:2
incentives 5:24 7:10 11:9,12
 12:8 73:22 74:9,13 75:3,23
include 6:3 11:6 70:23 76:16
 88:17
included 7:3,5 8:7 9:16
includes 8:11
including 4:12,13 19:5 26:13
 28:2 43:21 46:5 55:7 59:14
 85:24 98:4
income 4:14
incorporate 49:14 52:8
incorporates 52:17
increase 19:9,25 22:22 25:20
 37:6 49:18
increased 10:10 18:14 19:17,23
 22:15 25:23
increases 25:22
increasing 73:10 77:22
incremental 9:4
incumbent 20:4
independent 28:24,25,25 39:10
 48:22 56:4 75:24
indicate 62:10 70:19

<p> indicated 47:7 indicators 58:15 industry-best 59:18 inequities 48:11 inequity 48:4 inform 89:12 information 3:19 27:20 28:4 30:15 33:5 55:14 65:21,23 85:17 infrastructure 5:17 49:11 71:20 71:24 73:4 75:9 77:14 86:21 87:4 initial 75:23 76:2,7 initiative 60:2,6 initiatives 9:20 36:9 58:12 82:6 injection 6:15 inner 58:3 innovation 33:5 innovative 13:5 input 45:14 insight 57:10 install 22:11 installation 8:17 10:11 73:21 installations 9:3,7 installed 17:17 installing 49:10 instance 7:11 56:18 Institute 98:6 instituting 17:7,8 72:6 instructive 14:15 16:21 integrity 49:24 73:12 intended 64:15 69:22 94:7 intent 63:8 interconnect 21:5 interest 7:23 12:4 51:20,22 73:11 interested 48:25 49:19 50:23 51:14 interesting 17:3,13 interim 24:25 77:4 82:13 interim-re 91:20 interim-review 83:6 internal 6:12 8:14 internal-labor 10:22 interrupt 46:11,23 interrupted 47:21 48:13 interruptible 42:24 44:10 45:14 45:16 48:10 50:10 interruptible- 43:18 </p>	<p> interruptible-service 44:19 interruption 47:5 interviews 55:13 inventory 50:5 invest 77:17 invested 15:16 investigate 28:13 investigated 58:10 investigation 39:9 investigations 57:8,10 investment 75:9 86:21 investor-owned 9:5 69:21 70:17 71:6 involve 92:17 involved 80:10 93:2,15 irresponsible 23:16,18,23 Island 72:20 isn't 15:21 83:6 ISO 27:24 28:6 issuance 22:13,25 26:12 27:11 47:17 54:21 55:3 62:21 issue 13:13 14:12 15:18 21:19 21:21,22 24:6,12 25:25 26:12 31:3 48:16 72:7 84:17 85:2 88:23 91:16 93:19 issued 27:10,11 39:11 66:8 80:25 92:22 issues 3:17 13:7 14:23 15:7,10 15:20,23 16:11,13 25:7,7 29:6 34:15 37:12 39:6 44:17 45:13 45:15,21,23 46:2 48:7 49:20 50:5,18 51:13 52:20 57:21 58:12 60:4 67:3 78:10 83:11 83:12,12,13 91:19,24 IT/TC 48:6 it's 12:6 13:22,24 15:23 16:8,8 20:22 21:20,21,22,23 23:16,18 24:9,9 25:5,10,12,14 26:8 27:20 28:7,24 29:8 30:19,19 30:19,20 31:13,14 32:2,2,11 33:3,3,8,8,11,13,15 34:4,4,4 35:8 37:25 38:2,3,17 39:12 53:10 65:24 66:12,22,22 68:10 80:11,16 81:7 82:6 83:10 84:4 85:13,21 88:18 89:6 90:6,24 90:24 91:3,3,4,4,13 93:19 94:6 98:17,22 item 2:11,12 5:12,16 8:19 11:7 12:9,21 26:8 36:5 37:8 42:17 42:20,20 43:10 51:9 52:7,10 </p>
---	---

54:4,6,7 69:4,7,7,19 77:19 78:9,23 79:21 80:2 88:13 93:23 95:23 96:16,16,17 items 13:18 96:4 97:9	
J	L
J.F.K 88:13 89:24 JAMES 1:24 January 17:21 38:21 Jeff 54:11,17 64:4 jeopardize 71:13 job 28:23 51:7 79:15 jobs 38:12 John 1:23 2:20 54:13 63:23 joint 11:8 70:11,14,15,19,24 71:5,9,17,25 72:19 joint-consensus 93:4 jointly 9:10 July 3:12 22:11 28:21 72:4 jump 10:16 79:18 junction 13:15 41:13 June 55:12 jurisdiction 80:10,15 81:7 jurisdictional 85:12 jurisdictions 56:15	labor 6:12 8:14 lack 57:19 59:21 LaFOREST 100:3,13 language 50:13 Lansing 14:14,15 22:11 large 9:5 25:8,11 largely 57:21 larger 25:25 83:11 84:25 91:24 lasts 73:24 late 26:25 launched 18:3 law 26:5,22 28:4 57:13 lays 38:9 lead 59:21 60:9 93:4 leadership 84:6 leaving 21:11,23,25 22:2 led 19:3 29:10 leg 94:25 legacy 80:20 98:14 lend 62:2 lesson 15:17 lessons-learned 60:14 let's 31:17 80:6 84:18 letting 14:24 97:14 level 10:10 47:7 48:21 53:7 61:4 levels 58:25 73:3 89:14 liability 22:14 lift 31:3,4 33:9,14,16 35:22,22 lifts 49:13 light 5:4,4 17:18 79:4 Likewise 47:10 limited 46:24 56:6 limited-term 72:24 limits 71:12 line 22:13 73:5 79:17 82:16,19 LIPA 85:21 88:17 liquefied 4:22 6:4,15 list 26:8 literally 94:22 little 13:13 22:14 30:22 66:21 82:6 84:9 94:24 live 25:16 30:14 95:8 load 19:7,9 75:16,17 load-factor 75:13,18 loaf 79:19 local 5:10 6:23 24:20,22 long 26:8,23 63:18 72:20 80:4
K	
Katz 54:14 KEDLY 43:14 KEDNY 43:12 KEDNY's 46:21 keep 27:8 38:17 56:2 98:14 key 62:18 key-event 60:15 Keyspan 42:23 43:13 kilowatt 71:12 kilowatt-hour 71:12 kilowatts 73:20,24 kind 79:19 84:12 knew 97:18 know 15:14 22:7 31:4,7,8,18,22 34:3,6,10 35:23 37:3,21 39:20 39:21,24 40:15 52:19 65:9 66:5,8,11 77:11 81:19 82:24 85:3,4,8 87:20 89:2,24 90:6 91:22 93:5,12,19 94:15 knowing 22:4 24:5 34:6 knowledge 58:24 kudos 67:19	

<p>91:21 long- 90:8 long-term 5:8,21 59:3,6 70:11 longer-term 28:9 look 12:24 19:6,10 23:5 24:4,16 24:24 30:5 31:20 33:21 35:4 36:10,22 39:19 41:23 51:18 52:16,23 57:24 64:6 66:14 82:12 84:18 85:7,10 91:12 92:11,17 94:6,14 95:6,7 looked 85:15 91:16,17 looking 13:16 14:3,9,22 16:18 17:13 20:14 21:10 23:24 24:5 24:7,9,19 25:21 28:14 29:12 30:24 32:20 34:25 35:12 36:12 36:25 39:3,4 40:2,4,6,12 66:14 67:8 79:3 80:9 82:14,14 84:7 85:18 88:14 92:7 93:10 looks 12:2 loose 93:19 lost 21:21 lot 15:24 19:4 67:16,17 79:20 81:17 82:5 84:19 87:18 88:7 low 4:13 71:2 low-station 73:2 lower 36:18 47:14 lower-level 48:12 lowered 46:21 lowers 53:8 luck 32:19</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>M 4:11 6:13 main 61:12 maintain 7:16 23:20 maintaining 49:22 73:12 maintenance 59:8 major 17:25 major-scope 60:19 majority 65:2 make-ready 83:11 making 28:18 31:14 34:7 38:6 40:4 65:20 87:3 88:20 91:10 management 54:8,11,22 56:8,19 57:14,18,24 58:5 59:8,10 64:5 64:7 Manager 54:15 63:25 mantra 92:5 manuals 43:23 March 9:10 11:8 30:11,12 31:5,6</p>	<p>32:6,18 mark 26:14 marked 94:11 market 21:22 28:13 71:22 79:18 86:15 88:8,10 89:4,18 91:8,11 91:18 94:23,25 marketplace 10:7 94:13 markets 26:15 Marr 97:20,21 98:12 Mary 69:10,16 77:10 mass-transit 94:21 material 35:22 materialized 86:15 89:4 matter 47:25 54:8 93:8 matters 12:8 max 75:20 maximize 75:20 maximum 75:23 Mayor 38:21 McCarran 2:18 43:2 mean 19:7,11 24:13,14 27:3 34:9 37:4 84:25 87:10,13 88:4,18 90:6 means 16:16 52:18 87:7 meant 92:9 measure 73:9 measures 5:6 7:12,17 mechanism 3:25 5:14,19 7:20 76:20 mechanisms 11:14 76:17 81:9 meet 30:12 38:9 71:21 86:18 meeting 1:1,9 2:1 3:1 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1,9,11,19 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1,13 92:14 93:1,11 94:1 95:1 96:1 97:1 98:1 99:1,13 100:1 mentioned 8:15 11:2 13:20 59:9</p>
---	--

met 37:24
metric 18:9
migrating 47:19
Mike 2:15,22 8:5 11:23 34:23
 43:3
milestones 60:16
million 4:9 6:5,9,10,11,13 8:8
 8:10,11,13 10:20,25 81:2
 84:20
mind 41:3 56:2
mindful 88:19 91:10 92:24 93:13
mine 88:24
minimize 50:3
minimum 73:19,23
minor 51:23
mirroring 5:14
Mission 98:11
mobilization 60:7
mod 95:14
modification 4:3 8:21 84:16
modifications 42:7 50:9,17,21
 51:5 76:25 79:5 93:17 95:14
modify 43:24 44:5 47:13 63:3
 71:7
modifying 88:15
momentum 17:6
monetary 85:14
money 77:17 81:12 91:16
monies 80:22,24
monitor 39:19
monitoring 39:17
Month 97:16 98:18
monthly 1:1,9 2:1 3:1 4:1 5:1
 6:1 7:1 8:1 9:1 10:1 11:1
 12:1 13:1 14:1 15:1 16:1 17:1
 18:1 19:1 20:1 21:1 22:1 23:1
 24:1 25:1 26:1 27:1 28:1 29:1
 30:1 31:1 32:1 33:1 34:1 35:1
 36:1 37:1 38:1 39:1 40:1 41:1
 42:1 43:1 44:1 45:1 46:1 47:1
 48:1 49:1 50:1 51:1 52:1 53:1
 54:1 55:1 56:1 57:1 58:1 59:1
 60:1 61:1 62:1 63:1 64:1 65:1
 66:1 67:1 68:1 69:1 70:1 71:1
 71:3 72:1 73:1 74:1 75:1 76:1
 77:1 78:1 79:1 80:1 81:1 82:1
 83:1 84:1 85:1 86:1 87:1 88:1
 89:1 90:1 91:1 92:1 93:1 94:1
 95:1 96:1 97:1 98:1 99:1
 100:1

months 45:10
moratorium 13:19,25 14:4,14
 19:15 22:25 23:25 24:2,24
 29:10,13,16 30:6,7,20 31:3,5
 32:5 33:9,14,16 34:2 35:22,25
 36:25 37:4,5
moratoriums 14:10 22:23 24:11
 24:12 36:15
more-comprehensive 5:23
more-generic 90:16
morning 2:6,24,24 8:6 43:8
 54:18,19 69:18
morning's 2:8
mother 98:8
move 2:11 12:3 42:4,5 48:18
 54:6 69:6 95:25
movement 12:22 26:19
moves 41:24
much-more 41:11
multi-family 4:18
multi-prong 3:5

N

name 97:19 100:10
National 22:16 39:21 43:12,14
 43:14 44:14,24 45:12,16,25
 47:18 49:5,9 50:13,16,20 70:8
 75:25
nationally 19:20
Nations 98:11
natural 3:6 4:21,22 6:4 17:9
 18:11,16 37:18,20 38:5 44:20
 47:2,5,21 48:2 75:19
natural- 18:13
natural-gas 4:19 6:15 8:16 11:4
 16:5,13 17:4 49:23 67:3
nature 57:17 61:25 65:23 95:6
necessarily 15:23 31:8 83:4,18
 87:9,20,24 88:20
necessary 47:7 49:11 65:8 95:3
need 10:2,8 15:8,20,20 17:22
 19:6,10,23,24,25 20:18 21:6,7
 22:3,6 23:4,11,13,25 24:4,8
 24:16,16,24 25:3 28:19 29:15
 30:21 32:5,24 34:10,16 36:20
 36:22 37:15,16 38:7 41:13
 52:16 60:13 75:10 84:5 85:10
 86:17 88:19 90:9 91:9,12
 92:19,23 93:13
needed 22:19 25:23 26:18 58:6

62:14 77:14
needing 41:11 49:9 83:14
needs 8:2 10:16 15:8,25 16:2
 22:14 23:11 28:10 31:22,23
 59:5 71:23
negative 25:9 50:9
neighborhood- 16:17
neighborhood-gas 67:4
network 6:16 46:16 48:8 69:24
Networks 61:4
never 80:20 97:18
Neville 2:16 8:5
new 1:2,15 4:20 12:23 13:25
 17:15,19,19,24 18:3,13 19:12
 19:16,16 22:20,23 23:6,17,19
 26:17 28:6 37:14,19 38:12,14
 43:12 44:8,12,22 45:7,8,18,24
 46:5 48:19 54:9,23 56:14
 58:19 60:6 64:9 69:21 71:4
 72:20 73:6,17 76:23 77:14,18
 97:24 100:2
news 68:4
ninety 50:21
non- 4:11 5:18 67:6,9
non-compliant 50:6
non-demand 71:10,13
non-firm 44:8 45:7 46:2
non-labor 8:12
non-pipe 3:9 22:13 35:5
non-pipes 12:24 14:16,17,25
 15:6 34:13,17,19 35:20
non-traditional 4:24 7:8 11:11
 13:2
non-utility 56:15
non-wires 5:14 12:25
notable 74:5
Notably 45:4
note 35:15 56:16 62:12 66:4
 91:5 92:8 93:12
noted 40:21 46:24 91:4 97:4,5
notes 5:16
notice 30:17 31:15
noticed 92:13,14
noting 66:13 70:22 92:24
November 17:5 45:11 46:7 49:18
 52:11 55:19
NPA 3:10,24 4:4,7 6:3 8:8 33:7
number 13:18 17:23,24 18:15,16
 37:2 43:10,20 51:21 80:23
numbers 25:21 86:17

numerous 55:13 98:3
NYPA 27:24 70:6,13 72:19 79:7
 84:19,19,22 85:4,20 87:11,12
 88:8,17 91:7
NYPA's 80:3,25 87:21 90:19,25
NYSEG 14:14,21,25 22:10 54:24
 55:23 57:4,7,18 62:23 63:20
 65:9 70:6 75:25 76:13
NYSERDA 27:23 70:7 72:3,19
 80:21
NYSERDA-legacy 76:23

O

O 4:11 6:13 79:6
objectives 16:22
obligated 23:2
obligation 23:7,8,12
observed 56:13
obviously 77:23
offered 72:16 74:11
offering 46:10 53:9
offerings 11:18 44:20
Office 2:16
offices 63:17
officials 5:11
offset 72:12
oh 40:23 81:15
oil 17:22,23 18:16,16 19:3
 36:19 47:20,23,24
oil-to-gas 17:15
okay 34:9 35:16,17 36:5 39:23
 40:19 41:5 65:11 66:10 82:21
 84:4 87:5 89:21 90:15 91:14
 96:10 99:8
on-hand 50:5
one-time 71:14
ones 32:3 80:2 97:4
ongoing 15:11,23 16:6,6 20:12
open 20:19 78:24 86:13 89:6
 92:12 93:10
opening 17:10 79:2
operate 36:17
operating 70:22 72:13
operational 57:15
operations 54:8,12,23 56:8,10
 57:14,18 64:5,7
opportunities 24:15 55:23,24
 56:12,23 59:13
opportunity 71:14 94:23
opposing 63:6

opt 36:18	parameters 30:7
options 71:20	parking 90:9
Orange 70:8 74:8,18,22 75:11,22	part 9:14 11:17 14:16 28:3
order 2:3 3:16 4:2 5:6 8:22,25	31:15 35:23 36:7,9 41:7,8
9:8,25 10:5,12,18 11:15 13:8	42:12,13 61:16 63:3 80:7,22
13:21 14:4,22 17:7,8 19:5	85:5
20:13,14 21:3 24:18 35:3,7	partial 35:9
39:3 40:2,7,8,9 41:10 43:11	participant 87:16
44:4,6,21 45:3 47:12,18 48:3	participants 89:11,17
48:6,9,17 49:4,12 50:16,20,22	participate 87:17,24
52:3 54:20 62:20,21 64:17	participation 86:2,9 88:21 89:8
66:9,12,15 69:19 70:10 72:6	particular 58:7 63:5 93:8
73:14,15 74:4,22,25 75:17	particulate 47:25
76:6,9,21 77:2,7,12 78:14	parties 5:2 37:9 46:5 48:25
82:9,12,13,13,15 86:18 89:16	49:19 50:23 51:15 70:9 72:22
90:21	73:7 80:14 92:14,15,25 93:2
order's 83:9	partners 77:16
orders 3:12 20:14	pass 27:4
organization 59:2	path 13:14
original 21:3,16	pathway 22:5 38:4 93:10
outage 55:7 56:19 59:14	pause 87:6
outage-management 57:11	pay 48:12
outages 59:11	payback 18:17
outcomes 7:11	payment 76:11 77:15
outlined 11:15 21:15 72:5	payments 76:10,18
outlook 19:18,19	peak 23:21 46:10,18
outside 80:10 82:3 83:24	peak-day 6:5,17 8:10 9:22 11:2
overall 10:17 37:15 53:10 67:16	peaks 46:12
91:25	Peggy 2:16 8:3 11:22
Overland 55:10,11,13,19,20 58:2	penalize 24:3
58:10 59:9,12,16 60:2,8,21	penalties 44:2 46:22
61:8,17,24 63:18	penalty 44:6 47:6,11,13
overlap 60:7	pending 10:23
overnight 24:17 34:5	people 32:15 87:18,24
oversee 84:22	people's 88:7
overseeing 65:25	per-plug 69:20,22 72:12,13,23
oversight 57:24 61:5	73:13,16,25 74:8,13,23
overview 68:7	percent 18:10 21:18 34:15,19
owners 74:2 75:14,19	71:3 75:15,17
ownership 89:13	percolating 83:13
	perfection 65:6
P	perform 55:10 59:17
P.M 18:9	performance 56:17,25 57:5,7
Page 100:5	58:16
pages 100:7	period 47:2 50:3 63:18 76:12
paid 74:2 85:8	periods 46:10 56:18
paired 18:18	permanent 14:13 24:11 98:10
paper 82:10,15,17,20 83:22	permit 45:23
91:19	permitting 24:20,22 86:2,9
papers 82:22	perspective 16:4 18:20 21:10

24:6 36:11	pop 92:6
petition 2:13 3:4 9:17,21 20:17	popped 32:14,14
21:2,16 22:10 42:6 70:11	port 4:4
71:17 79:7,8	portfolio 3:10,25 4:4,7,11 6:3
petitioner 71:5	6:7 8:8 35:21 77:12
petitioner's 72:2	portion 56:19
petitioners 70:14,15,19,24 71:9	position 14:6 77:16
phase 62:5,6	positions 51:15
phasing 18:15	positive 4:23 66:17
phone 94:18	positiveness 67:5
phones 94:15,22	possible 31:22 49:22 50:20
phonetic 54:14	56:21 65:7
picture 25:19	post-event 60:13
piece 20:16	posted 17:11
pilot 3:9,16	pot 81:21
pipe-line 4:12	potential 22:23 23:10 25:2
pipeline 15:3,5,22 98:5	31:23 37:2 49:10 50:3,9 61:17
pipeline-development 3:10,15	67:9 76:6
pipes 19:12 67:7,10	potentially 9:18 19:12
place 5:14 29:5 30:3 45:3 48:2	pots 81:12
55:22 56:10,20 63:22 66:20,20	power 23:13 72:20
89:4 93:6 94:17 95:8 100:4	Power-Point 92:16
places 94:21	powerful 53:9
plan 7:19 15:24 19:22 24:16	PowerPoint 17:13 18:13
25:18 26:7,10,13,17 28:4 38:7	practical 77:13
38:9 60:23,24 61:22 62:17,19	practices 56:13 58:19 59:18
62:20 63:12 64:18 68:18	precautions 93:14
plane 90:5	predictive-asset 59:8
planning 12:23 24:10 26:4,5,6	prejudge 15:12
26:21,24 27:18,23 28:9 55:6,7	preparation 59:11
55:8 57:15 58:10 59:14 60:21	prepare 26:11
64:12 83:15	prepared 27:12
plans 49:15 62:15	present 4:24,25
plants 4:20	presentation 11:24 17:20,21
play 93:18	50:25 63:22 77:7 92:16
Plaza 1:14	presentations 17:10
please 2:22 31:16 43:7 54:17	presented 2:14 42:25 54:10
69:16	69:10 92:15
plug 94:18	President 61:3
plugs 73:17,19,22,23	press 17:5 80:25
plus 65:19	pressure 23:20 61:11
pocket 32:24	presumably 66:9
point 16:16,20 28:17 66:23	pretend 38:17
87:12	pretty 30:8 33:18 94:19
pointing 20:5	previous 57:18
points 40:5 60:8,16 78:21 80:23	previously 11:2
policies 5:5 16:24 18:24 26:15	price 28:17 47:2,4 48:4
26:18,20 42:23 43:17 80:13	prices 47:5
policy 7:7 16:21,22 21:10,23,24	pricing 44:19 48:10,21
37:18 51:14 67:8 73:10 89:5	primarily 47:20 55:5

<p> primary 10:3 70:21 Principal 69:12 principals 70:16 72:9 prior 47:17 49:2 50:24 prioritization 57:25 58:7 prioritize 61:10 priority 60:3 private 26:15 86:16 87:8,15,15 88:23 private- 89:17 private-market 89:10 probably 68:3 87:11 94:25 problem 5:7 32:11,25 36:13 78:5 problematic 21:24 problems 4:25 procedures 43:23 56:9,20 57:12 58:6 proceed 53:14 68:14 95:10 96:21 proceeding 10:24 13:18,20,22 16:5,15 17:8 19:2 20:11 70:16 71:18,25 72:6 78:24 79:3 84:7 88:6,12 92:19 proceedings 16:12 20:11,12 21:5 39:6 45:24 46:3 48:16 83:3 92:6 100:7 process 4:6 8:15 9:9 10:6,12 29:4,12,22 31:12 45:22 51:12 51:25 62:11 64:23 65:5,12,18 65:22 83:6,22 90:16,25 91:20 91:21 93:10 process-improvement 60:2 processes 29:2 30:2 36:18 55:6 55:18,22 56:9 65:2 93:5 produces 25:7 product 56:3 productions 4:20 professionalism 63:19 professionally 64:14 program 2:14 3:5,8,8,15,20 4:13 6:11 7:5 13:16 17:20 18:7 32:22 33:5,6 55:6 57:15 58:4 69:20,22 70:2 72:12,23 73:8 73:16,21,24 74:17,20 75:25 76:4,9 77:6 89:17 90:21 program's 18:10 programs 11:13 13:5 16:18 26:16 26:20 38:22 45:17 74:6 75:12 76:15,22 85:5 prohibitive 25:4 project 5:17 54:15 58:4,8,15 </p>	<p> 63:25 projecting 25:20 projection 25:22 projections 21:17 32:21 34:7 projects 4:12 6:2,4,19,22 7:4 25:9 58:2,22 promote 58:24 pronouncements 31:9 propane 36:19 proper 4:7 proposal 3:14 4:6 5:4 8:20 9:10 9:13 44:5 55:3 63:7 69:9 70:4 72:22,23 73:15 74:7,8,21,23 75:12 76:16 84:15 92:10,12,20 93:16 95:13 proposals 4:8 10:7 62:2 75:2 76:14 93:4 propose 5:23 9:11 43:24 44:10 75:23 proposed 3:5,7,19,24 4:4,7 6:8 6:18 7:12 8:8 9:24 11:10 44:7 48:16,24 49:25 50:8,16,21,22 53:17 61:22 72:11 73:8 proposes 45:22 77:13 proposing 4:24 63:4 protected 79:16 protection 53:9 proud 18:2 provide 4:15 6:5 23:2,16 47:15 49:21 53:7 61:4 62:15 68:5 71:7 72:14 74:9 75:23 78:2 provided 49:18 61:24 71:14 73:22 76:13 provides 72:24 73:25 76:21 providing 6:16 38:13 46:8 71:19 75:8 86:20 provision 43:25 provisions 44:6 45:6 73:14 prudent 12:7 77:6 79:8 80:11 public 1:2,9 2:3 3:21 51:19,22 57:13 66:6 68:3 73:9 86:23 87:3 97:24 98:15,17 public-accessibility 77:2 public-statement 39:8 public's 75:10 publicly 27:21 67:12 publicly-accessible 69:23 publicly-available 73:17 pump 9:7 pumps 4:17,18 8:18 36:7,20 </p>
---	---

pun 94:7
purposes 81:17 85:15
pursuant 74:7
pursue 7:22, 25
pursuing 9:22
put 5:14 14:25 16:2 17:19 31:16
 32:9 38:16 43:20 51:18 88:12
 92:21 93:16
puts 77:16
putting 14:24 79:19

Q

qualification 77:3
qualifications 5:3
qualifies 75:24 76:3, 8
qualify 71:10 73:21 75:4, 7
quality 62:6
quantification 62:3
question 39:2
questions 2:21 9:17 11:20 39:15
 41:4 43:6 51:3 54:16 63:23
 69:14 77:9 79:25 82:8 84:10
queue 31:7, 22
quick 74:17
quick-charging 72:16 74:17 75:5
quickly 31:11 93:16
quite 26:2 27:21 94:15

R

R 79:6
R.F.P 4:6 8:15 14:25 22:13
 39:11 55:3 88:13 90:25
rabbit 67:15
race 30:12
raised 9:17
range 77:16
rapidly-developing 60:5
rate 6:25 7:6, 19 10:23 16:13
 39:4, 5 44:21 45:4, 9, 24 46:2, 3
 46:11 47:17 48:3, 6, 9, 22 70:11
 72:7, 17 73:12 74:11, 12, 18, 25
 86:25 89:7
rate-case 62:6
rate-design 71:20 72:9, 18
rate-payer 81:20, 23
rates 2:15 43:2, 4 69:11 70:17
 70:25
reaction 13:24
reactions 16:25
read 26:9 41:3

readers 57:9
readiness 55:8 64:12 71:21
real 15:20 28:19 29:21 35:25
 38:25
real-time 21:7 28:10
realistic 63:13
reality 22:24 37:2 38:6
realization 26:19
really 15:21 18:22, 24 20:3, 7
 21:6, 7 28:7, 15, 18 30:23 32:6
 32:17 36:10 38:4 41:14 65:17
 65:19, 19, 21, 25 67:16, 18 79:15
 79:19 80:3 82:4 83:9, 9, 25
 84:16 86:19 87:7 90:3, 16, 20
 93:7 98:23
reason 80:7 83:8 87:6
reasonable 45:20
reasons 5:15 63:6
receive 74:14 86:22, 25 89:16
received 4:8 46:5 68:11 75:3
receptive 63:21
recognition 19:8 29:15
recognize 13:6 15:3 16:3 20:13
 36:21 37:19 40:16 97:18
recognized 18:12 19:6
recognizes 38:8 46:7 88:25
recognizing 40:7 88:15
recommend 51:20 56:12 58:14
 62:13 63:8
recommendation 10:14 12:7 42:2
 42:6, 18 47:12 60:3 62:24 63:5
 63:6, 9, 14 65:13 68:17 69:5
 95:13, 24
recommendations 26:16, 17 43:21
 45:3 48:19 52:2 53:17 54:5
 55:25 57:23 60:20 61:8, 19, 23
 61:25 62:13, 16 63:3 65:3
 96:23 97:10
recommended 4:2 6:20, 24 45:5
 58:17
recommending 5:3
recommends 8:19 10:19 44:4, 6
 48:17 49:4 51:21 58:2, 5, 22
 60:24 61:3, 13 90:22
record 100:7
recover 76:17
recovered 7:17
recovery 3:10 6:25 10:21
recuse 96:4
redesigning 70:17

<p> reduce 18:22 35:22 46:9 60:7 reduced 46:10 reduces 78:2 refer 8:24 reference 52:8 89:25 refined 62:4 regard 11:9 60:20 regarding 3:13,24 42:23 43:17 57:19 59:3 62:10 89:12 Regardless 14:12 regards 61:7 regulations 7:21 18:15 93:6 regulators 20:4 23:8 31:11 98:12 rehearing 20:17 21:2 reinforcements 19:11 reject 63:2 rejecting 63:9 rejection 51:23 rejects 74:22 relate 42:21 86:7 related 3:14,19 6:13 20:11 45:13,15 50:5 52:9 80:3 relates 2:12 14:15 39:2 69:8 82:4 83:19 84:19 85:23 91:25 release 17:5 64:16 68:17 released 18:15 releases 80:25 releasing 62:22 relevant 62:15 reliability 14:23 15:10,19 19:6 32:10 38:16 44:11 45:15 48:8 49:19,23 53:8 reliable 7:16 23:3 28:16 38:13 relief 6:7 8:10 11:2 70:12 71:8 72:24 rely 24:20 47:20 remain 48:11 remainder 55:12 remained 27:5 remaining 61:10 remarks 64:21 remember 82:16 remembered 56:5 remind 79:23 98:14 remove 46:18 Removing 86:19 renewable 4:15,19 6:3 renewables 19:25 34:19 renewals 38:5 </p>	<p> rent 25:13 repeat 34:10 replacement 61:10 replenish 47:23 reply 90:19 report 26:25 27:11,12,15 28:20 28:23 42:22 43:17,21,24 44:17 44:25 45:5,10,19 47:10 48:17 54:22 55:20 56:3 57:3,9,24 58:5,14,17 59:4,7,19,24 60:16 61:2,13 62:14,22 63:13 64:14 64:17 66:5 68:8,10,17 report's 47:12 48:19 55:25 reported 100:4 Reporter 12:12,16,19 100:13 reporting 60:13 61:14 77:3 reports 26:11 60:22 83:2 91:23 represent 7:12 11:11 51:6 represents 12:22 Republican 97:21 request 4:6 5:13 6:25 45:25 48:5 55:3 72:2 requested 46:23 70:15 71:6,9 requests 4:9 17:14 18:13 55:14 74:20 require 44:11 60:10 required 10:4 44:15,22 47:16 49:12 61:17 requirement 75:3 85:25 86:9 requirements 77:4 89:10,20 requires 62:20 76:7 Research 98:6 residential 4:17 resiliency 38:16 resolution 14:19 45:23 46:2 resolve 45:15 60:10 resolved 45:22 resources 59:23 resourcing 59:15,18 60:10 respect 57:25 respective 43:25 respectively 74:12 respond 94:11 response 3:9,16 16:8,15 35:9 60:4 responsibility 7:16 38:13 responsive 12:2 63:12 restriction 49:13 restrictions 86:19 result 51:24 </p>
--	---

resulted 8:14
results 45:2 51:17,19 62:12
resumption 44:12 45:8
REV 12:24 55:7 58:9,12,18 67:2
 89:3
REV-demonstration 58:15,21
REV-employee 58:23
revenue-decoupling 76:19
revenues 78:2
review 4:7 56:24 57:8 59:12
 61:14 77:4 83:7 91:20,21
reviewed 56:20
revisions 22:16 44:8,9,12 53:18
revisit 3:17
RFP's 13:2
RG&E 54:25 55:23 57:19 62:23
 63:20 65:9 75:25 76:14
RG&E's 57:4,7
Rhodes 1:23 2:2,10 11:22 12:14
 12:17,20 13:9 20:20,22 34:21
 34:23 35:8,12,16 40:18,20,25
 41:5,16 42:3,10,14,17 51:4
 52:4 53:2,13,22,25 54:4,17
 64:4 65:14 67:21 68:13,22,25
 69:4,16,19 77:10 78:19 93:24
 95:9,17,20,23 96:7,10,14,18
 96:20 97:2,5,9 98:20 99:8,11
Rider 42:25 43:8
Rieder 2:15,23 29:18,23 33:2,13
 35:2 36:3 43:3 52:12
right 13:8 20:25 22:7 26:21
 29:24 30:11 32:9 35:14 40:23
 41:25 54:18 78:17 82:17 83:4
 83:10 87:19 88:3 90:14,23
 96:13
rightly 88:7
ripple 25:17
risk 16:2 32:9 35:24 38:16
 47:14 51:8 53:8
risks 61:18
road 78:15 94:6 98:16
Rob 2:19
robust 58:3,6 60:17 91:11
Rochester 54:10,24 70:8
Rockefeller 97:22
Rockland 70:8 74:8,19 75:11,22
Rockland's 74:23
role 71:19 80:3,4 85:19 88:10
roles 59:19,20,21
room 21:6 68:9

root 63:8
round 34:24 65:10
run 56:10
runs 10:13

S

S 1:24
safe 23:2 28:15 38:13 95:8
safer 93:18
safety 50:4 55:8 60:21 61:8
 98:5
sat 98:3
satisfaction 62:10
satisfactory 34:18
satisfies 71:25
savings 11:4 76:5
saw 22:24 81:3
Sayer 42:8,9 51:10 53:20,21
 68:21 77:20,21 95:15,16 96:24
 96:25
saying 12:13 15:22 30:24 32:4
Sayre 1:23 12:20,21 51:11 64:19
 64:20 68:20 96:6
says 82:22 87:23
scale 58:21
scary 14:5
scenario 34:6 36:14
scenarios 36:12
scope 6:20 55:5 56:7,18 61:16
 64:15 73:3
seamless 31:13
season 48:24
second 26:12 27:10 42:20 85:25
 86:2
Secretary 2:4,6 92:22 99:4,6,9
section 43:2
see 20:6 27:14 30:23 77:24
 84:24 92:2 94:7
seeing 18:25 19:2
seeking 30:16 47:22 84:11
seen 14:11 27:13,15,15 37:6
 83:6
selection 55:10
sell 94:10
sends 21:8
Senior 61:3
sense 32:7 79:3 80:18 84:17
 85:19
sensible 77:14,15
separate 28:9 75:13 80:9 81:10

82:5	single 94:17
separately 79:10	sit 14:12
September 3:2 21:17 43:16 44:24	site 86:20
72:10	situation 38:8 50:2
serious 15:10	situations 51:16
seriously 38:8 41:14	size 73:3
serve 22:20 32:10 49:9 64:9	sized 74:24
75:10	smart 2:14 21:3 34:14 77:13
served 97:25	smart-solutions 13:16 21:16
service 1:2,9 2:3 7:16 18:14	32:22
23:3,4,9 28:16 38:14 44:8,9	snapshot 66:18
44:17 45:7,14 46:8,12,13,23	solicit 10:6
47:19 48:5,7,10,12,20,20,21	solid 12:22
49:8,9,12 50:14 56:22 57:13	solution 24:13 36:7 51:7
65:6 70:22,23 71:10,11,14,15	solutions 2:14 4:24 5:25 6:9
71:16 74:3 97:24 98:15,17	7:2,3,9,23 8:2,4,9,14,21 9:16
services 4:15 17:17 61:11,12	9:23 10:8,21 11:3,10,11 12:4
68:5	21:3 33:8,10 34:14,24 35:5
serving 7:23 12:4	36:19 38:20 44:10
session 2:2 52:14 78:22 79:22	soon 82:22
sessions 33:22	sooner 14:8
set 5:21 9:24 52:2 58:15 98:12	Sorrentino 69:10,18 88:25
settlement 80:4,7,25 82:2 91:19	sorry 12:11,15 40:24 49:5 57:6
93:7	61:12 94:2 96:11 99:3
shareholder 11:9,12	sort 7:13 16:20 18:20 29:14
shareholder-incentive 3:25 5:13	81:11 82:6 83:12
shareholders 22:9	sounds 87:11
shock 19:16	sources 24:15
shop 94:20	space 84:20 88:19
short 17:2 29:8 45:3	spaces 91:13
short-term 5:7,7 72:25	speak 8:3 66:11 97:15
shortages 7:13	SPEAKER 90:11
shortfall 21:18	speaks 36:6
shortly 56:24 71:17	Specialist 2:19
show 87:15 88:22	specific 5:17 56:17 62:24 74:6
showcased 19:21	82:19 90:20
showed 17:16 19:22	Specifically 3:7 71:8 73:15
shown 26:11 86:16	specifics 37:7
side 6:9 7:9 8:4 10:21 12:5	spelling 54:14
13:2,3,4 88:23	spending 57:20
side's 41:24	spike 47:4
sign 82:22	spirit 63:8
signal 16:22	spoken 26:2 27:21 34:9 67:12
signaling 16:25	spreadsheet 60:15
signals 21:9 51:9	staff 10:9,19 15:15 28:22,22
significant 13:21 15:13,18	29:8,11,13 37:9 39:8,20,21
64:24 79:5	45:11 46:4,7 49:25 51:20,25
similar 74:19 76:13	56:4 57:8 59:19 60:8 63:10,16
simple 38:3	65:18,18,19 67:19 72:3,8
simultaneous-charging 73:20,23	79:14 82:10 83:25 88:25 91:19

98:10
Staff's 82:20
stages 5:8
stakeholder 92:14
stakeholders 5:10 16:24 18:25
 45:13 92:18
standard 29:21 67:14
Standards 98:5
stark 22:24 37:2
start 79:18 94:9,25
started 18:7 19:2
starting 10:16
startling 33:19
state 1:2,14 18:4 19:20 26:3,4
 26:6,14,21,23 27:18,22 28:2
 38:22 54:9,23 62:15 68:2,6
 73:6 80:13,13,14 83:19 93:2
 93:14 100:2
state-energy 26:7,13,17 28:9
State's 5:4 9:5,9 73:5
stated 30:20 45:19 60:2 70:25
 100:5
states 57:3 59:4,4,19,24
statewide 9:11 14:4 37:14,17
 40:10 70:4,12
stating 21:17
station 14:22 72:17 74:17 75:5
 75:14,19,20,24 76:3,8 86:14
 87:2 89:11,19 90:10
station-utilization 70:25
station's 71:3 76:10,11
stations 70:22 71:8,9 72:13,25
 74:14 81:4 86:17 89:8 90:8,17
steel 61:11,12
step 4:23 13:7 24:7 62:18 89:3
steps 39:3 77:13 78:17
stock 15:21 19:14
stop 35:13 44:22 50:11
stopping 35:10
store 94:20
storm 56:25
storms 56:21 57:8 60:5
story 52:22 66:16,17
strategies 17:24
strategy 37:17,18
streamlined 39:12
streams 81:8
strengthen 58:23
strong 47:15 58:13
struck 66:25
structure 23:14 44:18 47:11
 58:11
structures 77:15
struggle 79:21
struggled 79:22
studying 28:12
stuff 27:14 80:10
sub-target 9:6
subject 3:20 48:25 50:23 89:9
 89:19
subject-matter 63:16
submission 64:18
submitted 45:19 55:19 62:9
 92:21
subscribed 100:10
subsequently 44:17
substantive 85:23
succeeds 35:19
success 15:13 51:12 77:5 88:22
successes 16:17
successful 26:18 58:21
sufficient 25:5 37:25
suggest 37:22
summarized 44:25
summary 45:20
SUNY 88:17
Supervisor 42:25
supplies 4:21
supply 2:15 6:6,16 7:13 9:23
 12:5 13:3,7 21:18,19,20 22:22
 23:18,20 36:15 37:25 38:2,3
 41:24 43:2,4 71:24
supply- 6:8 10:8
supply-constraint 5:24
supply-side 6:2,11,18 7:2,11
supplying 37:12
support 9:2 13:8 36:8 41:22,25
 45:25 48:7 51:22 52:2 53:6,11
 58:13 59:19 65:13 69:24 73:11
 77:19 78:18 94:5 95:5
supported 16:18
supporting 18:5 51:9 58:11
 64:16 68:12 73:5
supporting-staff 59:20
supportive 9:15 53:12
surcharge 76:23
surcharges 76:19
sure 15:25 20:4 23:9,13 28:19
 30:3,5 31:13,14 39:22,25 40:3
 62:7 65:20 79:15 81:11,24

87:22 88:2,4 91:10,11 92:4,7
92:11 97:13
surprise 13:12
surprising 33:21
switch 47:16
switching 52:19
system 16:2 23:20 32:10 46:15
46:17,19 58:4 59:8 60:7
system-useful 51:8
system's 49:23
systematic 59:10
systemized 60:17
systems 64:12,12

T

tackled 83:14
take 15:21 19:14 21:8 24:22
31:8 34:4 35:15 41:14 45:3
51:5 63:21 64:6 70:22 71:13
71:15 77:12 84:4 87:12 91:5
91:12 93:13,15
taken 4:23 84:15
takes 78:11,16
talk 31:17 39:24,24 80:6
talked 20:10 82:9,15 85:2,3
88:11
talking 80:19
talks 82:9
targeting 4:13
targets 8:23 11:6 38:11
tariff 22:16 44:7,9,11 46:21
47:7 48:22 50:8,13,21 53:17
53:18 70:21
tariff- 44:5
tariff-penalty 45:6
tariffs 43:22,25 48:24 50:17,22
69:11 71:7
TBTU 9:6,6 11:4
TC 43:18 44:3,12,16,22 45:5,8
46:8,15,22 47:13,18,20,21
48:5,12,13 49:8,20 52:10,19
TC/IT 45:20
technical 17:10,11 27:22,25
28:5 45:11 46:6 49:17,24
50:18 51:14 72:4 98:5
technology-cost 76:6
tell 66:16,17
telling 23:15 30:25
temperature-controlled 42:24
43:18

temporary 14:13 24:2,10,24
29:16 30:20,21 32:5
term 29:8 80:4 90:9
terms 16:21 17:2 66:25 67:14
83:15 86:24
territories 22:17 50:14 73:18
territory 10:16 23:4,9 44:9
45:7 48:20
thank 2:10,23 8:5 11:19,22,23
11:24 12:17 13:9,11 20:24,25
40:22 41:16,18 42:3,19 51:4
52:4,25 53:2,4,13 63:15,18
64:3,4 65:14,16 67:18,21,23
68:13 77:10 78:20 89:23 91:14
93:21,24 94:3 95:9 97:6,14
98:16,19,21 99:2,12
thanks 20:19 41:20,20 52:6
67:20,25 93:23
that's 16:5 20:3,9 21:22 23:12
23:12,14,25 27:25 29:23 30:15
32:16,24 33:18,19 35:2 39:11
40:16,16 65:11,11,11 80:10
82:18 88:12,23,24 89:22,23
96:12
there'll 39:7
there's 15:24 19:4 20:12 23:17
23:19 30:11 31:2,3 34:2 40:10
80:8 82:16,19 84:20
thermal 4:16
they'll 33:14,16
they're 15:11 23:5,19 32:19
35:21 36:11 64:7 81:5 85:6,9
87:22 88:4,9 91:22 94:19
they've 23:17,22,22
thing 14:11 22:7 30:8 32:9
82:23 87:10 90:2
things 19:13 21:11 29:11 30:9
30:10 32:22 37:23 66:5,19,24
81:4 82:3 83:20,23 84:21
85:11,23 92:6 95:6
think 19:14 20:3 21:14 28:7,21
28:23 29:7,25 30:2,18 31:16
32:6 33:23 35:8,18 38:23,24
41:11,12 52:11,15,21,22 53:6
53:10 65:25 66:12,13,16,22
67:11,16,25 68:6,10 79:8,10
79:14 80:11 81:3,7 82:21
83:13,14 84:13,17 85:2,12,21
88:6 89:6,21 90:3,12 91:3,3,4
91:4,5,5,7,20,23 92:3,19,23

93:18 94:6,9
third 54:6 86:3,6
thought 29:9 41:2 65:18 83:21
thoughtful 13:14 51:6 81:14
 92:9
thoughtfulness 66:25
threat 50:4
three 1:14 4:19 22:16 85:23
Thruway 70:7,14
Thursday 1:13
tied 76:2,7
time 3:22 15:4,19,20 16:7 17:3
 17:8 18:12 19:4 21:14 26:5,23
 28:20 32:20 38:25 47:5 56:18
 62:8,14 63:18 64:23 66:19
 75:19 78:11 79:2,9,11 82:16
 82:19 84:3 96:17 100:4
time-line 15:18
timeline 63:13
timely 12:6 39:13 51:6 64:14
 77:13
times 46:18 68:6
timing 10:5
today 13:19 33:7 43:10 82:14
 98:13 99:10
told 23:22
tons 18:9
Toohey 54:15 63:25
tool 60:15,17 73:10
Top 43:23
topic 61:7 77:11
topics 72:5
total- 76:11
track 60:15 80:9
tracking 59:15
tracks 92:3
traditional 17:15
traditionally 24:21
transcript 79:23
transcription 100:6
transition 20:2
transportation 43:19 46:25
 77:22 78:16 82:4 98:4
transportation-operation 43:23
travel 94:15
treatment 7:2
trend 47:19
tried 84:16
trillion 9:5
trip 81:6

troubling 33:19
truck 4:21
true 23:24,25 98:15 100:7
truly 29:5 30:20
trying 14:24 20:7 38:17 79:15
 79:16
turn 57:9
two 4:15 45:10 66:5 86:7
type 9:12 12:9 46:13 61:19
types 36:8
typewritten 100:6

U

U.S 17:25 98:4,11
Uh-huh 12:19 35:11
UIU 72:20
unattended 36:24
unauthorized 44:3
unbiased 37:17
uncertainty 21:25
unclear 21:24 22:2 30:13,14
underscore 34:12
underscoring 35:18
understand 27:17 28:12 30:23
 34:16 80:8 81:8,25 86:7
understanding 29:14 32:3 49:19
 55:15 79:18 84:2
understood 40:18,20
undertaken 10:6
underwent 4:5
unencumbered 80:20
unexpectedly 83:3
unfortunately 14:7
UNIDENTIFIED 90:11
uniform 50:13
uniformity 50:19
Union 42:22 43:11
unique 10:15 13:22 75:13
United 98:11
unnecessarily 10:10
unnecessary 75:18
upcoming 11:8 48:23
urge 73:7
urgency 38:8
USA 54:25
usage 46:10,18
use 44:3 47:21 58:20 60:14 62:6
 69:25 76:18 81:16
utilities 9:5,9 23:2,15 56:14
 56:20 57:11,17 58:19 61:22

64:6,9,25 65:4 68:5 69:21 70:17 71:7,19,21 72:19 74:13 77:24,25 utility 2:19 7:10 9:12 11:8 12:23 42:25 56:9,17 65:6 74:5 78:3 85:12,18,20 utility-ownership 83:13 89:14 utility-service 73:18 utility-specific 76:15 Utility's 80:3 utilization 73:2 75:20 utilized 36:11 46:16 67:10 utilizing 80:21 81:24 87:22	waiver 46:21 want 14:13 15:11 16:3 19:25 22:3 31:16,19,19,20,21 34:12 34:18 37:22 52:8 66:4 67:19 81:11,23 84:24 87:13,14,14,17 87:21 88:2,3 90:7,7 91:8 92:8 wanted 27:8 90:15 93:20 warned 21:13 warrant 7:14 warranted 11:12 57:16 wasn't 12:11 17:7 32:14 watching 15:14,15 water 2:15,19 20:18 43:2,3,4 way 4:16 12:23 14:20 15:2,9 20:5,8 21:8 41:21 79:22 80:18 81:13,14,14,19 84:17 87:23 88:9 94:6 ways 49:21 we'll 2:11 28:12 65:10 we're 17:2 21:9 23:23 24:7 28:15,19 31:4,7,9 32:3,20 33:23,24,25 34:25 35:10,10,19 39:3,16 40:2 41:12 51:18 52:15,17 80:19 81:24,24 82:14 84:2,9,11,11 85:18 86:10 91:10,25 92:4,7 93:6,8 we've 13:17 16:12,16,18 35:3,4 37:6 85:3 87:23 weather 47:3 weave 79:17 weaved 84:14,15 weeks 63:11 weigh 29:3 weighed 83:24 weighs 29:5 30:4 welcome 37:8 well-known 78:4 well-run 55:21 68:8 well-thought 12:2 went 18:18 79:23 weren't 80:2,3 Westchester 4:17,20,22 17:14 22:25 30:13,14,16,16 32:24 35:25 37:13 what's 14:18 15:12 23:6,8 24:7 33:7 41:10 wheelhouse 82:3 WHEREOF 100:9 white 82:10,14,20,22 83:22 91:19
V	
V.W 80:4,6,24 valuable 5:2 value 75:24 variety 76:17 various 72:5 vast 65:2 vehicle 69:25 86:18 vehicle-quick-charging 86:14 vehicles 69:10 73:6 78:12 81:3 94:8 95:3 venue 49:18 verbally 46:6 versus 88:22 very- 92:10 very-difficult 51:13 very-good 84:15 vetting 4:8 Vice 61:3 view 51:22 64:22 77:21 viewed 10:2 viewpoint 51:19 visibility 50:2 Volkswagen 82:2 voluntarily 85:4 volunteer 85:4 98:7 vote 42:5,5,8,11,15 53:15,16,20 53:23 54:2 66:3 68:15,16,20 68:23 69:2 78:24 95:11,12,15 95:18,21 96:21,21,22 voted 78:23 voting 78:23 93:22 96:4,17	
W	
wait 25:6 34:8 96:10 waiting 28:20 48:15	

white-papers 82:25	York's 69:21
whittle 31:24	Yorkers 38:14 64:10 77:18
wholly 9:24	you'll 31:6
wide 58:4 77:16	you're 12:7 30:24 31:6 36:4
willing 49:7	94:16
wind 83:2,5,22	<hr/> Z <hr/>
winter 6:17 47:23 50:3	zero-emissions 86:18
wires 5:19	ZEV 73:5,6
wish 96:3	<hr/> 0 <hr/>
WITNESS 100:9	<hr/> 1 <hr/>
Woebbe 69:13 77:8 82:18 86:12	1 100:5,7
90:12,18,24	1,074 73:17
woman 97:18,23 98:10	1,200 55:14
won't 26:9 66:11 90:7	1,500 75:16
word 31:13 32:13	1.4 6:11
words 8:17	10 75:17
work 5:10 7:24,24 11:25 18:23	10:35 1:13
19:24 20:2,7 23:7 38:19 41:20	100 34:15,19
50:12 55:11 60:10 63:10,17	101 2:12
67:17 68:2 84:5	102 42:21 43:10
workable 41:22	12-month 76:12
worked 38:21 65:19,19	13,000 18:6
working 18:25 27:18 28:3 39:6	13th 8:22 100:10
39:20,21 64:23 67:5 81:14,17	154 18:8,9
83:16 84:12	15th 30:11,12 31:5,6 32:6
working-group 72:8,18 92:13	16-G-0058 42:21
works 65:12	16-M-0610 54:7,21
worry 39:23	16th 32:18
worrying 15:19	17-G-0606 2:12
worth 66:13,22	17th 43:16 44:24
wouldn't 87:17,17	18-E-0138 69:8
wrap 88:5	18-M-0084 8:24
written 46:6 58:6	19 40:6
wrongly 88:8	1970's 40:7
<hr/> X <hr/>	1970s 14:3
X 1:24	1971 97:25
<hr/> Y <hr/>	1986 97:25
Yeah 20:20 33:2 34:22 91:2	19th 1:14
year 22:12 25:22 26:12 27:10	<hr/> 2 <hr/>
37:5 46:20 74:3,18 76:3,8	2 26:24,25 92:21 98:8
94:16	2-7-19 1:1 2:1 3:1 4:1 5:1 6:1
years 26:5,6 27:2,4 60:23 65:10	7:1 8:1 9:1 10:1 11:1 12:1
73:25	13:1 14:1 15:1 16:1 17:1 18:1
York 1:2,15 4:20 13:25 17:19,19	19:1 20:1 21:1 22:1 23:1 24:1
17:24 18:3,13 28:6 37:14,19	25:1 26:1 27:1 28:1 29:1 30:1
38:12 43:12 45:18,24 46:5	31:1 32:1 33:1 34:1 35:1 36:1
54:9,23 56:14 58:19 71:4	
72:20 73:6 97:24 100:2	

37:1 38:1 39:1 40:1 41:1 42:1	31 9:5
43:1 44:1 45:1 46:1 47:1 48:1	31st 9:10 45:18 86:4,4
49:1 50:1 51:1 52:1 53:1 54:1	368 96:16
55:1 56:1 57:1 58:1 59:1 60:1	37.5 8:9 10:25
61:1 62:1 63:1 64:1 65:1 66:1	<hr/>
67:1 68:1 69:1 70:1 71:1 72:1	4
73:1 74:1 75:1 76:1 77:1 78:1	4 27:4
79:1 80:1 81:1 82:1 83:1 84:1	4-year 27:7
85:1 86:1 87:1 88:1 89:1 90:1	4.1 11:3
91:1 92:1 93:1 94:1 95:1 96:1	4.8 8:13
97:1 98:1 99:1 100:1	40 18:9
2-years 94:16	47.1 6:5
2.5 18:9	<hr/>
2.9 6:12	5
2009 26:3	5 9:6 18:14 75:15
201 54:7	50 73:20
2011 17:15,17	500 75:14
2012 16:4 17:3,5,17	562 96:16
2012/2103 25:20	563 96:17
2013 16:7 17:21 18:8,9 26:25	<hr/>
33:22 38:21	6
2015 27:2	6 17:23 18:16,16 26:4
2016 55:2	60-days 91:23
2017 3:2,4 21:17 22:12 27:6,9	6th 96:17
55:9,12,12 57:5,7	<hr/>
2018 3:12,23 8:22 27:16 43:16	7
44:24 45:11,18 46:7 49:18	7 1:13 73:24
55:13 57:5,8 72:4	7-year 89:5
2019 1:13 9:10,14 27:4,9,14	75 73:24
28:21 60:24 100:10	<hr/>
2019/2020 48:24	8
2023 83:7,7	800,000 73:5
2023/2024 21:18	81 55:25
2024 8:10 11:5	82.6 6:10
2025 9:7 73:6	86.9 6:9
21st 72:10	<hr/>
22 21:17	9
222.6 8:11 10:19	90 71:2
227.5 8:8	99 100:7
250 81:2 84:20	9th 17:21
27th 17:5 45:11	
28th 3:23	
29th 3:2	
<hr/>	
3	
<hr/>	
3 1:14 2:20	
30 62:21	
301 69:7,19	
305 4:9	
30th 86:5	