

Monthly meeting - PSC Commission - 12-17-2015

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, December 17, 2015
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS

AUDREY ZIBELMAN, Chair
GREGG C. SAYRE
PATRICIA L. ACAMPORA
DIANE X. BURMAN

1 Monthly meeting - PSC Commission - 12-17-2015

2 CHAIR ZIBELMAN: Good morning.

3 So, everybody is in their accustomed seats,
4 so Happy Holidays to everyone. Welcome to the Commission.

5 I'm going to bring the public -- the meeting
6 to order.

7 Secretary Burgess is there any change for the
8 final agenda?

9 MS. BURGESS: Good morning, Chair and
10 Commissioners.

11 There's one change to the agenda. Item 373,
12 case 15-E-0569, which is a tariff filing by Central Hudson
13 Gas and Electric Corporation to establish general
14 information, Section 45, the Empire Zone Rate contained in
15 PSC number 15. That matter is over.

16 CHAIR ZIBELMAN: Okay. Thank you.

17 Before we turn actually to the agenda today,
18 I wanted to update my fellow Commissioners on the status of
19 the Commission Compliance under Public Service Law, Section
20 66N. If you'll recall, the Legislature asked us to do a
21 study of net-metering and that is due to the Legislature
22 tomorrow.

23 That study was actually underway with NYSERDA
24 and staff worked with NYSERDA and an outside consultant, E-3
25 and they have now prepared a report of -- on net-metering. I

1 Monthly meeting - PSC Commission - 12-17-2015
2 want to make it clear that while we've reviewed the report,
3 we are going to be using it on our ongoing dockets concerning
4 the valuation of distributed energy resources, including the
5 docket where we're going to be looking at an interim result
6 for valuation by the end of 2016.

7 So, we see this as another important aspect
8 of the evidentiary record we're creating here and I just
9 wanted to let you know that we are in compliance with the
10 legislative mandate and we will be submitting that to them
11 tomorrow and thank the work of the staff and NYSERDA and E-3
12 on the preparation of the first -- that report.

13 So, let me -- we're going to turn to the
14 regular agenda. We have three set -- three items for today.

15 The first item is 301 and that's the
16 proceeding on the motion of the Commission to examine the
17 alternative current -- alternating current transmission
18 upgrades.

19 Paul Agresta, who is our Deputy General
20 Counsel, will be presenting the staff's -- advisory staff's
21 recommendations today. Raj Addepalli, Mike Worden, Leka
22 Gjonaj -- why do I always do that? Andy Davis and Jim Austin
23 are also here.

24 I'm going to let Paul start, so Paul, please
25 begin.

1 Monthly meeting - PSC Commission - 12-17-2015

2 MR. AGRESTA: Thank you.

3 I'd like to begin the discussion by talking
4 about the regulatory context.

5 Pursuant to the federalism principles of our
6 system of our government, FERC, that's the Federal Energy
7 Regulatory Commission, FERC and the state share the power to
8 regulate bulk electric transmission facilities. FERC
9 regulates the rates charged for the use of bulk electric
10 transmission facilities under the federal power to regulate
11 interstate commerce. FERC regulation includes deciding cost-
12 allocation and cost-allowance issues.

13 In other words, if you build a powerline,
14 FERC will tell you who and how much you can charge to pay --
15 to get back your investment.

16 FERC does not want the New York ISO, the
17 entity that operates the bulk electric transmission system in
18 New York setting policy. Therefore, in some instances, FERC
19 relies on the Public Service Commission to give it guidance
20 about state policies.

21 States regulate land-use issues, including
22 the siting of most major electric transmission facilities.
23 If you want to build a powerline in New York, you need to
24 prove to the Public Service Commission that the line should
25 be built and it will be built in a manner that is

1 Monthly meeting - PSC Commission - 12-17-2015

2 environmentally compatible.

3 So, this federal-state interplay means that
4 for any new major transmission facility to be built or
5 operated, it may require both a federal approval as to cost
6 recovery and state approvals as to siting and public policy.
7 So, that -- the trick is to have both the federal and the
8 state processes reach the same results. If FERC was to
9 approve a line for cost recovery, but the Commission was to
10 not approve the same line for environmental reasons, you
11 wouldn't be able to build anything and the reverse, if the
12 state was to approve something for environmental
13 compatibility reasons and FERC was not -- would not give it
14 cost recovery, again, you wouldn't be able to build anything.
15 Okay.

16 So, today's decision relates primarily to the
17 Commission's role as the public policy advisor to FERC. Yes,
18 the Commission has a number of Public Service Article 7
19 siting proceedings going on. We call them the AC
20 Transmission Proceedings and the Commission has received a
21 number of -- a considerable number of studies and comments in
22 those proceedings and has compiled an impressive record of
23 information that will contribute to today's decision.

24 But today's decision is whether the
25 Commission is going to advise the New York ISO and FERC that

1 Monthly meeting - PSC Commission - 12-17-2015
2 there is a public policy transmission need for new
3 transmission facilities to be built between upstate and
4 downstate. All of these matters, the AC Transmission Siting
5 Cases and the New York ISO/FERC Public Policy Decision are
6 interrelated and accordingly, they're being heard on a common
7 record.

8 Okay. So, many recent studies have
9 highlighted need for the New York Transmission System to be
10 upgraded to replace aging infrastructure and to increase
11 transfer capability between upstate and downstate. So, let's
12 talk about what that's all about.

13 What is the need for a new transmission
14 facility? And let's go to slide -- the slides. The next
15 one, right there. Okay.

16 This -- this slide shows that the southeast
17 New York -- area of New York State is a load-pocket. That
18 means that it has more demand for electricity than it has
19 generation capacity to serve the load. So, to keep the
20 lights on, power must be imported in to southeast New York.

21 Long Island has a small amount of excess
22 capacity that can be imported, as shown on that slide there
23 on the right. No, no, no. If you look on the right side of
24 the slide, there's some excess capacity from Long Island that
25 can go in to the load pocket. On the left side, you can see

1 Monthly meeting - PSC Commission - 12-17-2015
2 that the neighboring control area, the PJM System, also has
3 some generating facilities that can serve New York except the
4 PJM facilities can be controlled by PJM. So, if PJM needed
5 the load, they can withhold it from the New York area.

6 So, the remainder of the power that -- that
7 is needed for the load pocket has to come from upstate New
8 York. Southeast New York has demand greater than the local
9 supply, but fortunately upstate New York has supply greater
10 than its demand.

11 Okay. And to give you an idea of the scope,
12 upstate load-zones have an excess capacity of about seven
13 thousand megawatts, whereas southeast New York has a
14 deficiency of about two thousand megawatts and that's if
15 every single plant is operating. In reality, the -- the
16 amount of the deficit is greater than that.

17 Any time any of the plants in southeast New
18 York are not operating or we don't want them to operate
19 because they're some old, dirty, clunker plants, even more
20 demand is needed to bring in power from upstate New York.

21 So, about two-thirds of the load is
22 downstate, but only half of the generation in the state is
23 downstate.

24 So, the big question then becomes whether
25 there is sufficient transmission capability to move the

1 Monthly meeting - PSC Commission - 12-17-2015
2 excess upstate power in to southeast New York where it's
3 needed. When the power transfer is blocked because there is
4 insufficient capacity on the transmission lines to handle the
5 load, that blockage is called congestion.

6 Now, the obvious analogy is to the crowded
7 two-lane road that cannot handle the number of cars that want
8 to pass. When there are too many cars, a traffic jam
9 develops and additional traffic comes to a halt. What's
10 needed, many have argued, is an energy highway with
11 sufficient transmission lanes to handle all the traffic that
12 wants to pass.

13 So, let's go to the next slide.

14 Thank you.

15 There are two major transmission interfaces
16 that control how much power can be transferred from upstate
17 to downstate. The first one is called the UPNY-SENY
18 Interface. That stands for -- or it electrically divides
19 upstate New York from southeast New York and that's what's
20 depicted on this slide here.

21 It shows generally where the dividing line is
22 and -- and it shows that there are two major paths for power
23 to go from upstate to downstate. One is the New Scotland
24 lead to Pleasant Valley Path and the other is the Marcy South
25 Path. And there's a number of different transmission lines

1 Monthly meeting - PSC Commission - 12-17-2015
2 in those paths, but this is just sort of a general depiction.
3 Okay.

4 Okay. Let's go to the next slide.

5 The second interface is called the Central
6 East Interface. It electrically divides Central New York
7 from Eastern New York and this -- this slide shows the
8 general dividing line and the major power-flow paths on the
9 existing bulk transmission system.

10 So, it's the same Marcy South line across to
11 Central East as well as UPNY-SENY and then farther to the
12 north, powerlines coming from the Marcy and Edict Substation
13 areas cross in to New Scotland in Albany County. And those
14 are the major path-flows. There are some smaller ones in --
15 in-between, but those are the major path-flows.

16 Okay. So, the current transfer capability
17 between upstate and downstate is about five thousand
18 megawatts. That has resulted in congestion and over the last
19 ten years, the historical average cost of congestion and this
20 is a very limited definition of congestion, is about 365
21 million dollars a year.

22 The 2019 forecast for congestion would be a
23 cost of about 473 million dollars and the 2024 forecast for
24 congestion would be about 562 million dollars.

25 That's -- that information is coming from the

1 Monthly meeting - PSC Commission - 12-17-2015
2 Brattle Report that was prepared as part of the trial-staff
3 report in this case.

4 In November of 2012, the Commission initiated
5 the AC Transmission Proceedings to consider whether to
6 address the persistent transmission congestion that exists at
7 the Central East and UPNY-SENY Interfaces. The word
8 congestion of course, is a simplification.

9 In the November 2012 order instituting the AC
10 Transmission Proceeding, the Commission explained that the
11 transmission corridors that include the Central-East and
12 UPNY-SENY Electrical Interfaces were persistently congested
13 and contributing to higher-energy costs and reliability
14 concerns.

15 The Commission recognized in that order that
16 upgrades to those sections of the transmission system could
17 produce various benefits for New York, including enhancing
18 system reliability, flexibility and efficiency, reducing
19 environmental and health impacts, increasing diversity and
20 supply, promoting job growth and the development of new
21 efficient generation resources upstate and mitigating
22 reliability problems that may arise with expected generator
23 retirements.

24 Now, those are -- that's a pretty broad range
25 of benefits that the Commission identified.

1 Monthly meeting - PSC Commission - 12-17-2015

2 The Commission solicited proposals of
3 projects that will increase the transfer capability through
4 the congested transmission corridor, which it's said includes
5 the Central-East and UPNY-SENY Interfaces by approximately
6 one thousand megawatts.

7 Some of the parties in their comments before
8 you are complaining that these proceedings have changed in
9 focus from only congestion in the smaller sense of the word,
10 to broader public policy considerations. Some have also
11 complained that the focus has moved from the UPNY-SENY
12 Interface to also include the Central-East Interface.

13 There is absolutely no foundation for either
14 of those arguments.

15 The language I just described from the
16 instituting order discusses a broad range of public policy
17 considerations as being encompassed in the concept of
18 congestion. In addition, the original order repeatedly
19 mentions the Central-East Interface along with the UPNY-SENY
20 Interface and it even includes a schematic map showing both
21 the Central-East and the UPNY-SENY Interfaces.

22 So, I don't know what you could've done to
23 make it more clear, but as part of today's decision, we are
24 recommending that you reject those complaints.

25 The initial round of proposals received in

1 Monthly meeting - PSC Commission - 12-17-2015
2 response to the solicitation raised environmental siting
3 concerns. The Commission then called for revised proposals
4 that would better utilize existing rights-of-way and better
5 match the scale of proposed transmission structures to be in
6 keeping with existing facilities already in the landscape.

7 And if we could go to the next slide, please?

8 Now, on this slide, all the different colored
9 lines are the different proposals that came in from the
10 different Applicants. Twenty-two revised proposals were
11 received from four entities. The four entities are North
12 America Transmission, we call them NAT or NAT, the New York
13 Transmission Owners, which is a group of our investor-owned
14 utilities, Next Era Energy Transmission New York and
15 Boundless Energy.

16 Many of the revised proposals included
17 significant revisions to address environmental compatibility
18 issues. Thereafter, the Commission directed trial staff,
19 with the assistance of the New York ISO to undertake a
20 comparative evaluation of the project proposals. The
21 comparative evaluation study required significant computer
22 modeling of power-flows, electric-generation production-cost
23 benefits and electric-generation capacity-cost benefits and
24 it resulted in benefit-cost analyses. In addition, each
25 project was analyzed as to its specific environmental

1 Monthly meeting - PSC Commission - 12-17-2015

2 impacts.

3 At the request of the Hudson Valley Smart
4 Energy Coalition and others, the study also included an
5 analysis of alternatives to our transmission facility, to
6 address the issue of whether there were sufficient public
7 need for a transmission solution, as a matter of public
8 policy.

9 An initial result of that analysis was the
10 Trial Staff Interim Report, dated July 6th, 2015, which
11 addressed primarily the issues of environmental compatibility
12 and beneficial electric system impacts on the Central-East
13 and Upstate New York -- or the UPNY-SENY electrical
14 interfaces.

15 On June 12, 2015, it had been announced in
16 the press that the planned 720 megawatt CPV Valley Generation
17 Facility had obtained its financing and would be proceeding
18 to construction.

19 That facility has all of its regulatory
20 approvals and is located in -- will be located in Orange
21 County, New York, an area right in the middle of all of these
22 areas that are under consideration. So, it would have an
23 effect.

24 This significant change in the New York bulk-
25 electric system required trial staff to update its power-flow

1 Monthly meeting - PSC Commission - 12-17-2015
2 production-cost benefit and capacity-cost benefit studies to
3 reflect the change. Therefore, it was necessary for the
4 project to be further studied, considering the effects of the
5 planned 720 megawatt CPV Valley Generating Facility.

6 Pending that revised analysis, trial staff
7 issued the interim report of its findings and the parties to
8 the AC Transmission Proceedings met in a technical conference
9 to review the findings and exchange further information. The
10 initial technical conference focused primarily on issues of
11 environmental compatibility and cost. The Hudson Valley
12 Smart Energy Coalition also presented its environmental
13 compatibility findings at the technical conference.

14 On September 22, 2015, trial staff issued its
15 final report in a companion motion, recommending that the
16 Commission find that there is a transmission need driven by
17 public policy requirements for new 345 kV major electric
18 transmission facilities to cross the Central-East and UPNY-
19 SENY Interfaces to provide additional transmission capacity
20 to move power from upstate to downstate.

21 The trial staff report including a
22 comprehensive, comparative analysis of the 22 project
23 proposals, which was used to identify the best proposals in a
24 winnowing process using relative environmental impact,
25 electric system impact, benefit and cost data.

1 Monthly meeting - PSC Commission - 12-17-2015

2 Again, the parties to the AC Transmission
3 Proceedings met in a technical conference, to review the
4 findings and exchange further information.

5 The second technical conference focused
6 primarily on issues of benefits, costs and overall need. The
7 Hudson Valley Smart Energy Coalition also presented its peak-
8 load and congestion forecast findings at the technical
9 conference.

10 The trial staff report included a detailed
11 benefits analysis, containing the following components. A
12 MAPS Analysis, that's a computer program that simulates the
13 electric system. A MAPS Analysis of production-cost savings.
14 Additional production-cost savings, not captured in the MAPS
15 model. ICap Analysis, that's a -- an analysis of the value
16 of installed capacity.

17 Avoided transmission costs, reduced costs of
18 meeting future renewable portfolio standard goals, tax
19 receipts, that's the income the communities would get when
20 you build a powerline in their community and it also looked
21 at employment and economic activity, and none -- other non-
22 quantified benefits and there's a big table of -- of what
23 those are.

24 Advisory staff believes that the benefit cost
25 analysis was conservative. The last two categories of

1 Monthly meeting - PSC Commission - 12-17-2015
2 benefits were not even monetized in the benefit cost
3 calculations and the analysis also used conservative discount
4 rates.

5 Trial staff asked Brattle to discount costs
6 and benefits over 45 years for the transmission projects,
7 using a discount-rate assumption of 9.13 percent, based on
8 the utility pretax weighted average cost of capital that it
9 believes is appropriate for this type of analysis.

10 Many economists would consider that -- even
11 though staff think that's the right rate to use, many
12 economists would view that as an extremely conservative
13 assumption and would've used a discount rate assumption of
14 5.6 percent, which would reflect utility after tax weighted
15 average cost of capital. Brattle itself noted that it
16 typically uses the lower rate.

17 If trial staff had used the lower discount
18 rate, the Brattle group estimates that the net-present value
19 of most -- the Brattle group estimated that -- they did a
20 sensitivity on this, that the net-present value of most
21 portfolios would increase by 300 million to 700 million above
22 the values already calculated.

23 So, if you apply that to the transmission
24 portfolios proposed by trial staff, which has a benefit-cost
25 ratio of 1.22, a net-present value increase of 300 million

1 Monthly meeting - PSC Commission - 12-17-2015
2 would change the benefit-cost ratio up to 1.49 and if it was
3 an increase of 700 million, the benefit-cost ratio would rise
4 to 2.09.

5 Okay. So, so let's go to slide six.

6 Slide six shows the portfolio of projects
7 that staff is recommending go forward and you'll notice that
8 there's a lot less colored lines on this map and we've
9 basically have winnowed things down to -- actually, these
10 maps are very difficult to produce because the way you have
11 to produce this map, based on what I was given, is you
12 actually -- actually you have to color over all the other
13 lines. You can't just delete them. You have to cover them
14 over with gray lines so you can't see them.

15 Anyway, so we're -- we're down to a -- a -- a
16 smaller group of things here. The trial staff recommendation
17 would result in the addition of 939 megawatts of -- of --
18 well, let's go to the next slide because it's easier to see.

19 This is more schematic of what's proposed.
20 Okay. But it -- it shows you the different substations in
21 the general areas.

22 The trial staff recommendation would result
23 in the addition of 939 megawatts of increased transfer
24 capability at UPNY-SENY and 375 megawatts of increased
25 transfer capability at Central-East. That would augment

1 Monthly meeting - PSC Commission - 12-17-2015
2 transfer capability by about 20 percent over these
3 interfaces.

4 The Brattle Report estimates that the
5 congestion savings, that's the small definition of congestion
6 savings, would be about a 118 million dollars a year in 2019
7 and a 156 million dollars a year in 2024 and that's just one
8 small component of the benefits.

9 So, the project is expected to reduce the
10 narrow definition of congestion by a third or more.

11 Now, if you look at this slide, you'll see
12 that there are a number of applicants who put forth
13 proposals. The closest proposal to doing the whole thing,
14 which is Segment A and B together, was Project P-Eleven that
15 was proposed by the New York TOs, but there were so many
16 different projects proposed, if you -- if you look at the
17 different segments of Project P-Eleven, one of the segments
18 is Knickerbocker to Pleasant Valley.

19 There were two other Applicants that had very
20 similar projects and one of them had a project that was at a
21 substantially lower cost than the -- than the cost that the
22 TO was estimating for basically the same work. Similarly,
23 for the two projects together, there was one Applicant who
24 had a project that was somewhat similar, but again had much
25 lower costs.

1 Monthly meeting - PSC Commission - 12-17-2015

2 Given those facts, staff recommended that
3 rather than going forward and making a decision on the TO
4 project at this time, that there be further competition
5 before the ISO as to who should build these segments and to
6 see whether we can get some more efficiencies out of
7 everybody on the issue of cost.

8 In addition, the ISO process is very broad
9 and allows for multiple submissions anyway. So, even if you
10 only wanted to steer it towards one winner, the ISO would
11 have to review all the other projects anyway.

12 So, if you look at this slide, per Segment A,
13 we have the New York TOs and Next Era that have similar
14 projects competing that for that segment.

15 For Segment B, we have NAT, the New York TOs
16 and Next Era competing for that segment.

17 And -- and later on, I don't know if we're
18 going to talk about it, but we're -- one of the
19 recommendations in here is that the Commission requests those
20 parties to submit their proposed solutions to the ISO. The
21 tariff allows for that, in order to make sure that the ISO,
22 when they do a solicitation, they don't want to do a
23 solicitation and have nobody come to the party.

24 So, if you -- if you, as the Commission --
25 the Public Service Commission recommend and request someone

1 Monthly meeting - PSC Commission - 12-17-2015
2 to submit their solution, they will be entitled to a recovery
3 from the ISO, of their cost to prepare their application
4 before the ISO. So, that gives them some measure of -- of
5 comfort in going ahead and spending the money on doing the
6 application. Parties that are not invited by you are at
7 their own risk for their -- their costs.

8 Okay. So, the -- the recommendation's going
9 to be that you ask the TOs and Next Era to submit Segment A,
10 that you ask NAT, the TOs and Next Era to submit Segment B.
11 And the parties are also free to submit both segments at the
12 same time, submit them separately, any way they want to do
13 it. Okay.

14 So, the idea of the competition is to put
15 further downward pressure on rates -- or on costs rather. A
16 couple of things about costs, the rate of return for these
17 projects will be set by FERC pursuant to its Federal
18 Regulatory Power over cost. That's not a Commission
19 decision.

20 Some people have -- have complained to you
21 that their rate is too high for the return that FERC allows.
22 FERC allows an incentive return above the cost of capital to
23 attract builders for projects.

24 And then in the category of no good deed goes
25 unpunished, the Commission previously suggested that FERC

1 Monthly meeting - PSC Commission - 12-17-2015
2 establish an incentive for these projects that -- to help
3 keep costs down, that twenty percent of their -- of any
4 potential cost overruns be borne by the Applicant, rather
5 than by the ratepayers to give the developer an incentive to
6 keep cost overruns down.

7 Many of the parties have commented that the
8 Commission wants to give them eighty percent of their cost
9 overruns. That's -- that's what happens when you try to do
10 something to keep costs down.

11 FERC's ordinary policy is to give a hundred
12 percent of the cost overruns. What you were trying to do was
13 set up an incentive that would keep the cost overruns to a
14 minimum level, so I hope everybody understands that.

15 And in addition, to ensure fairness, the
16 Commission will request the New York ISO to require bids from
17 all of the Applicants under both scenarios. One, where they
18 get a hundred percent of their costs, if there are overruns
19 and the other where they have to bear the risk of twenty
20 percent of the cost overruns.

21 By requiring everybody to put in both sets of
22 bids, it'll be easier for the ISO to pick the appropriate
23 winner. If they weren't -- if they didn't do that, it would
24 become very difficult to choose which project was the winner.

25 Okay. So, let's see what the next slide is.

1 Monthly meeting - PSC Commission - 12-17-2015

2 Okay. As part of the review process of the
3 projects, the -- the people doing the power-flow studies from
4 the New York ISO and the New York ISO, identified that if --
5 with CPV now in the database that was used, when you run all
6 the power-flow numbers, if you were to build the new lines,
7 there are some existing lines in Orange County that would
8 present a constraint.

9 So, if you were to build the new lines, the
10 ISO would force the new lines to be operated at a way that
11 they are restricted and don't achieve their full purpose
12 because there would be overloads that this line had shown on
13 the map here, between the Schumacher and Sugarloaf
14 Substation.

15 There's also a -- some -- some equipment at
16 the Rock Tavern Substation that needs to be updated.

17 So, what has been recommended is that these
18 additional upgrades that were identified as part of the --
19 the process -- and that's normally what the ISO does. When
20 somebody proposes a powerline, they do a system-impact study
21 and they look to see what kind of problems it's going to
22 cause in the line and if they identify something, they make
23 the Applicant upgrade whatever needs to be upgraded and this
24 is the same thing that's going on here.

25 So, as part of Segment B, if you could -- if

1 Monthly meeting - PSC Commission - 12-17-2015

2 you can go back one slide, if that's possible, John.

3 You'll see at the bottom of Segment B, the
4 stuff in purple, those are the upgrades that are required in
5 order to make everything so that it -- it reaches its maximum
6 potential and so -- and the recommendation is that the
7 Applicants work with the utility-company owners of those
8 project -- of those facilities, so that the utilities will
9 actually do those upgrades and just -- they'll be paid for by
10 the developer of the transmission solution and then the
11 developer will get cost-recovery of that through FERC.

12 Okay. Okay. So, you can go back.

13 Okay. All right. So, after the trial staff
14 final report was issued, notices went out under the State
15 Administrative Procedure Act and we did an additional notice
16 requesting comments on trial staff's Public Policy
17 Requirements recommendations, which brings us back to the New
18 York ISO tariff process, which is the subject of today's
19 decision.

20 The ISO open-access transmission tariff
21 approved by FERC includes four transmission planning
22 processes that can lead to FERC cost-recovery. Again, the
23 whole purpose of their tariff is to provide a vehicle for
24 people to pay for their projects.

25 So, the -- there's four processes in that

1 Monthly meeting - PSC Commission - 12-17-2015
2 tariff. The first is the local transmission planning
3 process, which allows cost-recovery for local transmission
4 needs identified by local transmission owners. That process
5 is not under consideration here.

6 The second process is the reliability
7 planning process. That includes a bulk-power system
8 reliability needs assessment and a comprehensive reliability
9 plan. That process is strictly limited to ensuring the
10 minimum facilities necessary to keep the lights on. Issues
11 like congestion and public policies are not considered in
12 that process.

13 The facilities under consideration here do
14 not qualify under the pure reliability silo. Although, if
15 they are constructed, they will contribute towards better
16 reliability and the New York ISO is not requiring new
17 transmission under the reliability process. At least not
18 related to this, yet the New York ISO remains a big supporter
19 of building new transmission facilities for other purposes.

20 The third process is the Congestion
21 Assessment and Resource Integration Study, or CARIS Process,
22 which includes an economic assessment of congestion on New
23 York bulk-power system. The CARIS Process is also strictly
24 limited. The existing approach for identifying economic
25 projects through the CARIS Process has not identified

1 Monthly meeting - PSC Commission - 12-17-2015
2 projects to be built, due its limited scope of benefits
3 considered.

4 CARIS considers a narrow-range of benefits,
5 focus -- focusing solely on base-case production-cost savings
6 only, over a ten-year time horizon. Some other benefits,
7 including reduced losses, capacity value, emission
8 reductions, are calculated but they're not incorporated in to
9 the CARIS benefit-cost analysis.

10 Again, the New York ISO is also not requiring
11 new transmission facilities under the CARIS Process, yet the
12 ISO -- and it's going to say, still wants to build
13 transmission, if I can turn this page. The ISO remains a big
14 supporter of building new transmission facilities for other
15 purposes.

16 So finally, that brings us to the fourth
17 process, which is the Public Policy Transmission Planning
18 Process that considers public policy transmission needs, not
19 being met by the other processes. So, this process was
20 created by FERC to allow cost-recovery for transmission
21 projects important to the states where the benefits are
22 evaluated more broadly to include public policy concerns.

23 It's main importance is that it provides a
24 vehicle for cost-recovery for the entity that constructs and
25 operates a needed transmission solution.

1 Monthly meeting - PSC Commission - 12-17-2015

2 So a -- a public policy requirement is
3 defined in the New York ISO tariff, as a federal or state law
4 or regulation, including a Public Service Commission
5 rulemaking order adopted after public notice and comment
6 under State Law, which drives the need for transmission.

7 Under a New York State Law, such a rulemaking
8 order by the Public Service Commission can be either of
9 general, or particular applicability. That's true of all of
10 what we call our soft rules.

11 Our hard rules are the ones that we codify in
12 to the Code of Regulations, but most of the action the
13 Commission regularly takes are considered soft rules. Okay.

14 The public policy transmission planning
15 process has four steps. The first is identification of
16 public policy transmission needs.

17 The second is the proposal of solutions to
18 the identified needs.

19 The third is the evaluation of viability and
20 sufficiency of proposed transmission and non-transmission
21 solutions.

22 And the fourth is the evaluation and
23 selection of the more-efficient or cost-effective public
24 policy transmission project to satisfy a public policy
25 transmission need.

1 Monthly meeting - PSC Commission - 12-17-2015

2 How many times can I say public policy?

3 Today's decision is part of the first main
4 step. It constitutes the preliminary state public policy
5 approval called for in the New York ISO tariff by the
6 Commission identifying a public policy transmission need for
7 which the New York ISO should solicit solutions.

8 Subsequent to the identification of a public
9 policy transmission need, the ISO solicits proposed solutions
10 and developers submit projects to satisfy the identified
11 needs.

12 All submissions, regardless of project type
13 are evaluated for the viability and sufficiency to meet the
14 needs and upon a confirmation by the Public Service
15 Commission that a need for transmission solutions still
16 exists, the New York ISO then evaluates the proposed
17 regulated projects that have satisfied the viability and
18 sufficiency requirements and ranks them based on the quality
19 of their satisfaction and numerous metrics.

20 Based on this evaluation, the ISO may select
21 the more cost-efficient or cost-effective regular --
22 regulated project to satisfy the need. A selected project is
23 eligible for cost-recovery and cost-allocation under the New
24 York ISO tariff in a manner to be determined by FERC.

25 And as described above, any selected public

1 Monthly meeting - PSC Commission - 12-17-2015
2 policy transmission project will likely also need separate
3 state approvals of siting before it may be built or operated.

4 So, advisory staff recommends that the
5 Commission use its rule-making authority and find that it is
6 the public policy of the state of New York and the Public
7 Service Commission to reduce transmission congestion in a
8 balanced and cost-effective manner that would be accomplished
9 by the construction and operation of the portfolio of 345 kV
10 transmission projects identified by the trial staff.

11 Advisory staff also recommends that the
12 Commission find that the 2015 State Energy Plan, in
13 conjunction with Section 6-1041 of the Energy Law, which
14 requires the State Energy Planning Board to adopt a state
15 energy plan and Section 6-1045(b) of the Energy Law, which
16 generally requires the Commission to make energy-related
17 actions or decisions that are reasonably consistent with the
18 policies and long-range energy planning objectives and
19 strategies contained in the State Energy Plan, that they
20 together constitute public policy requirements deriving the
21 same transmission needs.

22 The -- the projects under consideration here
23 were identified as something necessary for the state in the
24 State Energy Plan and the -- the Law of New York requires you
25 to follow that plan, unless the plan is shown to be out of

1 Monthly meeting - PSC Commission - 12-17-2015

2 date.

3 So, that's a second basis for declaring a
4 public policy need.

5 Overall, the project provides 1.2 billion
6 dollars in -- or I'm sorry, 1.2 dollars in benefits for every
7 dollar in cost. That's the cost-benefit ratio.

8 Reducing congestion includes many energy and
9 environmental benefits, including reducing -- reducing
10 production costs through congestion relief and reduce
11 capacity resource costs, improving market competition while
12 enhancing system reliability, flexibility and efficiency,
13 improving preparedness for and mitigation of impacts of
14 generator retirements, enhancing resiliency, storm-hardening
15 and taking better advantage of existing fuel diversity,
16 increasing diversity in supply, including additional
17 renewable resources, promoting job growth and development of
18 new efficient generation resources upstate and reducing
19 environmental health impacts by eliminating less efficient
20 electric generation.

21 These benefits will likely not be obtained
22 any other way. The existing powerlines along these routes
23 are slated for replacement in the near future. Advisory
24 staff further advises that in rebuilding, it makes sense to
25 do an upgrade in increased capacity so as to avoid building

1 Monthly meeting - PSC Commission - 12-17-2015
2 new powerlines in the future, especially new lines for which
3 it would be necessary to open new rights of way in the Hudson
4 Valley and elsewhere.

5 The Hudson Valley Smart Energy Coalition has
6 not demonstrated that new transmission capacity is not
7 needed. It argues that the combination of new gas plant
8 fueled by low cost, natural gas and load reductions through
9 extensive deployment of distributed energy resources will
10 reduce prices through the region and consequently, with less
11 need for imports from the west and north, will reduce
12 congestion.

13 While new gas facilities will undoubtedly be
14 part of the future energy landscape, that overall view is
15 unrealistic. Having a strong transmission backbone that can
16 respond to and balance a much-more diverse and dynamic fuel
17 and usage mix is core to the Reforming the Energy Vision
18 Plan.

19 The Chair could explain this much more
20 eloquently than I'm going to, but there is no conflict with
21 REV. Nothing in REV ever claimed that the bulk transmission
22 system would not continue as the primary backbone of the
23 electric system. REV will be vigorously pursued regardless
24 of the outcome of these cases, but it does not eliminate the
25 need for a robust transmission system for the next fifty

1 Monthly meeting - PSC Commission - 12-17-2015
2 years. The downstate region should not be denied the
3 benefits of lower cost and renewable generation from upstate
4 and it should not be asked to rely only on fossil fueled
5 electric infrastructure.

6 So, I hope I said that right, Chair.

7 CHAIR ZIBELMAN: I'll have my chance.

8 MR. AGRESTA: Okay. Regarding the parties
9 that are concerned that the facilities will increase
10 production from coal plants, I note that today, the coal
11 contribution to the state's energy mix is less than five
12 percent of the total and it is not expected that coal will be
13 a significant contributor to New York's energy portfolio in
14 the future and that the very few remaining coal plants in New
15 York, due to air emissions, will either be retired or
16 repowered to use cleaner fuels, regardless of the outcome of
17 these proceedings.

18 On the other hand, all of the wind farms
19 built to-date in New York State have been built upstate. In
20 the near future, that upstate trend will continue. They can
21 only benefit from increased transmission capability between
22 upstate and downstate.

23 So, now that we've talked about need, I want
24 to spend a few minutes discussing environmental
25 compatibility. The Commission has gone to great lengths to

1 Monthly meeting - PSC Commission - 12-17-2015
2 minimize any environmental impacts in these proceedings.

3 The location of Segment B of staff's
4 recommended solution is no closer to the banks of the Hudson
5 River than one and a half miles at any point and for half of
6 its length, it's no closer than five miles. The topography
7 is such that the facilities in question would not present
8 significant visual impacts at locations on the Hudson River.

9 In addition, the facilities in question would
10 not approach or cross the Hudson River. One of the great
11 benefits of this winnowing process is that although there
12 were very many proposals that had Hudson River crossings, as
13 it turned out, a project that -- that does not require a
14 crossing of the Hudson River was able to be chosen because
15 there is an existing transmission line already crossing the
16 Hudson that has excess capacity.

17 Advisory staff believes that the proposed
18 segment B facilities would have absolutely no negative visual
19 impact whatsoever on users of the -- users of the Hudson
20 River itself. Furthermore, visual impacts on resources
21 within the Hudson Valley Region will be minimized by using
22 existing electric transmission corridors to replace existing
23 facilities with new facilities.

24 Similarly, the routes that are on the Segment
25 B chart avoid Olana, which is a -- a wonderful resource.

1 Monthly meeting - PSC Commission - 12-17-2015

2 They avoid the -- the Hyde Park facilities, the -- Franklin
3 Roosevelt's house and grounds and Eleanor Roosevelt's
4 facility. And they also avoid the Omega Institute, which is
5 another facility that many parties were concerned about.

6 The proposal here is to replace existing
7 towers on existing utility rights-of-way, with slightly
8 higher towers and in most cases, two existing towers will be
9 replaced by one new slightly higher tower. Many of these
10 towers are slated to be replaced in the near future and given
11 stricter standards on the minimum clearance between the
12 ground and the low point of the conductors, the -- so that --
13 what that means is the wires hanging in between the towers,
14 at the low point of where the wire is hanging, the distance
15 between that and the ground, that's called the clearance and
16 the -- the rules on clearances have increased over time for
17 greater safety purposes. So, if you were to go in and
18 replace these old towers, you would have to raise them up a
19 little bit to deal with that.

20 So, it's likely during the replacement
21 process, they would need to raise the tower somewhat anyway.
22 Increasing the voltage to 345, drives the need to raise the
23 towers even a little bit more because the clearances are a
24 little higher for a higher-voltage line.

25 But while the replacement work would be new,

1 Monthly meeting - PSC Commission - 12-17-2015
2 the existing towers have been in the landscape for decades.
3 Advisory staff does not believe that the degree of
4 incremental change is enough to adversely impact tourism in
5 the Hudson Valley or elsewhere.

6 The existing towers in the Hudson Valley vary
7 considerably, depending on where they are and how many other
8 towers share the right-of-way. In the Hudson Valley, the
9 existing towers that would be replaced range from eighty to
10 eighty-five feet in height. Some of them share rights-of-way
11 with other towers that are up to a hundred feet in height and
12 where the hundred foot towers occur, the hundred foot towers
13 would remain in place.

14 Where the only towers in the right-of-way do
15 not exceed eighty-five feet, the New York TOs have proposed
16 replacement steel mono-pole towers of ninety feet in height.

17 Where there are existing towers in the right-
18 of-way of one hundred feet in height, the New York TOs have
19 proposed to match -- the heights of the tower spans will be
20 identical to what is already there.

21 So, let -- let's go to the next slide.

22 This is one of the TO cross-sections and it's
23 hard to make out on this screen, but if you look in the
24 background, there are two lattice towers that are sort of
25 grayed out. Those towers would be removed and they would be

1 Monthly meeting - PSC Commission - 12-17-2015

2 replaced by this slightly taller mono-pole structure.

3 Let's go to the next one.

4 This is again, another TO cross-section. In
5 here, the existing right-of-way has four existing lattice
6 towers, as well as a gas main and a telecommunications line.
7 The proposal would be to replace two of the lattice towers
8 with one mono-pole structure.

9 Next Era has proposed a slightly different
10 design. Next Era has proposed concrete mono-pole structures.

11 You can go to the next slide.

12 Okay. That are a hundred and five feet in
13 height, so they're a little higher than the TO structures and
14 if you look on this slide very closely, you can see there's a
15 grayed-out transmission tower on the right, that is being
16 replaced by a -- a -- a single pole that's made out of
17 concrete.

18 There are no towers proposed for the Hudson
19 Valley that are higher than the hundred and five foot tower
20 shown on this diagram.

21 Okay. Let's go to the next slide.

22 And then NAT has a very different design.
23 They're proposing a steel, horizontal structure supported by
24 two poles, that is eighty feet in height. The way that they
25 get their structure to work is that they spread out the wires

1 Monthly meeting - PSC Commission - 12-17-2015
2 horizontally rather than vertically, so it results in a much
3 wider structure, but a lower structure.

4 Okay. Now, the tower heights will be
5 determined in the Article 7 cases, after the Part B filings
6 are made, but I just wanted you to see that the incremental
7 impacts, while they may be important to the people who live
8 near the line, they are not something that's going to
9 regionally affect the character of the Hudson Valley.

10 And our process is very robust and will
11 involve staff going out in the field and looking at each
12 individual location to decide what's the best thing to do and
13 -- and hopefully we'll be able to minimize the height, even
14 more than is shown on the current schematics.

15 There are another -- a number of other
16 details that are contained in the draft order that I'm not
17 going to review. You've all been briefed on them and I think
18 I've been talking long enough.

19 In summary, advisory staff has proposed a
20 series of criteria and studies that should be considered or
21 undertaken by the New York ISO when it considers solutions.
22 Among the things the criteria attempt to accomplish --
23 accomplish is to steer the New York ISO towards selecting a
24 transmission solution that would be environmentally
25 compatible.

1 Monthly meeting - PSC Commission - 12-17-2015

2 In addition, advisory staff is recommending
3 that you ask the Applicants to withdraw from further
4 consideration, any routes and segments that were not
5 identified as likely to contribute to an ultimate solution.

6 Based on the comments, withdrawal of those
7 segments would be greatly appreciated by the effected
8 communities.

9 And Raj, is there anything you'd like to add
10 before we take questions?

11 MR. ADDEPALLI: Nothing more. You've done a
12 great job.

13 MR. AGRESTA: Thank you.

14 So, that concludes my presentation thankfully
15 and we stand ready to take your questions and hopefully,
16 you'll get to hear from someone other than me when you ask
17 them.

18 Thank you.

19 CHAIR ZIBELMAN: Paul, thank you very much.

20 I understand that after this proceeding, Raj
21 and Mike have an honorary PE Degree that they want to offer
22 to you.

23 MR. AGRESTA: Does that -- does that come
24 with a salary?

25 CHAIR ZIBELMAN: That's up to them.

1 Monthly meeting - PSC Commission - 12-17-2015

2 I thought that would be an additional so
3 thank you very much.

4 And first of all, before I take, you know,
5 any questions for -- from the Commissioners, I did want to
6 note my appreciation for what I know has been an extensive
7 amount of work done by our trial staff, as well as our
8 advisory staff in reviewing this. Looking at 22 different
9 transmission projects and just evaluating each one and
10 ascertaining the cost and benefits of each one is a -- a
11 tremendous amount of work effort that has -- was done
12 actually in a very short amount of time.

13 There are -- there are transmission lines I
14 know elsewhere in this -- in this country, single lines, that
15 took fifteen years to get to this point, so I -- I do
16 congratulate you.

17 I also want to note my appreciation to the
18 New York ISO and know that they were incredibly helpful.
19 They were -- stood ready to do the studies that we asked them
20 to do and we're always very appreciative of their expert
21 support of -- of our work as well as the work, of course, of
22 Brattle, our -- our expert here.

23 And then I also want to note my appreciation
24 for all the developers who came in, both in terms of their
25 original projects, but also their willingness to respond when

1 Monthly meeting - PSC Commission - 12-17-2015
2 we asked them to revise their projects to meet our
3 environmental needs and I know that is also a considerable
4 amount of work. And so, I, you know, I think that from that
5 perspective and then the stakeholders who were involved in
6 this proceeding, I think we had, you know, and as this has
7 been the largest proceeding that the PSC has ever conducted,
8 there has been approximately over two million dollars in
9 intervenor funding that I believe has been provided and the
10 record in front of us is extraordinarily robust, impressive,
11 as Paul said and we know that that's because of a lot of work
12 of a lot of people who are thinking very hard about how to do
13 things the right way for New York.

14 So, without anything more, I think we all
15 should all feel very good that the decision process that
16 we're embarked upon is one that has been improved by the
17 amount of contribution by so many people.

18 Before I go to my comments, I just had a
19 couple questions and clarifications. I'm going to ask my,
20 you know, fellow Commissioner if you have any questions. I
21 think we've all been briefed extensively. I know we've all
22 read the record. I know we've met with staff and so mine are
23 just really sort of minor, but I just want to make sure that
24 we -- we pick up on a few points that I -- I believe are
25 important.

1 Monthly meeting - PSC Commission - 12-17-2015

2 One is you -- you mentioned this, but I think
3 it's important to note that the 1.2 benefit cost analysis
4 that you identified could -- was the -- on some -- by some
5 testimony on the conservative end, even in our own analysis
6 and that by some analysis these recommendations, it could be
7 two to three -- two dollars per every dollar spent, which
8 would be a -- a more significant benefit-cost analysis so it
9 really does go in to your assumptions. Right? I assume
10 that's correct?

11 MR. AGRESTA: That's correct.

12 CHAIR ZIBELMAN: The -- the -- the other is
13 on terms of congestion. I know you used a figure of about a
14 half a million, but I also know the record on some testimony
15 shows that there could be up to a billion dollars of
16 congestion, based on gas prices or changes in prices.

17 I think, Raj, you probably want to --.

18 MR. ADDEPALLI: Correct, Commissioner. It's
19 a function of gas prices and clearly could be a -- an order
20 of magnitude higher.

21 CHAIR ZIBELMAN: Okay. And then lastly the
22 -- on this issue of what's -- what we're about ready to do --
23 actually another point, which is the -- under the public
24 policy analysis and you mentioned this, I just want to make
25 it abundantly clear, is that the -- the -- the three

1 Monthly meeting - PSC Commission - 12-17-2015
2 proposals that we are asking to be submitted to the ISO by
3 definition then will be allowed to -- for cost-recovery
4 through the -- in the ISO process.

5 Nothing in our order today precludes anyone
6 when the ISO asks for proposals, to come in with another
7 proposal. What we're doing in our order, is simply saying
8 these are the ones that we are asking to go in, so we're
9 telling these developers, please submit and we're -- and as a
10 result of our requests, they're entitled to cost recovery.

11 We can't control the ISO process in that
12 sense.

13 MR. AGRESTA: That's correct.

14 And they could also propose non-transmission
15 solutions as well.

16 CHAIR ZIBELMAN: Right.

17 So, that -- so this is a further iteration
18 and I thought you did a very nice job explaining the
19 difference between cost recovery and our requirement, which
20 is need.

21 And then the other is, I notice on the map
22 with the CPV line that's near the town of Wallkill. Is that
23 where the Wallkill presumption comes from?

24 MR. AGRESTA: Yes.

25 CHAIR ZIBELMAN: I always wondered where we

1 Monthly meeting - PSC Commission - 12-17-2015

2 got that from.

3 Thank you.

4 So, let me -- that's the end -- I had --
5 those are my questions. I do have comments, but does anyone
6 else have any questions or clarification you'd like from Paul
7 or any of the staff?

8 MS. ACAMPORA: Could you just take us through
9 the timeline possibly, Raj, on this and how long this would
10 be? And how does that run also with the hydropower line that
11 will be coming down and what difference and impact does that
12 also make on the ability to get more power downstate?

13 MR. ADDEPALLI: In terms of your first
14 question on the timeline, as Paul said there are a few more
15 steps in this process. The first is once you declare that
16 there's a public policy need for these transmission lines,
17 the New York ISO has to solicit proposals under their tariff
18 and they have to give sixty days for the Applicants to submit
19 proposals. And once the proposals are received, which could
20 be just these three or more, the New York ISO has to conduct
21 an analysis pursuant to its tariff. While we are laying out,
22 excuse me, some criteria and expectations on the analysis,
23 they have to follow their tariff in -- in complying with the
24 -- the analysis that they have to do.

25 We are hoping most of these steps would be

1 Monthly meeting - PSC Commission - 12-17-2015
2 done by the second quarter of next year, 2016, and those that
3 have been winnowed down and -- or on the -- the one winning
4 bidder or two, probably will pursue the Article 7 process in
5 front of this Commission and optimistically, if they can file
6 their Article -- remaining Article 7 Part B by the end of
7 2016 with this Commission, then this Commission has to pass
8 judgement on the Article 7 and we hope that would happen in
9 2017.

10 And once that happens, the construction of
11 the project, could take anywhere between two to three years,
12 depending on -- there are a lot of other parameters that need
13 to be considered in that they have to take some outages, how
14 to schedule them with the ISO and -- and other reliability
15 considerations.

16 So in a scenario that I'd like to see, 2019
17 in-service date if possible.

18 The second question on the hydropower, I --
19 I'm presuming you're referring to the Champlain-Hudson Power
20 Express. They have most of the permits that they need.
21 Clearly, they -- they can move forward independent of this
22 effort and they -- they need clearly their own construction
23 time.

24 Does this project affect the economics of the
25 other one? It would. How much it does would depend on what

1 Monthly meeting - PSC Commission - 12-17-2015
2 our assumption methodology are, but we believe there's room
3 for both. There's enough need downstate to -- to help to
4 meet these needs both -- for both the projects in my view.

5 MS. ACAMPORA: Okay.

6 MR. ADDEPALLI: Especially in light of our
7 clean energy goals that we are also looking for.

8 MS. ACAMPORA: Yeah.

9 CHAIR ZIBELMAN: So, and Raj, just to -- on
10 the Article 7, you know, we do have with the -- well, the new
11 rules that we've put in place for transmission lines to stay
12 in right-of-way, that we have an expedited transmission
13 process and this is probably to Paul and Kim as well. And
14 while I -- I know these -- these -- this particular project
15 preceded those rule changes, just to be clear, there's
16 nothing that prevents us in the existing Article 7 procedure,
17 to have an expedited process simply because it's warranted by
18 the facts and we're able to get to a conclusion quickly.

19 MR. AGRESTA: That's right.

20 You -- we -- we have a very extensive record
21 built, which would give a head start for anyone in the
22 Article 7 process. The -- the remaining Part B information
23 is primarily construction drawings that are detailed where
24 you'll be looking at the location by location tower height --
25 tower locations and spans, things like that.

1 Monthly meeting - PSC Commission - 12-17-2015

2 CHAIR ZIBELMAN: So, that's one of the
3 reasons Mr. Addepalli is optimistic that 2019 is a in-service
4 date?

5 MS. ACAMPORA: Yeah. I just want to talk
6 about the towers for a minute.

7 I've been asking for years about what's new
8 with poles and -- and looking at some of these drawings,
9 particularly this last one is quite interesting. So, I'd be
10 interested regardless of -- of where we're going, to get more
11 information about what's new with the look on -- on some of
12 these things and maybe the Commissioners might want to go on
13 a field trip and look at some of those places, once we had an
14 understanding of what the alternatives were and how that
15 again, might impact the area. So, I -- I'd be very
16 interested in that.

17 MR. ADDEPALLI: Definitely we will take you
18 on a tour, Commissioner.

19 MS. ACAMPORA: Okay.

20 CHAIR ZIBELMAN: Do one at a time though.

21 Any other questions or comments?

22 I mean, I -- yeah. I'm going to allow for
23 comments. I was just -- any questions for -- okay. Let me -
24 - so if -- if you will, let me -- let me just start and, you
25 know, we -- we are as an -- and Paul, you've done such a

1 Monthly meeting - PSC Commission - 12-17-2015
2 great job, but I -- I do think that, you know, for me it's --
3 it's important to stress why -- why I believe that the
4 advisory staff recommendation to submit this to the ISO for
5 public policy determination is the correct answer.

6 We are really looking at the fact and I think
7 this is undisputed that we have aging transmission and that
8 transmission was going to have to be refurbished. As -- as
9 you note, two-thirds of the load in the state is located
10 downstate. Only one-half of the generation is there and
11 there's a lot of aging generation plants.

12 There's no question that we need transmission
13 from upstate to downstate in the light -- just to maintain
14 basic reliability in the city. I think the ISO Report in
15 itself identifies, there could be many hours in a year,
16 particularly if you have an outage of an old plant, that you
17 simply would have a hard time maintaining reliability in New
18 York City, keeping the lights on. So, we absolutely need
19 transmission.

20 So, the next question then is as long as we
21 have to refurbish those lines, should we be looking at an
22 upgrade and should we -- we be looking at increased transfer
23 capability.

24 The Commission several years ago, when it
25 looked at this issue, made the determination at that time,

1 Monthly meeting - PSC Commission - 12-17-2015
2 that because of the level of congestion that they were seeing
3 on the system, potential environmental -- positive
4 environmental effects, the positive -- the potential
5 reliability concerns as well as the economic value that could
6 be incurred by increasing transfer capability and using old -
7 - existing upstate plants to meet the needs of downstate, all
8 of it made sense to take a look at increasing the transfer
9 capability, since we were going to have to do work on the
10 lines anyway and I think in our order, we looked at and said
11 we would like to get around a thousand megawatts and I think
12 these projects approximate and actually are -- go above a
13 thousand megawatts of transfer capability.

14 From my perspective, as I looked at the
15 record and -- and I'm -- I think that the Commission was
16 spot-on and that that's why this is in really the public
17 interest and -- and it adheres to our public policy. And
18 there's a number -- number of reasons I'm saying this.

19 One is reliability. There's no question, as
20 we electrify and we look in more -- we're more and more
21 dependent on this, but also just in basically the -- the
22 system topology we have, we need to have robust transmission
23 to maintain system reliability.

24 We have -- we know that from our storms, we
25 know that from our system, we know that from the 2003

1 Monthly meeting - PSC Commission - 12-17-2015

2 blackout. We need transmission that's in an essential
3 vehicle of the power -- of the power system as a whole.

4 The second is congestion. I mean, there's no
5 -- that when you take a look at the history of this market
6 and we look at the projections, we are looking in the order
7 of between a half a billion and as I noted it could go up to
8 a billion dollars a year. That's a billion dollars more than
9 people are paying for electricity downstate than they need to
10 pay for because we have upstate plants that are available to
11 provide resources to them at a cheaper price. It makes no
12 economic sense for the state to have plants sit idle,
13 particularly plants that we know are just having financial
14 stress, while we have needs downstate. And so that, to me,
15 just -- it just makes perfect sense as the economic
16 regulator.

17 The other point is -- as we noted, is -- is
18 that if you looked at the study and -- and I think staff was
19 deliberately conservative so they wouldn't be charged with
20 being unduly biased, you're looking at one to two dollars of
21 benefit for every dollar we invest in transmission.

22 It's one of the best investments we can make
23 today because it allows us to use existing asset and helps us
24 both attract and retain jobs in regions of the state where we
25 want it, plus maintain those units.

1 Monthly meeting - PSC Commission - 12-17-2015

2 So, all that to me, you know, says -- makes
3 sense. Then you add in to it that we're looking at a -- at a
4 retirement potentially of Indian Point and that when that
5 plant retires, what we need is to make sure we again, have
6 transmission that's going to be able to move power from the
7 north and the west down to the south. It just improves
8 reliability. It improves the flexibility of our being able
9 to retire that plant by putting transmission there.

10 So, that's important, as well as the fact is
11 -- is it improves the Hudson River, since now that we
12 wouldn't have an operating nuclear plant on the Hudson, as
13 well as safety.

14 Then you add in to it diversity. It's very
15 important for New York as we move forward, that we are able
16 to integrate a lot more wind generation, a lot more solar
17 generation and even increase hydro generation in to the
18 system, in order to meet the clean energy mandate.

19 All of those resources are located far from
20 load. You need transmission to be able to move it. I, you
21 know, as you both know, I came from the mid-west, even though
22 I don't sound like I came from the mid-west, but one thing
23 that folks learned in the mid-west and the west, if you're
24 going to have massive amounts of trend -- of wind, you need
25 to have transmission to move it to load because the best wind

1 Monthly meeting - PSC Commission - 12-17-2015
2 resources are not where people live and so it's important to
3 have it, whether we're talking about off-shore wind or on-
4 shore wind or solar.

5 More importantly, and this is really
6 important to me, is -- is that -- is in terms of REV and as
7 -- as Paul noted because I've been hammering stuff on this
8 issue, you -- you need transmission if we move to the kind of
9 network we want to have. We want to have a clean energy
10 network, which has a lot more intermittent power. We want to
11 have a network that has a lot of demand-based resources that
12 can operate very quickly and very dynamically against load
13 circumstances to help balance those resources.

14 In order for REV to work, in order for us to
15 have a grid that we can optimize both behind the meter and in
16 front of the meter, we need to have a transmission grid that
17 is flexible and strong.

18 So rather than actually reduce the need for
19 transmission, the ability to have a much more efficient
20 system actually increases the need for that transmission
21 because again, it's one of the most efficient in --
22 investments we can make in order to get there.

23 So, for those reasons, I would say that
24 clearly we're on the right path.

25 Then the other issue is competition. Now, I

1 Monthly meeting - PSC Commission - 12-17-2015
2 know historically, when we needed to build transmission, we
3 would go to our local utilities and we would say build it.
4 In this case, the Commission did something very different and
5 very innovative by saying well, let's get the best
6 opportunities in and has opened it up for competition.

7 I think it's really important and I'm pleased
8 that we have three projects going to the ISO to maintain that
9 competition.

10 Now, coming from the industry, on all sides
11 of this industry, there's nothing like having someone else
12 sitting at your shoulder with another alternative, to get you
13 to sharpen the pencils and think smarter and what the
14 Commission obviously wants is the best solution.

15 So, maintaining that, having the ISO look at
16 that and -- and -- and do it on an apples to apples basis, I
17 think is the right thing to do.

18 So, for -- those are all the public policy
19 reasons why I believe it's important that we pursue this
20 alternative.

21 Now, the next question is, is really what the
22 other point that I think we focused on, the Commission, in
23 its proceeding, as you noted, is that we are terribly
24 concerned about local land impacts. Now, we -- we understand
25 the -- the impairment that building transmission has on

1 Monthly meeting - PSC Commission - 12-17-2015
2 property. That's one of the reasons that the Commission
3 asked the developers to go back, sharpen their pencils, get
4 out there sort of most-ingenuous thinking and come back with
5 proposals that would include -- would -- would stay in
6 existing right-of-way.

7 It's very important to us not to use more
8 land than necessary, not to impair some of these -- the New
9 York landmarks and to make it least impactful, that we can,
10 while meeting the needs of the public. I am -- I think that
11 the fact that we now have three projects that stay in
12 existing right-of-way and that while I know that there has to
13 be increased poles -- pole height, I -- I -- I think that as
14 Paul mentioned, that if we refurbish the land because there
15 are new requirements to -- proposed by the -- by NERC, in
16 terms of clearance requirements, that the poles would've had
17 to increase anyway.

18 And as I understand, because of some of the
19 designs of looking at mono-poles, we're actually -- maybe
20 help being able to reduce some of the towers. So, for that
21 -- and I -- and I think our Article 7 and as you know, our
22 staff will be on it, to make sure that we're not doing any
23 more than necessary.

24 I think that we've met our goal of being able
25 to say to the people that live in this area, we're just

1 Monthly meeting - PSC Commission - 12-17-2015
2 replacing existing towers with new towers. The idea of using
3 these mono-pole towers, which have less impact, also have a
4 benefit and we're going to continue to do everything we can
5 to reduce the visual impact, while meeting the needs of the
6 system.

7 So, I feel very positive about this. I know
8 that nobody likes to have -- be the -- to see infrastructure
9 where it's not necessary, but this is essential. I think we
10 all recognize that we need to have reliable electricity. We
11 want clean electricity. We want cost-effective electricity.

12 It makes no sense not to use the assets we
13 have in the northern and western part of the state. It makes
14 no sense to prevent us from building wind because we don't
15 have the transmission to move it from where it's developed to
16 where it is.

17 So, to me, this is sort of not only the right
18 thing from a public policy perspective, but an essential
19 thing for the public policy perspective and it -- and it's
20 our roles of ensuring reliability, ensuring economic outcomes
21 and ensuring that we are in a position to implement the State
22 energy plan. I don't see that we have any other decision
23 that we can make. So, for -- I'll be -- for all those
24 reasons, I'm going to vote to support the staff's decision --
25 recommendation.

1 Monthly meeting - PSC Commission - 12-17-2015

2 I got it almost right. It's hard. Paul's so
3 persuasive.

4 MR. AGRESTA: I know.

5 CHAIR ZIBELMAN: Thank -- so that's mine.

6 Any further comments?

7 Gregg?

8 MR. SAYRE: To me, this case involves a
9 fairly straightforward choice. Either we take steps to
10 relieve the congestion that keeps low cost and increasingly
11 clean power upstate from flowing downstate, congestion that's
12 been a problem for decades or we leave the congestion in
13 place and hope that market forces, which may or may not work,
14 lead to the construction of additional new pipelines and
15 additional new natural gas generating plants in the downstate
16 area.

17 After a tremendous amount of work by staff
18 and the parties, we have before us a transmission solution
19 that has -- is -- has been said a couple of times here, it
20 has very low impact because it uses existing rights-of-way
21 where there are existing powerlines that are going to have to
22 be refurbished anyway because they're coming to the end of
23 their physical, useful lives.

24 I am comfortable that the proposal before us
25 to rebuild the existing lines is better for the state in

1 Monthly meeting - PSC Commission - 12-17-2015
2 terms of the public interest, from the point of view of
3 costs, reduced greenhouse gas emissions, resiliency,
4 reliability, fuel diversity, economic development and all the
5 other reasons that are listed in the proposed order. So, I
6 too will be voting in support.

7 CHAIR ZIBELMAN: Thank you.

8 Diane?

9 MS. BURGESS: Thank you.

10 First of all, Paul, I want to thank you for
11 putting up with me recently and I appreciate that this is --
12 has been a difficult journey for many folks internally and
13 externally.

14 It is sheer enormous obligation of us as
15 regulators, to make sure that we look very carefully and --
16 and look at the record and operate on the facts and the
17 evidence.

18 John Adams said facts are stubborn things and
19 whatever may be our wishes or inclinations or the dictates of
20 our passions, they cannot alter the state of facts and
21 evidence.

22 And for me, going through this, this is not a
23 disconnection, you know, from REV. This is an
24 interconnection between the energy highway and the REV
25 initiatives.

1 Monthly meeting - PSC Commission - 12-17-2015

2 This is not a anti-renewables. Actually, it
3 embraces it. It says that if we are to achieve our REV
4 initiatives, whatever fuel source we're using, we need to
5 make sure that we have the backbone systems in place to make
6 sure that they are existing.

7 You know, this is not discounting that there
8 will be other fuel sources that will be in the mix and that
9 will come before us.

10 You know, natural gas is clearly going to be
11 part of a component of New York's energy future, as well as
12 many other fuels and we have to look at that and make sure
13 that we're balancing all of these different opportunities and
14 the challenges that they present and make sure that we're
15 doing it in a balanced and fair and responsible way.

16 When I look at this and I look at the facts
17 and the evidence, I see that our existing energy system is
18 aging and it's enormous and we need to fix and upgrade our
19 infrastructure. And we have an opportunity with the
20 challenges that are presented, to do that.

21 For me, I think this is a good example -- a
22 great example of why we need to evaluate and value
23 transmission in our overall planning, to ensure an adaptable,
24 affordable, reliable and environmentally friendly energy
25 future.

1 Monthly meeting - PSC Commission - 12-17-2015

2 We are not today, deciding the siting issues.

3 We are not today, deciding any other issue, other than this
4 proceeding and what goes forward to the ISO for the public
5 policy transmission requirement, which they will do a robust
6 process like they're doing already in the Western New York
7 public policy transmission requirement process, that's
8 already under way.

9 Then it will come back to us and we need to
10 expeditiously address that -- responsibly, expeditiously
11 address that. Just like when it's over at the ISO, the
12 process is a robust one. It's an engaging one, but it -- it
13 also is focused on an expeditious process.

14 Thomas Edison said vision without execution
15 is hallucination. I think that's very apropos and it goes
16 in-line with what Vaclav Havel has said and I think -- this
17 is really, for me, crystallizes it, vision is not enough. It
18 must be combined with venture. It is not enough to stare up
19 the steps, we must step up the stairs.

20 That's what we're doing now. I'd like to say
21 let's run responsibly up those stairs and make sure that we
22 actually have execution.

23 So, thank you.

24 CHAIR ZIBELMAN: Thank you, Commissioner.

25 MS. ACAMPORA: Well, everybody has said a lot

1 Monthly meeting - PSC Commission - 12-17-2015
2 of good things and I think I'm the only one that has been
3 here through this whole proceeding. It's taken a long time
4 and I hope that it doesn't take much longer.

5 New York really needs to lead the way here.
6 If you talk to any energy experts, they will all tell you the
7 grid in our country is old. You need to have a healthy grid,
8 regardless of the renewable energy that's out there.

9 And New York is a big state and fortunately,
10 there are capabilities in upstate that are not downstate and
11 we really need to be able to have a system that can move the
12 energy where it needs to be. And so this really fits in with
13 what the administration wants to do in our state.

14 And I think one -- to me, one of the most
15 important things, besides the reliability and the things that
16 we deal with here, is economic development. If we don't have
17 the power, no companies are going to want to stay here and
18 they're certainly not going to want to come here if we don't
19 have a reliable system.

20 So, this is really important and I mentioned
21 the Hydro Quebec project only because I think that this will
22 also enhance what we're trying to do here. It's clean, it
23 will really be an aid to downstate.

24 And you know, as I've said before, yeah New
25 York is a big state and there shouldn't be an upstate-

1 Monthly meeting - PSC Commission - 12-17-2015

2 downstate mentality.

3 This is one state, let's do the best for our
4 state and when everything is running right, there will be
5 benefits to all, particularly in those areas that have
6 suffered for years, if we have a robust transmission line.

7 So, I think this is great and I'm happy that
8 I'm still here to be able to move it along.

9 CHAIR ZIBELMAN: And we are all really happy
10 that you are here.

11 Before I take a vote, I do want to note that
12 as Paul said, there are a number of projects that staff
13 rejected, both for environmental impact and -- and cost
14 impact. And I -- while we -- I don't think we can direct the
15 developers not to propose them, I would hard -- we would -- I
16 would request that you withdraw those projects because I know
17 there's a lot of uncertainty and people would very much like
18 to know that their properties are not going to be effected
19 because you'll pursue the three projects that we've
20 identified.

21 With that, let me move to a vote.

22 All those in favor of the -- proceeding on
23 motion -- all those in favor of the recommendations to
24 determine that there's a transmission need, develop -- driven
25 by public policy requirements for a new 345 kV transmission

1 Monthly meeting - PSC Commission - 12-17-2015
2 facility crossing the Central-East and UPNY-SENY Interfaces,
3 please indicate by saying aye.

4 COMMISSIONERS: Aye.

5 CHAIR ZIBELMAN: Opposed?

6 Hearing no opposition, there being none, the
7 recommendations are adopted.

8 Thank you again and Paul, I hope you get some
9 sleep.

10 MR. AGRESTA: Thank you.

11 CHAIR ZIBELMAN: We're going to go to the
12 next item, which is 401.

13 (Off-the-record discussion)

14 CHAIR ZIBELMAN: Before we begin, I do want
15 to welcome Karen Geduklig, who is now -- who is our new
16 Director of Telecom, who's sitting here, for those of you who
17 were wondering who that lovely woman is sitting in the first
18 row and we're very happy to have Karen.

19 Karen has joined us from -- she's been
20 working with the state in a number of roles, mostly recently
21 from ITS and I noticed when the computer blipped I was
22 absolutely certain it was Maggie, the Commissioner of ITS
23 getting back at me, but fortunately it wasn't.

24 So, welcome, Karen and we're very happy that
25 you're here. Peter's done a magnificent job and Peter is

1 Monthly meeting - PSC Commission - 12-17-2015

2 especially happy that you're here.

3 We're going to now turn to Item 401, which is
4 case thirteen. It's a proceeding on the motion to examine
5 the development of the long-term water supply source.

6 Peter McGowan who is Chief Policy Advisor
7 will be presenting this. Tim Canty and Bruce Alch are also
8 available for questions.

9 Tim and Bruce, welcome.

10 Peter?

11 MR. MCGOWAN: Good morning.

12 CHAIR ZIBELMAN: -- please begin.

13 MR. MCGOWAN: Thank you very much.

14 The draft order that you have before you is
15 the culmination of an effort that was initiated as a result
16 of a joint proposal that was connected to a 2006 United Water
17 New York rate case. That joint proposal called for United
18 Water, to develop a series of short, intermediate and long-
19 term water supply projects, in the wake of a series of
20 droughts and water supply failures in that region.

21 For the long-term project, United Water
22 selected the desalination project in the Hudson River in 2007
23 and sought permits from the Department of Environmental
24 Conservation, beginning in January 2008.

25 In 2013, in light of new circumstances that

1 Monthly meeting - PSC Commission - 12-17-2015
2 emerged and before construction on the project was due to
3 begin, the Commission initiated the -- the proceeding that
4 we're now revisiting to reassess the need for the long-term
5 water supply, serving the customers in Rockland and Orange
6 Counties.

7 In November of 2014, the Commission
8 determined that based on new information and an updated
9 demand forecast, that the need for the new major water supply
10 project was delayed, but the Commission also found that there
11 is still a need for additional long-term water supply. The
12 demand forecast was impacted by the Great Recession and was
13 driven by population growth and economic activity recovering
14 from the recession.

15 The forecast found -- or -- or showed that
16 new supply may be needed by approximately 2020 and by 2035, a
17 -- a total of approximately five million gallons per day may
18 be needed, absent a -- a reduction in water usage in the
19 territory.

20 So, the Commission used the additional time
21 to explore further alternatives to the desalination project.
22 This order now addresses the alternative proposals that were
23 submitted in response to the Commission's 2014 order. It
24 also considers the need -- the ongoing need for the
25 desalination project and it also considers renewed claims for

1 Monthly meeting - PSC Commission - 12-17-2015

2 a prudence proceeding.

3 The proposed decision today, charts a new
4 path forward, based on changing dynamics of water supply and
5 demand in United Waters service territory. These changes
6 include the recession, consideration of new supply
7 alternatives that were not available in the 2007/2008
8 timeframe and importantly, a strong community interest in and
9 commitment to conservation that have -- has emerged in the
10 past few years.

11 The debate that has transpired in this
12 proceeding has been spirited and I have been impressed by the
13 dedication and the degree of effort that has been -- been put
14 in to the case by the local communities through the -- in
15 particular, through the taskforce. I think United Water --
16 United Water is also to be commended for its diligence and
17 willingness to constructively explore new approaches to
18 address long-term needs for its customers.

19 So, the process that we followed here was
20 essentially to get a feasibility report from the company and
21 -- and parallel reports by the task force and then we put the
22 -- well, all of those out for comment and we have received, I
23 think it's certainly hundreds, but it's probably approaching
24 two thousand comments. So, there has been a lot of interest
25 in -- in this case.

1 Monthly meeting - PSC Commission - 12-17-2015

2 United Waters' assessment concludes that a
3 combination of -- of the measures it evaluated could reduce
4 consumption, through conservation efforts, by approximately
5 one million gallons per day and through leak reduction
6 efforts, another one million gallons per day, through
7 enhanced metering and aggressive leak detection and
8 remediation programs and an additional one million gallons
9 per day, in new supply from new wells. United Water has used
10 a conservative approach to estimating which -- to estimating,
11 which is a reasonable thing to do for planning purposes.

12 Based on its assessment and assuming
13 successful implementation, the company states that supply and
14 demand will remain in balance for the next ten years.

15 At the same time, the company advises that
16 these measures alone, may not be sufficient to meet the needs
17 over the longer term. To address longer -- the longer-term
18 needs, the company proposes to study and further explore
19 several additional supply options, including interconnections
20 with neighboring water systems, Suffern, Nyack for example
21 and increase permit authority from existing wells in the
22 Ramapo River Water Basin and related watershed issues.

23 The task force also submitted a report, which
24 included a report by its consultant. The consultant's
25 report, among other thing, assesses United Waters' leak-

1 Monthly meeting - PSC Commission - 12-17-2015
2 reduction efforts and compares them to national averages.

3 The consultant's report observes that the
4 company's performance in minimizing water losses due to
5 system leaks, makes it an outlier in terms of national
6 averages.

7 Consultant's report estimates that two --
8 between 2.5 and 3.5 million gallons per day in water lost to
9 leakage may be recoverable. The consultant's report also
10 estimates that up to 3.6 million of additional water savings
11 could be achieved through customer-oriented conservation
12 measures.

13 So, the basic outline of the company's
14 proposal, which I just mentioned, has considerable support
15 from the task force and other commenters in this proceeding.

16 While certain details are debated, there is a
17 general consensus that conservation, leak detection and the
18 exploration of small sources of new supply are measures that
19 should be pursued as an alternative to the desalination
20 project to -- to -- to address demand over the long term.

21 While commenters may have different views
22 about how much water savings certain measures can achieve, no
23 one disagrees on the appropriateness of the three-prong
24 approach that United Water recommends.

25 So, in light of all of that, staff proposes

1 Monthly meeting - PSC Commission - 12-17-2015
2 that the Commission first find that the company's three-part
3 proposal is reasonable and if pursued with alacrity, will
4 meet the United Water customer needs over the next decade.

5 Many commenters believe that greater
6 conservation and recovery are possible. If the -- if the
7 company's efforts in fact produce greater savings than is
8 currently projected by the company, Rockland County consumers
9 will benefit.

10 Indeed, I'm sure we -- I know I am and I'm
11 sure the Commission is hopeful that the combined efforts of
12 United Water and Rockland County authorities will achieve
13 this laudable goal and find a mutually supportive path to
14 sustainability for the long term.

15 It is also possible that the upper bounds of
16 the estimated savings may not be achieved or that actual
17 demand may rise faster than staff has forecast, thus
18 consuming some or all of the savings won through
19 conservation.

20 To ensure that United Water continues to plan
21 for the potential for longer-term needs beyond the next ten
22 years, it's recommended that the Commission direct United
23 Water to study and further explore several additional supply
24 options, including interconnections with neighboring water
25 systems and increased permit authority from existing well

1 Monthly meeting - PSC Commission - 12-17-2015

2 supplies and related watershed issues.

3 Although program details and full cost
4 estimates for the alternatives have not been developed, they
5 will be done so in the upcoming rate case.

6 The record developed thus far, indicates that
7 the cost to sustain demand over the next decade should be
8 less than the remaining costs to develop the first two phases
9 of the desalination project, which would produce about five
10 million gallons per day.

11 So, based on all of that, staff is
12 recommending that the Commission determine that the
13 desalination plant is no longer needed and should be
14 abandoned.

15 The -- the order would direct the company to
16 file a deferral petition to transfer the project costs from
17 the current construction work in project accounts to
18 miscellaneous deferred debit accounts. So, new approach,
19 abandon the plant.

20 And then finally, a number of comments seek
21 rehearing on the Commission's decision not to initiate a
22 prudence proceeding, related to United Waters decision to
23 select and develop the desalination project.

24 As the Commission noted in its November 2014
25 order, United Water was pursuing the new major long-term

1 Monthly meeting - PSC Commission - 12-17-2015
2 supply project in furtherance of Commission orders, with
3 directives that had milestones for certain dates for
4 completion. While changing circumstances have led the
5 Commission to explore new alternatives, they do not justify a
6 prudence proceeding.

7 Finally, I would just underscore that the
8 alternative solution that we're embracing relies heavily on
9 conservation and thus, the response of the people of Rockland
10 County and the local governments of Rockland County, will
11 need to be strong to embrace these new approaches and adopt
12 and implement conservation.

13 This will be critical to managing the future
14 water supply in the area.

15 Thank you.

16 CHAIR ZIBELMAN: Thank you, Peter.

17 I have no questions. I'll just a -- a -- a
18 few comments.

19 Well, actually one clarification. As of
20 right now, we -- the Commission in its previous order,
21 finding that there was no imprudence relative to the pursuit
22 of the desal plant project, I think we've identified close to
23 40 million dollars of expenses. That would go in to the
24 deferral account?

25 MR. MCGOWAN: Well, thus far in -- in the --

1 Monthly meeting - PSC Commission - 12-17-2015
2 in the surcharge case, the Commission has reviewed -- the
3 Commission has reviewed and found that development expenses
4 of like 39 million were reasonable, as of a certain time.

5 CHAIR ZIBELMAN: But -- and -- and I
6 understand that staff is continuing to look at their
7 additional expenses that would all -- they would also be
8 entitled to recovery for?

9 MR. MCGOWAN: Yes and it's also likely that
10 if there's an abandonment, that there will be certain tax
11 implications that would also flow from that.

12 CHAIR ZIBELMAN: Now, we're -- we are
13 expecting United Water to file a rate case in January, so I'm
14 assuming that all of these costs then would be taken up in
15 the rate case proceeding?

16 MR. MCGOWAN: Yes. I hope that's going to
17 come in in February.

18 CHAIR ZIBELMAN: February, next year?

19 MR. MCGOWAN: Yeah.

20 CHAIR ZIBELMAN: Okay. All right. I -- I
21 believe that this is the right route to take.

22 First of all, I -- I join Peter in really
23 applauding the work of the task force and other members in
24 Rockland County.

25 We often talk about consumer engagement.

1 Monthly meeting - PSC Commission - 12-17-2015
2 Largely, we talk about it in the electric context, but it's
3 equally important in a water context and it -- it's
4 absolutely true that this is a three-prong approach, one,
5 conservation leak detection and then looking for new sources
6 of supply. And like any other three-legged stool, if one of
7 those legs doesn't work out the way we want it to, it becomes
8 wobbly, so it's going to be very, very important that we are
9 aggressive in the pursuit of conservation.

10 I want to note my appreciation. I know that
11 the company and the task force, as well as other members of
12 the community, were -- were having a rocky road. It looks --
13 I -- we've asked them to continue to work together.

14 Our Executive Deputy, Judy Lee as well as
15 Kevin Manz as well as Peter, as well as Bruce, have been
16 engaged in these conversations and it -- from all sides, it
17 looks like they're progressing and that the conservation plan
18 -- final conservation plan, we hope to see with the rate
19 case, will benefit from a lot of good discussion and a lot of
20 good will that's been created as people have worked together
21 and I think that makes -- certainly makes this Commission
22 because our concern obviously is about adequacy of supply,
23 feel better because we'll get better results that way.

24 I also agree with the recommendation that the
25 Commission not reconsider its decision on the issue of

1 Monthly meeting - PSC Commission - 12-17-2015
2 prudence. I think it was at -- abundantly clear that when
3 the Commission, in the 2006/2007 time period, was looking at
4 increase demand in the region and the concern about scarcity
5 of water supply, it was appropriate and in fact, at our
6 urging that the company came forward with the desal project
7 and pursued it.

8 Clearly, it was a chance circumstance brought
9 on by the recession and has -- and -- and now we have an
10 opportunity with the -- again, the -- the activities that
11 we're doing around conservation, leak detection and
12 alternative source of supply, to get there.

13 But there is -- I think that from my view is
14 -- is that we just need to again say that we will not explore
15 prudence and will now start on the recovery process, on the
16 expenses and be able to pursue conservation.

17 So with that, I intend to vote in favor of
18 the recommendations to one, abandon the plant, two, look at
19 the -- and to not -- not relook at the issue of prudence and
20 three, to have Rockland County continue to pursue its three-
21 prong efforts around maintaining adequacy of supply.

22 So, with that, any further comments,
23 questions?

24 MS. ACAMPORA: Yeah.

25 Another trip down memory lane.

1 Monthly meeting - PSC Commission - 12-17-2015

2 CHAIR ZIBELMAN: But you're so young.

3 MS. ACAMPORA: Honestly. When this was
4 started and I recall that the real impetus was the request
5 from the locality, Rockland County, because they were really
6 concerned that their water supply was going to run out and so
7 we acted in what we felt, was the proper way and the company
8 stepped up to also listen and look in to the desal plant.

9 Then going down the road, we've had public
10 statement hearings in the county and people were so very much
11 against it, but it was the first time that these various
12 groups were willing to come together to work toward a
13 solution. At least not a permanent solution, but something
14 that would help and that's the use of conservation and I
15 really think that the task force, all the wonderful people
16 who have volunteered their time and talents, headed by
17 Legislator Cornell, who Peter, I know you've worked with and
18 Judy is working with and the company, the President, Dave
19 Stanton, who stepped up to also put a interesting and
20 interested face as someone from the company who was willing
21 to roll up his sleeves and work with the task force also.

22 You know, all the years that I've been here,
23 I've always talked about flexibility and here is another
24 issue that we can come forward and say government is not
25 inflexible. We have -- we're willing to be flexible, we're

1 Monthly meeting - PSC Commission - 12-17-2015
2 willing to work with the community and I think that these
3 pose almost an exciting challenge because there are a lot of
4 things that can be done and I think that the more people who
5 get interested, will generate the functions of thinking about
6 what can we do and it might come out that Rockland County and
7 the local municipalities might actually become famous for
8 thinking about new and innovative ideas on water
9 conservation.

10 And of course, we all know that all water
11 companies have to deal with the problems of leaks in their
12 system and that was something we heard when we went to the
13 public statement hearings, that they felt there was a lot of
14 leakage going on that was not being fixed.

15 So, as we know, water is a very capital-
16 intensive industry. This will all cause -- cost a lot of
17 money and we'll deal with that in the rate case.

18 But I think this is the right thing to do for
19 the people of the area and I really thank all of the people
20 that worked on this, the company, the task force and -- and
21 the staff that really has worked so hard to make sure that
22 people could still keep working together to get something
23 done for the good of all. So, I think this is great.

24 CHAIR ZIBELMAN: Thank you.

25 Mr. Sayre?

1 Monthly meeting - PSC Commission - 12-17-2015

2 MR. SAYRE: I would also like to commend the
3 -- the task force and the company and staff for working out a
4 joint solution to this problem. It's particularly heartening
5 to see a community not just making objections to something it
6 doesn't want, but actually working with the utility in coming
7 up with a cost-effective and acceptable solution, an
8 alternative to the problem.

9 But I must remind the company and the
10 community that although we're putting an end to the desal
11 plant project, there's work to be done by everybody. Both by
12 the company on the demand side and by the community, to
13 implement real conservation on -- on the demand side.

14 So, I -- I think you can do it, just please
15 keep working together.

16 CHAIR ZIBELMAN: Thank you.

17 Commissioner Burman?

18 MS. BURMAN: Thank you.

19 Because I like the statement so much, I think
20 it's applicable here. Vaclav Havel said vision is not
21 enough, it must be combined with venture. It's not enough to
22 stare up the steps, we must step up the stairs.

23 This really is an opportunity. There has
24 been a lot of very passionate, spirited positions on both
25 sides and folks now and have been coming together, the

1 Monthly meeting - PSC Commission - 12-17-2015
2 company and the -- company and the community, working
3 together and these -- it's an opportunity.

4 There are three solutions that are being
5 relevant to making sure that this vision gets done, which is
6 the conservation, leak detection and the looking at new
7 supplies.

8 We're going to be laser-focus because we
9 ultimately care about safe, clean, reliable and affordable,
10 so we need to be cognizant of the fact that we need to ensure
11 that this collaborative effort truly is moving in a positive
12 step and is working so that we're not putting at risk, the
13 system.

14 So, for -- for us, it's a -- really a great
15 day, I think, because we are now allowing the community and
16 the utility to work together and take advantage of that
17 opportunity.

18 So, I encourage folks to ensure that the
19 spirited and passionate vision that they have brought forward
20 to us is one that carries through in a thoughtful and
21 productive way and I really applaud both sides in working
22 through this. So, thank you.

23 CHAIR ZIBELMAN: Thank you.

24 And I think we all agree that what -- this is
25 an opportunity to turn something that looked like a problem

1 Monthly meeting - PSC Commission - 12-17-2015
2 in to a -- a wonderful solution and we -- we're -- looking
3 forward to -- to getting the plan.

4 With that, I'm going to take a vote.

5 All those in favor and -- I'm looking at the
6 wrong note.

7 All those in favor of the recommendations to
8 direct United Water New York to move forward with its
9 proposal for accelerated leak detection, conservation,
10 incremental new supply measures and to determine that the
11 desalination plant is no longer needed as described, please
12 indicate by saying aye.

13 COMMISSIONERS: Aye.

14 CHAIR ZIBELMAN: Opposed?

15 Hearing no opposition, there being none, the
16 recommendations are adopted.

17 Thank you, Peter. I know you yourself and
18 Bruce have put lots and lots of hours and hard thought in to
19 this and congratulations on a successful resolution. And Tim
20 as well.

21 So, we're going to turn to the next matter,
22 speaking of capital and water plants. This is case 15-062.
23 This is a recommendation by staff. It's to revise our
24 existing Public Service Commission's 1994 acquisition
25 incentive mechanism policy and Bruce Aloh, our Chief Utility

1 Monthly meeting - PSC Commission - 12-17-2015
2 Programs and Policy Development will be presenting this and
3 Peter and Tim are going to be available for questions.

4 Bruce, welcome and please begin.

5 MR. ALCH: Well, good afternoon.

6 Now, item 403 presents staff's -- item 403
7 presents staff's recommendations to reform and clarify
8 several Commission policies relating to the mechanisms for
9 sustaining and ultimately valuing small water systems.

10 Staff's objectives in recommending
11 refinements to these mechanisms is to better harmonize these
12 policies with their overarching goal of promoting small water
13 system consolidations and thereby ensuring their long-term
14 viability.

15 As a brief background, the Commission first
16 articulated its goal to consolidate New York's regulated
17 water industry in the early 1990s. In 1994, the Commission
18 also embraced non-traditional approaches to encourage the
19 acquisition of non-viable water companies, including the
20 recovery of acquisition premiums and rates when and where it
21 is in the public interest. That policy is referred to as the
22 Acquisition Incentive Mechanism or the AIM Policy.

23 Since that time, almost 200 small water
24 systems have transferred ownership. The majority of the
25 system transfers went through their local municipalities and

1 Monthly meeting - PSC Commission - 12-17-2015
2 many of these municipal transfers were rather straightforward
3 as the private system and local public utility were usually
4 in close proximity and within the same taxing entity, so that
5 little additional infrastructure or operational effort was
6 required.

7 In several of those cases, the existing AIM
8 Policy was very helpful to aid those municipalities gain a
9 better understanding of the financial requirements associated
10 with assuming ownership of previously regulated water
11 systems.

12 Staff is concerned however, that the
13 remaining 250 water systems that we regulate will present a
14 greater challenge to our continued consolidation efforts for
15 a number of reasons.

16 And here, I would note that a -- a 130 of the
17 remaining two hundred and fifty systems have less than 50
18 customers each.

19 Going forward, many of the municipalities
20 that neighbor our remaining private systems, do not currently
21 own or operate their own systems. In these situations, staff
22 may need to assist the muni with respect to the requirements
23 necessary to form a water district and to otherwise
24 understand the requirements associated with owning and
25 operating a water system.

1 Monthly meeting - PSC Commission - 12-17-2015

2 Further, some of our own policies which I'll
3 discuss in a minute, were developed and implemented to ensure
4 small water system technical and financial viability, which
5 they have done. But they have also in some cases, provided
6 the system owners with some perverse system evaluation
7 signals.

8 That said, the basic physical system
9 requirements necessary to reliably provide potable water, are
10 very similar to those that we faced in the early 1990s. The
11 health- and safety-related requirements flowing from our
12 sister agency, the Department of Health, however, have
13 increased dramatically in terms of complexity and their
14 associated need for detailed record keeping.

15 Further, small system owners are now twenty-
16 five years older and in many cases, less interested and
17 aren't physically capable of maintaining the systems
18 standards. Compounding these physical realities is a
19 continuing need for accurate accounting, record-keeping and
20 financial reporting, to effectuate the balance of increasing
21 revenue requirements necessary to maintain safe and adequate
22 service, while ensuring just and reasonable rates.

23 Taken together then, it is not surprising
24 that several of our very small systems may not be viable from
25 either a technical, financial or managerial basis, now or in

1 Monthly meeting - PSC Commission - 12-17-2015

2 the not too distant future.

3 To address these issues, the Commission has
4 over the years, implemented policies to help nurse some of
5 these systems along.

6 For example, many of these small systems are
7 often unable to secure a traditional bank loan financing to
8 fund the system improvements. As a consequence, the
9 Commission has allowed the creation of more than 40 small
10 water utility escrow accounts and these escrow accounts
11 enable system owners to surcharge customers directly for the
12 funds necessary to make those improvements.

13 This policy has customers effectively paying
14 for system improvements directly as customer-contributed
15 capital. Then when the owner tries to value the system for
16 sale, however, he often mistakenly assumes these funds were
17 utility value-added to system rate base. Going forward,
18 staff recommends more stringent and limited use of escrow
19 accounts and their related surcharges.

20 Similarly, the Commission has allowed another
21 mechanism to keep fund -- owners financially incentivized to
22 maintain their systems, after they have been fully
23 depreciated.

24 More specifically, the Commission has allowed
25 the use of operating cushions for return on the value of

1 Monthly meeting - PSC Commission - 12-17-2015
2 certain of the system O&M expense allowances, as a means by
3 which to provide a stream of income to cover unforeseen
4 events.

5 This system also achieved the short-term goal
6 of incenting the owner to maintain the system, but when the
7 owner ultimately tries to value the system for sale, he again
8 often mistakenly views the value of the operating cushion
9 income stream as a basis for developing a potential sales
10 price.

11 Staff consequently recommends eliminating the
12 use of operating cushions.

13 Now, of course, there are some exceptionally
14 dedicated small system owners that have in fact used these
15 policies effectively for the benefit of their customers, but
16 they are the exception and the fact remains that their
17 succession plans will most likely not produce similarly
18 dedicated operations.

19 Staff also clarifies the methods by which
20 purchase premiums can be evaluated and if necessary,
21 reflected in the ongoing revenue requirements of the merged
22 entities under the AIM Policy.

23 In summary, staff is recommending that this
24 continuance of operating cushions, more limited and stringent
25 use of surcharges and provides clarifications regarding the

1 Monthly meeting - PSC Commission - 12-17-2015

2 scope and application of the AIM Policy.

3 Staff recommends these mechanism
4 modifications to more effectively facilitate our long-term
5 goal of water system consolidations.

6 Finally, staff recommends that this report be
7 issued publicly to solicit comments to the proposals from
8 other interested parties.

9 That's it.

10 CHAIR ZIBELMAN: That's it.

11 MR. ALCH: Any --

12 CHAIR ZIBELMAN: Thank you.

13 MR. ALCH: -- questions?

14 UNIDENTIFIED SPEAKER: That's it.

15 CHAIR ZIBELMAN: That's it.

16 MR. ALCH: It's either I or --

17 CHAIR ZIBELMAN: That's it.

18 MR. ALCH: -- Peter will answer.

19 CHAIR ZIBELMAN: Thanks, Bruce.

20 So first of all, I -- I think that all of us
21 would agree that it's -- it's very concerning when we have
22 water systems, as you say, some of them as small, many of
23 them with less than 50 customers and the challenges that we
24 have in making sure that they're both able to raise and then
25 deploy and then operate the capital necessary to keep water

1 Monthly meeting - PSC Commission - 12-17-2015

2 safe and -- and clean and that it is necessary for us to take
3 a -- a look at this issue.

4 I know this is an approach that many of our
5 neighboring states have looked at and a lot of the staff --
6 your recommendations in terms of revisions of our policies
7 have been used successfully in other states to support
8 consolidation, which is really, from our perspective, is our
9 role here is really to -- for the benefit of consumers. It
10 just -- it's -- these are scale businesses and while -- and
11 often times, in these smaller companies are created because
12 there's a new development and that the few people who are
13 operating them really aren't in the water business and we
14 just need a -- an effective way to get these assets in the
15 hands of someone who makes us their business and I think this
16 -- that's what this process is about.

17 I'm also aware that a lot of the water
18 companies left are water companies that are not adjacent to
19 municipal water companies. So while we had some
20 consolidation, these were companies that were adjacent to
21 municipals water companies that acquired the neighboring
22 companies that were really constituents of the
23 municipalities. So what we have left are really the -- are
24 the ones that need private capital to -- to be deployed and I
25 -- I think this is a good way to go forward.

1 Monthly meeting - PSC Commission - 12-17-2015

2 Obviously, this is the beginning of the
3 process, not the end. We're going to seek comments and the
4 Commission will then take it up in the future and at that
5 point, we'll make a decision. But applaud staff,
6 appreciative of the work you've done. I know this is
7 something that I think from the first days I was here, I was
8 asking Doris what can we do, what can we do.

9 So thank you and I intend to support us
10 moving forward with this.

11 Any further comments?

12 Commissioner Acampora?

13 MS. ACAMPORA: Pennsylvania's been very
14 successful in what they've done. Are -- are you going to
15 take a look at what they're doing?

16 MR. ALCH: We used a lot of their ideas in
17 developing --

18 MS. ACAMPORA: Okay.

19 MR. ALCH: -- our --.

20 MS. ACAMPORA: Yeah. Because I think at one
21 time, they had way over 300 and now they're down to maybe a
22 dozen, so it's been very successful.

23 And as the Chair had said, when I first came
24 here, that was one of the first things I said. This is going
25 to keep me up at night. How do we get to reduce this number?

1 Monthly meeting - PSC Commission - 12-17-2015

2 I mean, at one time, it was over 500 we had and so --.

3 MR. ALCH: It was 450 in my tenure.

4 MS. ACAMPORA: Okay. So, we may -- we've
5 made, you know, good steps, but there again, the
6 municipalities are not going to always be there and so I
7 think that this is a perfect move to again, get us in to the
8 21st Century and come up with some good ideas.

9 As most people may or may not know, we deal
10 with the rate cases and we have to also have our partners at
11 the DEC and also the Department of Health and the Revolving
12 Loan Fund that we also deal with. So, I think it's important
13 that we take this step, so I'm glad that we're doing it.

14 Thank you.

15 CHAIR ZIBELMAN: Thank you.

16 Commissioner Burman?

17 MS. BURMAN: Thank you. Thank you very much.

18 I -- I do want to sort of give you my
19 perspective and I am going to vote in favor of the item, but
20 I do want to give you sort of my perspective on looking at
21 this in a whole, you know, a holistic way.

22 Over -- over the years, companies have been
23 actively acquiring several small water companies in New York.
24 We went from, I think it was, 450 to 254 since the policy's
25 been in place.

1 Monthly meeting - PSC Commission - 12-17-2015

2 This isn't a bad thing and in fact, such
3 acquisitions may be helpful, not just to the acquiring
4 company, but to the troubled, small water companies, their
5 customers and to the impacted community.

6 Now, this policy has been in place since
7 August 8th of 1994 and when we -- or -- or the Commission at
8 that time, issued a statement of policy and acquisition
9 incentive mechanisms for small water companies, it was to
10 encourage the acquisition of smaller troubled water systems
11 by larger systems and included a number of options to provide
12 incentives for such acquisitions and looked at it on a case-
13 by-case basis.

14 And this -- the stated policy of
15 consolidating where appropriate, the industry had the goal of
16 thereby achieving safe, adequate and reasonably priced water
17 service for the long-term. Whatever energy system we're
18 looking at and water is no different. We really need to look
19 at safe, clean, reliable and affordable.

20 From -- from my perspective, I do think it's
21 appropriate to review this policy and look at the landscape
22 as to what's happening in this area and thus not be deciding
23 such matters in a silo without the benefit of understanding
24 the overall achievements, or -- or not achievements, of the
25 policy objectives and active water systems.

1 Monthly meeting - PSC Commission - 12-17-2015

2 When we look at this though, we also need to
3 take in mind when we look at other states. You know, New
4 Jersey doesn't have a policy. They look at it on a case-by-
5 case basis. That may not be a -- a -- an apples to oranges
6 comparison because this policy has been being done on a case-
7 by-case basis. In fact, there's only been one company that's
8 taken advantage of it, so what we really need to look at is
9 from the 450 to the 254, the ones that didn't take advantage
10 of it, what did they see that was still beneficial and then
11 what were the barriers for the other remaining 254 that
12 didn't allow us to make the acquisition and maybe it's a
13 determination that this was a sufficiently viable water
14 system that doesn't need to be and the small water system is
15 safe, clean, affordable and reliable and can continue on.

16 But we do need to look really at the -- the
17 whole system that we're looking at because when we -- when we
18 look at acquisitions, it really can be transferred to a
19 government authority, transferred to non-jurisdictional
20 entities such as a homeowners' association or a non-profit,
21 transfer of a larger system to another large system, transfer
22 of a small system to a larger system, interconnection to a
23 regional facility perhaps, with the acquired utility still
24 remaining jurisdictional and interconnection to a regional
25 facility that has the utility now becoming non-

1 Monthly meeting - PSC Commission - 12-17-2015

2 jurisdictional.

3 So, we really need to make sure that what we
4 do will reflect the opportunities for all of those different
5 aspects and that we're looking at the policy as a whole, not
6 just in what is our jurisdiction, but how this may effect
7 positively or negatively any other systems that are there and
8 then, you know, as to other states that we look to because
9 there are not that many that have an AIM Policy.

10 In Pennsylvania that does have the policy, is
11 the legislative, which is broader than just the Commission,
12 so their focus has come from the legislative directive and
13 then was able to fine-tune what worked in being consistent
14 with the statewide policy for the jurisdictional focus that
15 they had.

16 So, I think this is a really appropriate
17 time. I think it's really kudos to Commissioner Acampora,
18 who has been, you know, the go-to expert on water issues and
19 I -- I value very much her focus and her working with the
20 staff to make sure that we highlight what's necessary to take
21 care of our water systems and embrace, you know, what -- what
22 might be needed for the future. So, thank you.

23 CHAIR ZIBELMAN: Thank you.

24 So, all those in favor of the recommendation
25 to initiate a proceeding to consider modification of the

1 Monthly meeting - PSC Commission - 12-17-2015
2 Commission's policy on an acquisition incentive mechanism for
3 small water companies and invite comments on staff's proposed
4 changes, please indicate by saying aye.

5 COMMISSIONERS: Aye.

6 CHAIR ZIBELMAN: Opposed?

7 Hearing no opposition, the recommendations
8 are adopted.

9 Thank you, staff.

10 I'm going to move to the consent agenda.

11 Do any of the Commissioners wish to recuse or
12 abstain from voting on any items in the consent agenda?

13 MS. BURMAN: I will be -- I will be
14 abstaining from items 261, 270, 271 and 372, as consistent
15 with my voting record on items such as these.

16 CHAIR ZIBELMAN: Okay. Any other abstentions
17 or recusals?

18 Okay. All those in favor of the
19 recommendations on the consent agenda, please indicate by
20 saying aye.

21 COMMISSIONERS: Aye.

22 CHAIR ZIBELMAN: Opposed?

23 Hearing no oppositions, the recommendations
24 are adopted.

25 Secretary Burgess, is there anything more in

1 Monthly meeting - PSC Commission - 12-17-2015

2 front of us today?

3 MS. BURGESS: There's nothing more coming
4 before you today. The next Commission Session is going to be
5 January 21st, which is a change in date. It will not be on
6 January 14th . In Albany.

7 CHAIR ZIBELMAN: Okay. So thank you all very
8 much. These are the resilient ones who stay till the end.

9 And I wish everyone a very, very happy and
10 safe holiday season.

11 (The meeting concluded.)

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1 Monthly meeting - PSC Commission - 12-17-2015
2 STATE OF NEW YORK
3 I, Howard Hubbard, do hereby certify that the foregoing
4 was reported by me, in the cause, at the time and place,
5 as stated in the caption hereto, at Page 1 hereof; that
6 the foregoing typewritten transcription consisting of
7 pages 1 through 89, 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 24th day of December, 2015.

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Howard Hubbard, Reporter

A	
abandon 67:19 71:18	addepalli 3:21 37:11 40:18 42:13 44:6 45:3,17
abandoned 67:14	addition 11:18 12:24 17:17,23 19:8 21:15 32:9 37:2
abandonment 69:10	additional 8:9 14:19 15:14 22:18 23:15 29:16 38:2 54:14 54:15 62:11,20 64:8,19 65:10 66:23 69:7 78:5
ability 42:12 50:19	address 10:6 12:17 13:6 57:10 57:11 63:18 64:17 65:20 80:3
able 5:11,14 32:14 36:13 44:18 49:6,8,15,20 52:20,24 58:11 59:8 71:16 82:24 88:13	addressed 13:11
absent 62:18	addresses 62:22
absolutely 11:13 32:18 46:18 60:22 70:4	adequacy 70:22 71:21
abstain 89:12	adequate 79:21 86:16
abstaining 89:14	adheres 47:17
abstentions 89:16	adjacent 83:18,20
abundantly 40:25 71:2	administration 58:13
ac 5:19 6:4 10:5,9 14:8 15:2	administrative 23:15
acampora 1:14 42:8 44:5,8 45:5 45:19 57:25 71:24 72:3 84:12 84:13,18,20 85:4 88:17	adopt 28:14 68:11
accelerated 76:9	adopted 26:5 60:7 76:16 89:8,24
acceptable 74:7	advantage 29:15 75:16 87:8,9
accomplish 36:22,23	adversely 34:4
accomplished 28:8	advise 5:25
account 68:24	advises 29:24 64:15
accounting 79:19	advisor 5:17 61:6
accounts 67:17,18 80:10,10,19	advisory 3:20 15:24 28:4,11 29:23 32:17 34:3 36:19 37:2 38:8 46:4
accurate 79:19	affect 36:9 43:24
accustomed 2:3	affordable 56:24 75:9 86:19 87:15
achieve 22:11 56:3 65:22 66:12	afternoon 77:5
achieved 65:11 66:16 81:5	agency 1:10 79:12
achievements 86:24,24	agenda 2:8,11,17 3:14 89:10,12 89:19
achieving 86:16	aggressive 64:7 70:9
acquired 83:21 87:23	aging 6:10 46:7,11 56:18
acquiring 85:23 86:3	ago 46:24
acquisition 76:24 77:19,20,22 86:8,10 87:12 89:2	agree 70:24 75:24 82:21
acquisitions 86:3,12 87:18	agresta 3:19 4:2 31:8 37:13,23 40:11 41:13,24 44:19 54:4 60:10
act 23:15	ahead 20:5
acted 72:7	aid 58:23 78:8
action 26:12	aim 77:22 78:7 81:22 82:2 88:9
actions 28:17	air 31:15
active 86:25	alacrity 66:3
actively 85:23	albany 1:11 9:13 90:6
activities 71:10	alch 61:7 77:5 82:11,13,16,18 84:16,19 85:3
activity 15:21 62:13	
actual 66:16	
adams 55:18	
adaptable 56:23	
add 37:9 49:3,14	

<p> allocation 4:12 allow 25:20 45:22 87:12 allowances 81:2 allowed 41:3 80:9,20,24 allowing 75:15 allows 19:9,21 20:21,22 24:3 48:23 aloh 76:25 alter 55:20 alternating 3:17 alternative 3:17 51:12,20 62:22 65:19 68:8 71:12 74:8 alternatives 13:5 45:14 62:21 63:7 67:4 68:5 america 12:12 amount 6:21 7:16 38:7,11,12 39:4,17 54:17 amounts 49:24 analogy 8:6 analyses 12:24 analysis 13:5,9 14:6,22 15:11 15:12,13,15,15,25 16:3,9 25:9 40:3,5,6,8,24 42:21,22,24 analyzed 12:25 andy 3:22 announced 13:15 answer 46:5 82:18 antirenewables 56:2 anyway 17:15 19:9,11 33:21 47:10 52:17 54:22 applaud 75:21 84:5 applauding 69:23 apples 51:16,16 87:5 applicability 26:9 applicable 74:20 applicant 18:23 21:4 22:23 applicants 12:10 18:12,19 21:17 23:7 37:3 42:18 application 20:3,6 82:2 apply 16:23 appreciate 55:11 appreciated 37:7 appreciation 38:6,17,23 70:10 appreciative 38:20 84:6 approach 24:24 32:10 64:10 65:24 67:18 70:4 83:4 approaches 63:17 68:11 77:18 approaching 63:23 appropriate 16:9 21:22 71:5 86:15,21 88:16 </p>	<p> appropriateness 65:23 approval 5:5 27:5 approvals 5:6 13:20 28:3 approve 5:9,10,12 approved 23:21 approximate 47:12 approximately 11:5 39:8 62:16 62:17 64:4 apropos 57:15 area 6:17 7:2,5 13:21 45:15 52:25 54:16 68:14 73:19 86:22 areas 9:13 13:22 17:21 59:5 aren 79:17 83:13 argued 8:10 argues 30:7 arguments 11:14 article 5:18 36:5 43:4,6,6,8 44:10,16,22 52:21 articulated 77:16 ascertaining 38:10 asked 2:20 16:5 31:4 38:19 39:2 52:3 70:13 asking 41:2,8 45:7 84:8 asks 41:6 aspect 3:7 aspects 88:5 assesses 64:25 assessment 24:8,21,22 64:2,12 asset 48:23 assets 53:12 83:14 assist 78:22 assistance 12:19 associated 78:9,24 79:14 association 87:20 assume 40:9 assumes 80:16 assuming 64:12 69:14 78:10 assumption 16:7,13,13 44:2 assumptions 40:9 attempt 36:22 attract 20:23 48:24 audrey 1:13 augment 17:25 august 86:7 austin 3:22 authorities 66:12 authority 28:5 64:21 66:25 87:19 available 48:10 61:8 63:7 77:3 average 9:19 16:8,15 </p>
--	--

averages 65:2, 6	70:23, 23 77:11 78:9
avoid 29:25 32:25 33:2, 4	beyond 66:21
avoided 15:17	biased 48:20
aware 83:17	bidder 43:4
aye 60:3, 4 76:12, 13 89:4, 5, 20 89:21	bids 21:16, 22
<hr/> B <hr/>	big 7:24 15:22 24:18 25:13 58:9 58:25
b 18:14 19:15 20:10 22:25 23:3 28:15 32:3, 18, 25 36:5 43:6 44:22	billion 29:5 40:15 48:7, 8, 8
back 4:15 23:2, 12, 17 52:3, 4 57:9 60:23	bit 33:19, 23
backbone 30:15, 22 56:5	blackout 48:2
background 34:24 77:15	blipped 60:21
bad 86:2	blockage 8:5
balance 30:16 50:13 64:14 79:20	blocked 8:3
balanced 28:8 56:15	board 28:14
balancing 56:13	borne 21:4
bank 80:7	bottom 23:3
banks 32:4	boundless 12:15
barriers 87:11	bounds 66:15
base 80:17	brattle 10:2 16:5, 15, 18, 19 18:4 38:22
basecase 25:5	brief 77:15
based 16:7 17:11 27:18, 20 37:6 40:16 62:8 63:4 64:12 67:11	briefed 36:17 39:21
basic 46:14 65:13 79:8	bring 2:5 7:20
basically 17:9 18:22 47:21	brings 23:17 25:16
basin 64:22	broad 10:24 11:16 19:8
basis 29:3 51:16 79:25 81:9 86:13 87:5, 7	broader 11:10 88:11
bear 21:19	broadly 25:22
becoming 87:25	brought 71:8 75:19
beginning 61:24 84:2	bruce 61:7, 9 70:15 76:18, 25 77:4 82:19
believe 34:3 39:9, 24 44:2 46:3 51:19 66:5 69:21	build 4:13, 23 5:11, 14 15:20 19:5 22:6, 9 25:12 51:2, 3
believes 15:24 16:9 32:17	builders 20:23
beneficial 13:12 87:10	building 1:10 24:19 25:14 29:25 51:25 53:14
benefit 14:2, 2, 25 15:24 16:2 31:21 40:3 48:21 53:4 66:9 70:19 81:15 83:9 86:23	built 4:25, 25 5:4 6:3 25:2 28:3 31:19, 19 44:21
benefitcost 12:24 16:24 17:2, 3 25:9 40:8	bulk 4:8, 9, 17 9:9 13:24 30:21
benefits 10:17, 25 12:23, 23 15:6 15:11, 22 16:2, 6 18:8 25:2, 4, 6 25:21 29:6, 9, 21 31:3 32:11 38:10 59:5	bulkpower 24:7, 23
best 14:23 36:12 48:22 49:25 51:5, 14 59:3	burgess 2:7, 9 55:9 89:25 90:3
better 12:4, 4 24:15 29:15 54:25	burman 1:14 74:17, 18 85:16, 17 89:13
	business 83:13, 15
	businesses 83:10
	bycase 86:13 87:7
	<hr/> C <hr/>
	c 1:13
	calculated 16:22 25:8
	calculations 16:3

<p> call 5:19 12:12 26:10 called 8:5,17 9:5 12:3 27:5 33:15 61:17 canty 61:7 capabilities 58:10 capability 6:11 7:25 9:16 11:3 17:24,25 18:2 31:21 46:23 47:6,9,13 capable 79:17 capacity 6:19,22,24 7:12 8:4 14:19 15:16 25:7 29:11,25 30:6 32:16 capacitycost 12:23 14:2 capital 16:8,15 20:22 73:15 76:22 80:15 82:25 83:24 caption 91:5 captured 15:14 care 75:9 88:21 carefully 55:15 caris 24:21,23,25 25:4,9,11 carries 75:20 cars 8:7,8 case 2:12 10:3 51:4 54:8 61:4 61:17 63:14,25 67:5 69:2,13 69:15 70:19 73:17 76:22 86:12 87:5,6 caseby 87:4 cases 6:5 30:24 33:8 36:5 78:7 79:5,16 85:10 categories 15:25 category 20:24 cause 22:22 73:16 91:4 central 2:12 9:5,6,11 10:7 centraleast 10:11 11:5,12,19,21 13:12 14:18 17:25 60:2 century 85:8 certain 60:22 65:16,22 68:3 69:4,10 81:2 certainly 58:18 63:23 70:21 certify 91:3 chair 1:13 2:2,9,16 30:19 31:6 31:7 37:19,25 40:12,21 41:16 41:25 44:9 45:2,20 54:5 55:7 57:24 59:9 60:5,11,14 61:12 68:16 69:5,12,18,20 72:2 73:24 74:16 75:23 76:14 82:10 82:12,15,17,19 84:23 85:15 88:23 89:6,16,22 90:7 challenge 73:3 78:14 challenges 56:14,20 82:23 </p>	<p> champlainhudson 43:19 chance 31:7 71:8 change 2:7,11 13:24 14:3 17:2 34:4 90:5 changed 11:8 changes 40:16 44:15 63:5 89:4 changing 63:4 68:4 character 36:9 charge 4:14 charged 4:9 48:19 chart 32:25 charts 63:3 cheaper 48:11 chief 61:6 76:25 choice 54:9 choose 21:24 chosen 32:14 circumstance 71:8 circumstances 50:13 61:25 68:4 city 46:14,18 claimed 30:21 claims 62:25 clarification 42:6 68:19 clarifications 39:19 81:25 clarifies 81:19 clarify 77:7 clean 44:7 49:18 50:9 53:11 54:11 58:22 75:9 83:2 86:19 87:15 cleaner 31:16 clear 3:2 11:23 40:25 44:15 71:2 clearance 33:11,15 52:16 clearances 33:16,23 clearly 40:19 43:21,22 50:24 56:10 71:8 close 68:22 78:4 closely 35:14 closer 32:4,6 closest 18:13 clunker 7:19 coal 31:10,10,12,14 coalition 13:4 14:12 15:7 30:5 code 26:12 codify 26:11 cognizant 75:10 collaborative 75:11 color 17:12 colored 12:8 17:8 combination 30:7 64:3 </p>
--	---

<p>combined 57:18 66:11 74:21 come 7:7 19:23 37:23 41:6 52:4 56:9 57:9 58:18 69:17 72:12 72:24 73:6 85:8 88:12 comes 8:9 41:23 comfort 20:5 comfortable 54:24 coming 9:12,25 42:11 51:10 54:22 74:6,25 90:3 commend 74:2 commended 63:16 comment 26:5 63:22 commented 21:7 commenters 65:15,21 66:5 comments 5:21 11:7 23:16 37:6 39:18 42:5 45:21,23 54:6 63:24 67:20 68:18 71:22 82:7 84:3,11 89:3 commerce 4:11 commission 1:1,4,6 2:1,4,19 3:1 3:16 4:1,7,19,24 5:1,9,17,18 5:20,25 6:1 7:1 8:1 9:1 10:1 10:4,10,15,25 11:1,2 12:1,3 12:18 13:1 14:1,16 15:1 16:1 17:1 18:1 19:1,19,24,25 20:1 20:18,25 21:1,8,16 22:1 23:1 24:1 25:1 26:1,4,8,13 27:1,6 27:15 28:1,5,7,12,16 29:1 30:1 31:1,25 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1,5,7,7 44:1 45:1 46:1,24 47:1,15 48:1 49:1 50:1 51:1,4,14,22 52:1,2 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1,3,7,10,20 62:23 63:1 64:1 65:1 66:1,2 66:11,22 67:1,12,21,24 68:1,2 68:5,20 69:1,2,3 70:1,21,25 71:1,3 72:1 73:1 74:1 75:1 76:1,24 77:1,8,15,17 78:1 79:1 80:1,3,9,20,24 81:1 82:1 83:1 84:1,4 85:1 86:1,7 87:1 88:1,11 89:1,2 90:1,4 91:1 commissioner 39:20 40:18 45:18 57:24 60:22 74:17 84:12 85:16 88:17 commissioners 1:12 2:10,18 38:5 45:12 60:4 76:13 89:5,11,21 commitment 63:9 common 6:6</p>	<p>communities 15:19 37:8 63:14 community 15:20 63:8 70:12 73:2 74:5,10,12 75:2,15 86:5 companies 58:17 73:11 77:19 83:11,18,18,19,20,21,22 85:22 85:23 86:4,9 89:3 companion 14:15 company 63:20 64:13,15,18 65:4 65:13 66:2,7,8 67:15 70:11 71:6 72:7,18,20 73:20 74:3,9 74:12 75:2,2 86:4 87:7 comparative 12:20,21 14:22 compares 65:2 comparison 87:6 compatibility 5:13 12:17 13:11 14:11,13 31:25 compatible 5:2 36:25 competing 19:14,16 competition 19:4 20:14 29:11 50:25 51:6,9 compiled 5:22 complained 11:11 20:20 complaining 11:8 complaints 11:24 completion 68:4 complexity 79:13 compliance 2:19 3:9 complying 42:23 component 18:8 56:11 components 15:11 compounding 79:18 comprehensive 14:22 24:8 computer 12:21 15:12 60:21 concept 11:17 concern 70:22 71:4 concerned 31:9 33:5 51:24 72:6 78:12 concerning 3:3 82:21 concerns 10:14 12:3 25:22 47:5 concluded 90:11 concludes 37:14 64:2 conclusion 44:18 concrete 35:10,17 conduct 42:20 conducted 39:7 conductors 33:12 conference 14:8,10,13 15:3,5,9 confirmation 27:14 conflict 30:20 congested 10:12 11:4</p>
--	--

congestion 8:5 9:18,19,20,22,24
 10:6,8 11:9,18 15:8 18:5,5,10
 24:11,20,22 28:7 29:8,10
 30:12 40:13,16 47:2 48:4
 54:10,11,12
congratulate 38:16
congratulations 76:19
conjunction 28:13
connected 61:16
consensus 65:17
consent 89:10,12,19
consequence 80:8
consequently 30:10 81:11
conservation 61:24 63:9 64:4
 65:11,17 66:6,19 68:9,12 70:5
 70:9,17,18 71:11,16 72:14
 73:9 74:13 75:6 76:9
conservative 15:25 16:3,12 40:5
 48:19 64:10
consider 10:5 16:10 88:25
considerable 5:21 39:3 65:14
considerably 34:7
consideration 13:22 24:5,13
 28:22 37:4 63:6
considerations 11:10,17 43:15
considered 24:11 25:3 26:13
 36:20 43:13
considering 14:4
considers 25:4,18 36:21 62:24
 62:25
consistent 28:17 88:13 89:14
consisting 91:6
consolidate 77:16
consolidating 86:15
consolidation 78:14 83:8,20
consolidations 77:13 82:5
constituents 83:22
constitute 28:20
constitutes 27:4
constraint 22:8
constructed 24:15
construction 13:18 28:9 43:10
 43:22 44:23 54:14 62:2 67:17
constructively 63:17
constructs 25:24
consultant 2:24 64:24,24 65:3,7
 65:9
consumer 69:25
consumers 66:8 83:9
consuming 66:18
consumption 64:4
contained 2:14 28:19 36:16
containing 15:11
context 4:4 70:2,3
continuance 81:24
continue 30:22 31:20 53:4 70:13
 71:20 87:15
continued 78:14
continues 66:20
continuing 69:6 79:19
contribute 5:23 24:15 37:5
contributing 10:13
contribution 31:11 39:17
contributor 31:13
control 7:2 8:16 41:11
controlled 7:4
conversations 70:16
core 30:17
cornell 72:17
corporation 2:13
correct 40:10,11,18 41:13 46:5
corridor 11:4
corridors 10:11 32:22
cost 4:11 5:5,9,14 9:19,23
 14:11,25 15:24 16:2,8,15
 18:21,21 19:7 20:3,18,22 21:4
 21:6,8,12,13,20 29:7 30:8
 31:3 38:10 40:3 41:10,19
 54:10 59:13 67:3,7 73:16
costallocation 27:23
costallowance 4:12
costbenefit 29:7
costeffective 26:23 27:21 28:8
 53:11 74:7
costefficient 27:21
costrecovery 23:11,22 24:3
 25:20,24 27:23 41:3
costs 10:13 15:6,17,17 16:5
 18:25 20:7,15,16 21:3,10,18
 29:10,11 55:3 67:8,16 69:14
counsel 3:20
counties 62:6
country 38:14 58:7
county 9:13 13:21 22:7 66:8,12
 68:10,10 69:24 71:20 72:5,10
 73:6
couple 20:16 39:19 54:19
course 10:8 38:21 73:10 81:13
cover 17:13 81:3
cpv 13:16 14:5 22:5 41:22

created 25:20 70:20 83:11	53:22,24 63:3 67:21,22 70:25
creating 3:8	84:5
creation 80:9	decisions 28:17
criteria 36:20,22 42:22	declare 42:15
critical 68:13	declaring 29:3
cross 9:13 14:18 32:10	dedicated 81:14,18
crossing 32:14,15 60:2	dedication 63:13
crossings 32:12	deed 20:24
crosssection 35:4	deferral 67:16 68:24
crosssections 34:22	deferred 67:18
crowded 8:6	deficiency 7:14
crystallizes 57:17	deficit 7:16
culmination 61:15	defined 26:3
current 3:17,17 9:16 36:14	definitely 45:17
67:17	definition 9:20 18:5,10 41:3
currently 66:8 78:20	degree 34:3 37:21 63:13
cushion 81:8	delayed 62:10
cushions 80:25 81:12,24	delete 17:13
customer 66:4	deliberately 48:19
customercontributed 80:14	demand 6:18 7:8,10,20 62:9,12
customeroriented 65:11	63:5 64:14 65:20 66:17 67:7
customers 62:5 63:18 78:18	71:4 74:12,13
80:11,13 81:15 82:23 86:5	demandbased 50:11
	demonstrated 30:6
D	denied 31:2
d 4:3 37:9 42:6 43:16 45:9,15	department 61:23 79:12 85:11
57:20	depend 43:25
data 14:25	dependent 47:21
database 22:5	depending 34:7 43:12
date 29:2 43:17 45:4 90:5	depicted 8:20
dated 13:10	depiction 9:2
dates 68:3	deploy 82:25
dave 72:18	deployed 83:24
davis 3:22	deployment 30:9
day 62:17 64:5,6,9 65:8 67:10	depreciated 80:23
75:15 91:10	deputy 3:19 70:14
days 42:18 84:7	deriving 28:20
deal 33:19 58:16 73:11,17 85:9	desal 68:22 71:6 72:8 74:10
85:12	desalination 61:22 62:21,25
debate 63:11	65:19 67:9,13,23 76:11
debated 65:16	described 11:15 27:25 76:11
debit 67:18	design 35:10,22
dec 85:11	designs 52:19
decade 66:4 67:7	detailed 15:10 44:23 79:14
decades 34:2 54:12	details 36:16 65:16 67:3
december 1:9 91:10	detection 64:7 65:17 70:5 71:11
decide 36:12	75:6 76:9
deciding 4:11 57:2,3 86:22	determination 46:5,25 87:13
decision 5:16,23,24 6:5 11:23	determine 59:24 67:12 76:10
19:3 20:19 23:19 27:3 39:15	determined 27:24 36:5 62:8

develop 59:24 61:18 67:8,23
developed 53:15 67:4,6 79:3
developer 21:5 23:10,11
developers 27:10 38:24 41:9
 52:3 59:15
developing 81:9 84:17
development 10:20 29:17 55:4
 58:16 61:5 69:3 77:2 83:12
develops 8:9
diagram 35:20
diane 1:14 55:8
dictates 55:19
didn 21:23 87:9,12
difference 41:19 42:11
different 8:25 12:8,9,10 17:20
 18:16,17 35:9,22 38:8 51:4
 56:13 65:21 86:18 88:4
difficult 17:10 21:24 55:12
diligence 63:16
direct 59:14 66:22 67:15 76:8
directed 12:18
directive 88:12
directives 68:3
directly 80:11,14
director 60:16
dirty 7:19
disagrees 65:23
disconnection 55:23
discount 16:3,5,13,17
discounting 56:7
discontrate 16:7
discuss 79:3
discusses 11:16
discussing 31:24
discussion 4:3 60:13 70:19
distance 33:14
distant 80:2
distributed 3:4 30:9
district 78:23
diverse 30:16
diversity 10:19 29:15,16 49:14
 55:4
divides 8:18 9:6
dividing 8:21 9:8
docket 3:5
dockets 3:3
doesn 58:4 70:7 74:6 87:4,14
doing 18:13 20:5 22:3 41:7
 52:22 56:15 57:6,20 71:11
 84:15 85:13

dollar 29:7 40:7 48:21
dollars 9:21,23,24 18:6,7 29:6
 29:6 39:8 40:7,15 48:8,8,20
 68:23
don 7:18 11:22 19:17,22 22:11
 49:22 53:14,22 58:16,18 59:14
doris 84:8
downstate 6:4,11 7:22,23 8:17
 8:23 9:17 14:20 31:2,22 42:12
 44:3 46:10,13 47:7 48:9,14
 54:11,15 58:10,23 59:2
downward 20:15
dozen 84:22
draft 36:16 61:14
dramatically 79:13
drawings 44:23 45:8
driven 14:16 59:24 62:13
drives 26:6 33:22
droughts 61:20
due 2:21 25:2 31:15 62:2 65:4
dynamic 30:16
dynamically 50:12
dynamics 63:4

E

e3 2:24 3:11
early 77:17 79:10
easier 17:18 21:22
east 9:6,11 10:7
eastern 9:7
economic 15:21 24:22,24 47:5
 48:12,15 53:20 55:4 58:16
 62:13
economics 43:24
economists 16:10,12
edict 9:12
edison 57:14
effect 13:23 88:6
effected 37:7 59:18
effective 83:14
effectively 80:13 81:15 82:4
effects 14:4 47:4
effectuate 79:20
efficiencies 19:6
efficiency 10:18 29:12
efficient 10:21 29:18,19 50:19
 50:21
effort 38:11 43:22 61:15 63:13
 75:11 78:5
efforts 64:4,6 65:2 66:7,11

71:21 78:14
eighty 21:8 34:9 35:24
eightyfive 34:10,15
either 11:13 26:8 31:15 54:9
 79:25 82:16
eleanor 33:3
electric 2:13 4:8,9,17,22 13:12
 13:25 14:17,25 15:13 29:20
 30:23 31:5 32:22 70:2
electrical 10:12 13:13
electrically 8:18 9:6
electricgeneration 12:22,23
electricity 6:18 48:9 53:10,11
 53:11
electrify 47:20
eligible 27:23
eliminate 30:24
eliminating 29:19 81:11
eloquently 30:20
embarked 39:16
embrace 68:11 88:21
embraced 77:18
embraces 56:3
embracing 68:8
emerged 62:2 63:9
emission 25:7
emissions 31:15 55:3
empire 1:10 2:14
employment 15:21
enable 80:11
encompassed 11:17
encourage 75:18 77:18 86:10
energy 3:4 4:6 8:10 12:14,15
 13:4 14:12 15:7 28:12,13,14
 28:15,15,18,19,24 29:8 30:5,9
 30:14,17 31:11,13 44:7 49:18
 50:9 53:22 55:24 56:11,17,24
 58:6,8,12 86:17
energyrelated 28:16
engaged 70:16
engagement 69:25
engaging 57:12
enhance 58:22
enhanced 64:7
enhancing 10:17 29:12,14
enormous 55:14 56:18
ensure 21:15 56:23 66:20 75:10
 75:18 79:3
ensuring 24:9 53:20,20,21 77:13
 79:22
entities 12:11,11 81:22 87:20
entitled 20:2 41:10 69:8
entity 4:17 25:24 78:4
environmental 5:10,12 10:19
 12:2,17,25 13:11 14:11,12,24
 29:9,19 31:24 32:2 39:3 47:3
 47:4 59:13 61:23
environmentally 5:2 36:24 56:24
equally 70:3
equipment 22:15
era 12:14 19:13,16 20:9,10 35:9
 35:10
escrow 80:10,10,18
especially 30:2 44:6 61:2
essential 48:2 53:9,18
essentially 63:20
establish 2:13 21:2
estimated 16:19 66:16
estimates 16:18 18:4 65:7,10
 67:4
estimating 18:22 64:10,10
evaluate 56:22
evaluated 25:22 27:13 64:3
 81:20
evaluates 27:16
evaluating 38:9
evaluation 12:20,21 26:19,22
 27:20 79:6
events 81:4
everybody 2:3 19:7 21:14,21
 57:25 74:11
evidence 55:17,21 56:17
evidentiary 3:8
examine 3:16 61:4
example 56:21,22 64:20 80:6
exceed 34:15
exception 81:16
exceptionally 81:13
excess 6:21,24 7:12 8:2 32:16
exchange 14:9 15:4
exciting 73:3
excuse 42:22
execution 57:14,22
executive 70:14
existing 9:9 12:4,6 22:7 24:24
 29:15,22 32:15,22,22 33:6,7,8
 34:2,6,9,17 35:5,5 44:16 47:7
 48:23 52:6,12 53:2 54:20,21
 54:25 56:6,17 64:21 66:25
 76:24 78:7

exists 10:6 27:16
expectations 42:22
expected 10:22 18:9 31:12
expecting 69:13
expedited 44:12,17
expeditious 57:13
expeditiously 57:10,10
expense 81:2
expenses 68:23 69:3,7 71:16
expert 38:20,22 88:18
experts 58:6
explain 30:19
explained 10:10
explaining 41:18
exploration 65:18
explore 62:21 63:17 64:18 66:23
 68:5 71:14
express 43:20
extensive 30:9 38:6 44:20
extensively 39:21
externally 55:13
extraordinarily 39:10
extremely 16:12

F

face 72:20
faced 79:10
facilitate 82:4
facilities 4:8,10,22 6:3 7:3,4
 12:6 14:18 23:8 24:10,13,19
 25:11,14 30:13 31:9 32:7,9,18
 32:23,23 33:2
facility 5:4 6:14 13:5,17,19
 14:5 33:4,5 60:2 87:23,25
fact 46:6 49:10 52:11 66:7 71:5
 75:10 81:14,16 86:2 87:7
facts 19:2 44:18 55:16,18,20
 56:16
failures 61:20
fair 56:15
fairly 54:9
fairness 21:15
famous 73:7
far 49:19 67:6 68:25
farms 31:18
farther 9:11
faster 66:17
favor 59:22,23 71:17 76:5,7
 85:19 88:24 89:18
feasibility 63:20

february 69:17,18
federal 4:6,10 5:5,7 20:17 26:3
federalism 4:5
federalstate 5:3
feel 39:15 53:7 70:23
feet 34:10,11,15,16,18 35:12,24
fellow 2:18 39:20
felt 72:7 73:13
ferc 4:6,7,8,11,14,16,18 5:8,13
 5:17,25 6:5 20:17,21,22,25
 21:11 23:11,21,22 25:20 27:24
field 36:11 45:13
fifteen 38:15
fifty 30:25 78:17
figure 40:13
file 43:5 67:16 69:13
filing 2:12
filings 36:5
final 2:8 14:15 23:14 70:18
finally 25:16 67:20 68:7 82:6
financial 48:13 78:9 79:4,20,25
financially 80:21
financing 13:17 80:7
find 14:16 28:5,12 66:2,13
finding 68:21
findings 14:7,9,13 15:4,8
finetune 88:13
first 3:12,15 8:17 24:2 26:15
 27:3 38:4 42:13,15 55:10
 60:17 66:2 67:8 69:22 72:11
 77:15 82:20 84:7,23,24
fits 58:12
five 9:17 31:11 32:6 35:12,19
 62:17 67:9 79:16
fix 56:18
fixed 73:14
flexibility 10:18 29:12 49:8
 72:23
flexible 50:17 72:25
floor 1:10
flow 69:11
flowing 54:11 79:11
focus 11:9,11 25:5 88:12,14,19
focused 14:10 15:5 51:22 57:13
focusing 25:5
folks 49:23 55:12 74:25 75:18
follow 28:25 42:23
followed 63:19
following 15:11
foot 34:12,12 35:19

force 22:10 63:21 64:23 65:15
 69:23 70:11 72:15,21 73:20
 74:3
forces 54:13
forecast 9:22,23 15:8 62:9,12
 62:15 66:17
foregoing 91:3,6
form 78:23
forth 18:12
fortunately 7:9 58:9 60:23
forward 17:7 19:3 43:21 49:15
 57:4 63:4 71:6 72:24 75:19
 76:3,8 78:19 80:17 83:25
 84:10
fossil 31:4
found 62:10,15 69:3
foundation 11:13
four 12:11,11 23:21,25 26:15
 35:5
fourth 25:16 26:22
franklin 33:2
free 20:11
friendly 56:24
front 39:10 43:5 50:16 90:2
fuel 29:15 30:16 55:4 56:4,8
fueled 30:8 31:4
fuels 31:16 56:12
full 22:11 67:3
fully 80:22
function 40:19
functions 73:5
fund 80:8,21 85:12
funding 39:9
funds 80:12,16
further 14:4,9 15:4 19:4 20:15
 29:24 37:3 41:17 54:6 62:21
 64:18 66:23 71:22 79:2,15
 84:11
furtherance 68:2
furthermore 32:20
future 15:18 29:23 30:2,14
 31:14,20 33:10 56:11,25 68:13
 80:2 84:4 88:22

G

gain 78:8
gallons 62:17 64:5,6,8 65:8
 67:10
gas 2:13 30:7,8,13 35:6 40:16
 40:19 54:15 55:3 56:10

geduklig 60:15
general 2:13 3:19 9:2,8 17:21
 26:9 65:17
generally 8:21 28:16
generate 73:5
generating 7:3 14:5 54:15
generation 6:19 7:22 10:21
 13:16 29:18,20 31:3 46:10,11
 49:16,17,17
generator 10:22 29:14
getting 60:23 76:3
give 4:19 5:13 7:11 21:5,8,11
 42:18 44:21 85:18,20
given 17:11 19:2 33:10
gives 20:4
gjonaj 3:22
glad 85:13
go 6:14,25 8:13,23 9:4 12:7
 17:5,7,18 23:2,12 33:17 34:21
 35:3,11,21 39:18 40:9 41:8
 45:12 47:12 48:7 51:3 52:3
 60:11 68:23 83:25
goal 52:24 66:13 77:12,16 81:5
 82:5 86:15
goals 15:18 44:7
goes 20:24 57:4,15
going 2:5 3:3,5,13,24 5:19,25
 19:3,18 20:5,8 22:21,24 25:12
 30:20 36:8,11,17 39:19 45:10
 45:22 46:8 47:9 49:6,24 51:8
 53:4,24 54:21 55:22 56:10
 58:17,18 59:18 60:11 61:3
 69:16 70:8 72:6,9 73:14 75:8
 76:4,21 77:3 78:19 80:17 84:3
 84:14,24 85:6,19 89:10 90:4
good 2:2,9 20:24 39:15 56:21
 58:2 61:11 70:19,20 73:23
 77:5 83:25 85:5,8
goto 88:18
government 4:6 72:24 87:19
governments 68:10
gray 17:14
grayed 34:25
grayedout 35:15
great 31:25 32:10 37:12 46:2
 56:22 59:7 62:12 73:23 75:14
greater 7:8,9,16 33:17 66:5,7
 78:14
greatly 37:7
greenhouse 55:3

gregg 1:13 54:7
grid 50:15,16 58:7,7
ground 33:12,15
grounds 33:3
group 12:13 16:18,19 17:16
groups 72:12
growth 10:20 29:17 62:13
guidance 4:19

H

half 7:22 32:5,5 40:14 48:7
hallucination 57:15
halt 8:9
hammering 50:7
hand 31:18
handle 8:4,7,11
hands 83:15
hanging 33:13,14
happen 43:8
happening 86:22
happens 21:9 43:10
happy 2:4 59:7,9 60:18,24 61:2
 90:9
hard 26:11 34:23 39:12 46:17
 54:2 59:15 73:21 76:18
harmonize 77:11
havel 57:16 74:20
head 44:21
headed 72:16
health 10:19 29:19 79:11,12
 85:11
healthy 58:7
hear 37:16
heard 6:6 73:12
hearing 60:6 76:15 89:7,23 91:8
hearings 72:10 73:13
heartening 74:4
heavily 68:8
height 34:10,11,16,18 35:13,24
 36:13 44:24 52:13
heights 34:19 36:4
help 21:2 44:3 50:13 52:20
 72:14 80:4
helpful 38:18 78:8 86:3
helps 48:23
hereof 91:5
hereto 91:5
hereunto 91:9
high 20:21
higher 33:8,9,24 35:13,19 40:20

higherenergy 10:13
highervoltage 33:24
highlight 88:20
highlighted 6:9
highway 8:10 55:24
historical 9:19
historically 51:2
history 48:5
holiday 90:10
holidays 2:4
holistic 85:21
homeowners 87:20
honestly 72:3
honorary 37:21
hope 21:14 31:6 43:8 54:13 58:4
 60:8 69:16 70:18
hopeful 66:11
hopefully 36:13 37:15
hoping 42:25
horizon 25:6
horizontal 35:23
horizontally 36:2
hours 46:15 76:18
house 33:3
howard 91:3,13
hubbard 91:3,13
hudson 2:12 13:3 14:11 15:7
 30:3,5 32:4,8,10,12,14,16,19
 32:21 34:5,6,8 35:18 36:9
 49:11,12 61:22
hundred 21:11,18 34:11,12,12,18
 35:12,19 78:17
hundreds 63:23
hyde 33:2
hydro 49:17 58:21
hydropower 42:10 43:18

I

icap 15:15
idea 7:11 20:14 53:2
ideas 73:8 84:16 85:8
identical 34:20
identification 26:15 27:8
identified 10:25 22:4,18 24:4
 24:25 26:18 27:10 28:10,23
 37:5 40:4 59:20 68:22
identifies 46:15
identify 14:23 22:22
identifying 24:24 27:6
idle 48:12

impact 14:24,25 32:19 34:4 42:11 45:15 53:3,5 54:20 59:13,14	increased 17:23,24 29:25 31:21 33:16 46:22 52:13 66:25 79:13
impacted 62:12 86:5	increases 50:20
impactful 52:9	increasing 10:19 29:16 33:22 47:6,8 79:20
impacts 10:19 13:2,12 29:13,19 32:2,8,20 36:7 51:24	increasingly 54:10
impair 52:8	incredibly 38:18
impairment 51:25	incremental 34:4 36:6 76:10
impetus 72:4	incurred 47:6
implement 53:21 68:12 74:13	independent 43:21
implementation 64:13	indian 49:4
implemented 79:3 80:4	indicate 60:3 76:12 89:4,19
implications 69:11	indicates 67:6
importance 25:23	individual 36:12
important 3:7 25:21 36:7 39:25 40:3 46:3 49:10,15 50:2,6 51:7,19 52:7 58:15,20 70:3,8 85:12	industry 51:10,11 73:16 77:17 86:15
importantly 50:5 63:8	inflexible 72:25
imported 6:20,22	information 2:14 5:23 9:25 14:9 15:4 44:22 45:11 62:8
imports 30:11	infrastructure 6:10 31:5 53:8 56:19 78:5
impressed 63:12	initial 11:25 13:9 14:10
impressive 5:22 39:10	initiate 67:21 88:25
improved 39:16	initiated 10:4 61:15 62:3
improvements 80:8,12,14	initiatives 55:25 56:4
improves 49:7,8,11	inline 57:16
improving 29:11,13	innovative 51:5 73:8
imprudence 68:21	inservice 43:17 45:3
inbetween 9:15	installed 15:16
incenting 81:6	instances 4:18
incentive 20:22 21:2,5,13 76:25 77:22 86:9 89:2	institute 33:4
incentived 80:21	instituting 10:9 11:16
incentives 86:12	insufficient 8:4
inclinations 55:19	integrate 49:16
include 10:11 11:12 25:22 52:5 63:6	integration 24:21
included 12:16 13:4 15:10 64:24 86:11	intend 71:17 84:9
includes 4:11 11:4,20 23:21 24:7,22 29:8	intensive 73:16
including 3:4 4:21 10:17 14:21 25:7 26:4 29:9,16 64:19 66:24 77:19	interconnection 55:24 87:22,24
income 15:19 81:3,9	interconnections 64:19 66:24
incorporated 25:8	interest 47:17 55:2 63:8,24 77:21
increase 6:10 11:3 16:21,25 17:3 31:9 49:17 52:17 64:21 71:4	interested 45:10,16 72:20 73:5 79:16 82:8
	interesting 45:9 72:19
	interface 8:18 9:5,6 11:12,12 11:19,20
	interfaces 8:15 10:7,12 11:5,21 13:14 14:19 18:3 60:2
	interim 3:5 13:10 14:7
	intermediate 61:18

intermittent 50:10
internally 55:12
interplay 5:3
interrelated 6:6
interstate 4:11
intervenor 39:9
invest 48:21
investment 4:15
investments 48:22 50:22
investorowned 12:13
invite 89:3
invited 20:6
involve 36:11
involved 39:5
involves 54:8
island 6:21,24
isn 86:2
iso 4:16 5:25 6:5 12:19 19:5,8
 19:10,20,21 20:3,4 21:16,22
 22:4,4,10,19 23:18,20 24:16
 24:18 25:10,12,13 26:3 27:5,7
 27:9,16,20,24 36:21,23 38:18
 41:2,4,6,11 42:17,20 43:14
 46:4,14 51:8,15 57:4,11
issue 13:6 19:7 40:22 46:25
 50:8,25 57:3 70:25 71:19
 72:24 83:3
issued 14:7,14 23:14 82:7 86:8
issues 4:12,21 12:18 13:11
 14:10 15:6 24:10 57:2 64:22
 67:2 80:3 88:18
item 2:11 3:15 60:12 61:3 77:6
 77:6 85:19
items 3:14 89:12,14,15
iteration 41:17

J

jam 8:8
january 61:24 69:13 90:5,6
jersey 87:4
jim 3:22
job 10:20 29:17 37:12 41:18
 46:2 60:25
jobs 48:24
john 23:2 55:18
join 69:22
joined 60:19
joint 61:16,17 74:4
journey 55:12
judgement 43:8

judy 70:14 72:18
july 13:10
june 13:15
jurisdiction 88:6
jurisdictional 87:24 88:2,14
justify 68:5

K

karen 60:15,18,19,24
keep 6:19 21:3,6,10,13 24:10
 73:22 74:15 80:21 82:25 84:25
keeping 12:6 46:18 79:14
keeps 54:10
kevin 70:15
kim 44:13
kind 22:21 50:8
knickerbocker 18:18
know 3:9 11:22 19:17 38:4,6,14
 38:18 39:3,4,6,11,20,21,22
 40:13,14 44:10,14 45:25 46:2
 47:24,25,25 48:13 49:2,21,21
 51:2 52:12,21 53:7 54:4 55:23
 56:7,10 58:24 59:16,18 66:10
 70:10 72:17,22 73:10,15 76:17
 83:4 84:6 85:5,9,21 87:3 88:8
 88:18,21
kudos 88:17
 14:17 28:9 59:25

L

l 1:14
land 51:24 52:8,14
landmarks 52:9
landscape 12:6 30:14 34:2 86:21
landuse 4:21
lane 71:25
lanes 8:11
language 11:15
large 87:21
largely 70:2
larger 86:11 87:21,22
largest 39:7
laserfocus 75:8
lastly 40:21
lattice 34:24 35:5,7
laudable 66:13
law 2:19 26:3,6,7 28:13,15,24
laying 42:21
lead 8:24 23:22 54:14 58:5
leak 64:5,7,25 65:17 70:5 71:11

maps 15:12,13,14 17:10	methods 81:19
marcy 8:24 9:10,12	metrics 27:19
market 29:11 48:5 54:13	middle 13:21
massive 49:24	midwest 49:21,22,23
match 12:5 34:19	mike 3:21 37:21
matter 2:15 13:7 76:21	miles 32:5,6
matters 6:4 86:23	milestones 68:3
maximum 23:5	million 9:21,23,24 16:21,21,25
mcgowan 61:6,11,13 68:25 69:9	17:3 18:6,7 39:8 40:14 62:17
69:16,19	64:5,6,8 65:8,10 67:10 68:23
mean 45:22 48:4 85:2	69:4
means 5:3 6:18 33:13 81:2	mind 87:3
measure 20:4	mine 39:22 54:5
measures 64:3,16 65:12,18,22	minimize 32:2 36:13
76:10	minimized 32:21
mechanism 76:25 77:22 80:21	minimizing 65:4
82:3 89:2	minimum 21:14 24:10 33:11
mechanisms 77:8,11 86:9	minor 39:23
meet 27:13 39:2 44:4 47:7 49:18	minute 45:6 79:3
64:16 66:4	minutes 31:24
meeting 1:1,6 2:1,5 3:1 4:1 5:1	miscellaneous 67:18
6:1 7:1 8:1 9:1 10:1 11:1	mistakenly 80:16 81:8
12:1 13:1 14:1 15:1,18 16:1	mitigating 10:21
17:1 18:1 19:1 20:1 21:1 22:1	mitigation 29:13
23:1 24:1 25:1 26:1 27:1 28:1	mix 30:17 31:11 56:8
29:1 30:1 31:1 32:1 33:1 34:1	model 15:15
35:1 36:1 37:1 38:1 39:1 40:1	modeling 12:22
41:1 42:1 43:1 44:1 45:1 46:1	modification 88:25
47:1 48:1 49:1 50:1 51:1 52:1	modifications 82:4
52:10 53:1,5 54:1 55:1 56:1	monetized 16:2
57:1 58:1 59:1 60:1 61:1 62:1	money 20:5 73:17
63:1 64:1 65:1 66:1 67:1 68:1	monopole 34:16 35:2,8,10 53:3
69:1 70:1 71:1 72:1 73:1 74:1	monopoles 52:19
75:1 76:1 77:1 78:1 79:1 80:1	monthly 1:1 2:1 3:1 4:1 5:1 6:1
81:1 82:1 83:1 84:1 85:1 86:1	7:1 8:1 9:1 10:1 11:1 12:1
87:1 88:1 89:1 90:1,11 91:1	13:1 14:1 15:1 16:1 17:1 18:1
megawatt 13:16 14:5	19:1 20:1 21:1 22:1 23:1 24:1
megawatts 7:13,14 9:18 11:6	25:1 26:1 27:1 28:1 29:1 30:1
17:17,23,24 47:11,13	31:1 32:1 33:1 34:1 35:1 36:1
members 69:23 70:11	37:1 38:1 39:1 40:1 41:1 42:1
memory 71:25	43:1 44:1 45:1 46:1 47:1 48:1
mentality 59:2	49:1 50:1 51:1 52:1 53:1 54:1
mentioned 40:2,24 52:14 58:20	55:1 56:1 57:1 58:1 59:1 60:1
65:14	61:1 62:1 63:1 64:1 65:1 66:1
mentions 11:19	67:1 68:1 69:1 70:1 71:1 72:1
merged 81:21	73:1 74:1 75:1 76:1 77:1 78:1
met 14:8 15:3 25:19 39:22 52:24	79:1 80:1 81:1 82:1 83:1 84:1
meter 50:15,16	85:1 86:1 87:1 88:1 89:1 90:1
metering 64:7	91:1
methodology 44:2	moreefficient 26:23

morning 2:2,9 61:11
mostingenious 52:4
motion 3:16 14:15 59:23 61:4
move 7:25 14:20 43:21 49:6,15
 49:20,25 50:8 53:15 58:11
 59:8,21 76:8 85:7 89:10
moved 11:11
moving 75:11 84:10
muchmore 30:16
multiple 19:9
muni 78:22
municipal 78:2 83:19
municipalities 73:7 77:25 78:8
 78:19 83:23 85:6
municipals 83:21
mutually 66:13

N

name 91:10
narrow 18:10
narrowrange 25:4
nat 12:12,12 19:15 20:10 35:22
national 65:2,5
natural 30:8 54:15 56:10
near 29:23 31:20 33:10 36:8
 41:22
necessary 14:3 24:10 28:23 30:3
 52:8,23 53:9 78:23 79:9,21
 80:12 81:20 82:25 83:2 88:20
need 4:23 6:2,9,13 13:7 14:16
 15:6 26:6,25 27:6,9,15,22
 28:2 29:4 30:11,25 31:23
 33:21,22 41:20 42:16 43:12,20
 43:22 44:3 46:12,18 47:22
 48:2,9 49:5,20,24 50:8,16,18
 50:20 53:10 56:4,18,22 57:9
 58:7,11 59:24 62:4,9,11,24,24
 68:11 71:14 75:10,10 78:22
 79:14,19 83:14,24 86:18 87:2
 87:8,14,16 88:3
needed 7:4,7,20 8:3,10 25:25
 30:7 51:2 62:16,18 67:13
 76:11 88:22
needs 22:16,23 24:4,8 25:18
 26:16,18 27:11,14 28:21 39:3
 44:4 47:7 48:14 52:10 53:5
 58:5,12 63:18 64:16,18 66:4
 66:21
negative 32:18
negatively 88:7

neighbor 78:20
neighboring 7:2 64:20 66:24
 83:5,21
nerc 52:15
netmetering 2:21,25
netpresent 16:18,20,25
network 50:9,10,11
new 1:3,11 4:16,18,23 5:4,25
 6:2,5,9,13,17,17,20 7:3,5,7,8
 7:9,13,17,20 8:2,19,19,23 9:6
 9:7,13 10:17,20 12:12,14,19
 13:13,21,24 14:17 18:15 19:13
 19:15 21:16 22:4,4,6,9,10
 23:17 24:16,16,18,19,22 25:10
 25:11,14 26:3,7 27:5,7,16,23
 28:6,24 29:18 30:2,2,3,6,7,13
 31:13,14,19 32:23 33:9,25
 34:15,18 36:21,23 38:18 39:13
 42:17,20 44:10 45:7,11 46:17
 49:15 52:8,15 53:2 54:14,15
 56:11 57:6 58:5,9,24 59:25
 60:15 61:17,25 62:8,9,16 63:3
 63:6,17 64:9,9 65:18 67:18,25
 68:5,11 70:5 73:8 75:6 76:8
 76:10 77:16 83:12 85:23 87:3
 91:2
nice 41:18
night 84:25
ninety 34:16
non 15:21 87:25
nonjurisdictional 87:19
nonprofit 87:20
nontraditional 77:18
nontransmission 26:20 41:14
nonviable 77:19
normally 22:19
north 9:12 12:11 30:11 49:7
northern 53:13
note 31:10 38:6,17,23 40:3 46:9
 59:11 70:10 76:6 78:16
noted 16:15 48:7,17 50:7 51:23
 67:24
notice 17:7 23:15 26:5 41:21
noticed 60:21
notices 23:14
november 10:4,9 62:7 67:24
nuclear 49:12
number 2:15 5:18,21,21 8:7,25
 18:12 36:15 47:18,18 59:12
 60:20 67:20 78:15 84:25 86:11

numbers 22:6
numerous 27:19
nurse 80:4
nyack 64:20
nyserda 2:23,24 3:11

O

o 81:2
objections 74:5
objectives 28:18 77:10 86:25
obligation 55:14
observes 65:3
obtained 13:17 29:21
obvious 8:6
obviously 51:14 70:22 84:2
occur 34:12
offer 37:21
offshore 50:3
offtherecord 60:13
ofway 34:18
okay 2:16 5:15 6:8,15 7:11 9:3
 9:4,16 17:5,20 20:8,13 21:25
 22:2 23:12,12,13 26:13 31:8
 35:12,21 36:4 40:21 44:5
 45:19,23 69:20 84:18 85:4
 89:16,18 90:7
olana 32:25
old 7:19 33:18 46:16 47:6 58:7
older 79:16
omega 33:4
once 42:15,19 43:10 45:13
onehalf 46:10
ones 9:14 26:11 41:8 83:24 87:9
 90:8
ongoing 3:3 62:24 81:21
open 30:3
openaccess 23:20
opened 51:6
operate 7:18 50:12 55:16 78:21
 82:25
operated 5:5 22:10 28:3
operates 4:17 25:25
operating 7:15,18 49:12 78:25
 80:25 81:8,12,24 83:13
operation 28:9
operational 78:5
operations 81:18
opportunities 51:6 56:13 88:4
opportunity 56:19 71:10 74:23
 75:3,17,25

opposed 60:5 76:14 89:6,22
opposition 60:6 76:15 89:7
oppositions 89:23
optimistic 45:3
optimistically 43:5
optimize 50:15
options 64:19 66:24 86:11
orange 13:20 22:7 62:5
oranges 87:5
order 2:6 10:9,15 11:16,18
 19:21 23:5 26:5,8 36:16 40:19
 41:5,7 47:10 48:6 49:18 50:14
 50:14,22 55:5 61:14 62:22,23
 67:15,25 68:20
orders 68:2
ordinary 21:11
original 11:18 38:25
outage 46:16
outages 43:13
outcome 30:24 31:16
outcomes 53:20
outlier 65:5
outline 65:13
outside 2:24
overall 15:6 29:5 30:14 56:23
 86:24
overarching 77:12
overloads 22:12
overruns 21:4,6,9,12,13,18,20
owner 80:15 81:6,7
owners 12:13 23:7 24:4 79:6,15
 80:11,21 81:14
ownership 77:24 78:10
owning 78:24

P

page 25:13 91:5
pages 91:7
paid 23:9
parallel 63:21
parameters 43:12
park 33:2
part 10:2 11:23 22:2,18,25 27:3
 30:14 36:5 43:6 44:22 53:13
 56:11
particular 26:9 44:14 63:15
particularly 45:9 46:16 48:13
 59:5 74:4
parties 11:7 14:7 15:2 19:20
 20:6,11 21:7 31:8 33:5 54:18

82:8
partners 85:10
party 19:23
pass 8:8,12 43:7
passionate 74:24 75:19
passions 55:20
path 8:24,25 50:24 63:4 66:13
pathflows 9:14,15
paths 8:22 9:2,8
patricia 1:14
paul 3:19,24,24 37:19 39:11
 42:6,14 44:13 45:25 50:7
 52:14 54:2 55:10 59:12 60:8
pay 4:14 23:24 48:10
paying 48:9 80:13
pe 37:21
peak 15:7
peleven 18:14,17
pencils 51:13 52:3
pending 14:6
pennsylvania 84:13 88:10
people 20:20 22:3 23:24 36:7
 39:12,17 48:9 50:2 52:25
 59:17 68:9 70:20 72:10,15
 73:4,19,19,22 83:12 85:9
percent 16:7,14 18:2 21:8,12,18
 21:20 31:12
perfect 48:15 85:7
performance 65:4
period 71:3
permanent 72:13
permit 64:21 66:25
permits 43:20 61:23
persistent 10:6
persistently 10:12
perspective 39:5 47:14 53:18,19
 83:8 85:19,20 86:20
persuasive 54:3
perverse 79:6
peter 60:25,25 61:6,10 68:16
 69:22 70:15 72:17 76:17 77:3
 82:18
petition 67:16
phases 67:8
physical 54:23 79:8,18
physically 79:17
pick 21:22 39:24
pipelines 54:14
pjm 7:2,4,4,4
place 34:13 44:11 54:13 56:5

85:25 86:6 91:4
places 45:13
plan 24:9 28:12,15,19,24,25,25
 30:18 53:22 66:20 70:17,18
 76:3
planned 13:16 14:5
planning 23:21 24:2,7 25:17
 26:14 28:14,18 56:23 64:11
plans 81:17
plant 7:15 30:7 46:16 49:5,9,12
 67:13,19 68:22 71:18 72:8
 74:11 76:11
plants 7:17,19 31:10,14 46:11
 47:7 48:10,12,13 54:15 76:22
plaza 1:10
pleasant 8:24 18:18
please 3:24 12:7 41:9 60:3
 61:12 74:14 76:11 77:4 89:4
 89:19
pleased 51:7
plus 48:25
pocket 6:25 7:7
point 32:5 33:12,14 38:15 40:23
 48:17 49:4 51:22 55:2 84:5
points 39:24
pole 35:16 52:13
poles 35:24 45:8 52:13,16
policies 4:20 24:11 28:18 77:8
 77:12 79:2 80:4 81:15 83:6
policy 4:18 5:6,17 6:2,5 11:10
 11:16 13:8 14:17 21:11 23:16
 25:17,18,22 26:2,14,16,24,24
 27:2,4,6,9 28:2,6,20 29:4
 40:24 42:16 46:5 47:17 51:18
 53:18,19 57:5,7 59:25 61:6
 76:25 77:2,21,22 78:8 80:13
 81:22 82:2 85:24 86:6,8,14,21
 86:25 87:4,6 88:5,9,10,14
 89:2
population 62:13
portfolio 15:18 17:6 28:9 31:13
portfolios 16:21,24
pose 73:3
position 53:21
positions 74:24
positive 47:3,4 53:7 75:11
positively 88:7
possible 23:2 43:17 66:6,15
possibly 42:9
potable 79:9

potential 21:4 23:6 47:3,4 66:21 81:9	37:20 39:6,7 51:23 57:4 58:3 59:22 61:4 62:3 63:2,12 65:15 67:22 68:6 69:15 88:25
potentially 49:4	
power 4:7,10 6:20 7:6,20 8:2,3 8:16,22 14:20 20:18 42:12 43:19 48:3,3 49:6 50:10 54:11 58:17	proceedings 5:19,20,22 10:5 11:8 14:8 15:3 31:17 32:2 91:7
powerflow 9:8 13:25 22:3,6	process 14:24 19:8 22:2,19 23:18 24:3,4,6,7,9,12,17,20 24:21,23,25 25:11,17,18,19 26:15 32:11 33:21 36:10 39:15 41:4,11 42:15 43:4 44:13,17 44:22 57:6,7,12,13 63:19 71:15 83:16 84:3
powerflows 12:22	
powerline 4:13,23 15:20 22:20	processes 5:8 23:22,25 25:19
powerlines 9:12 29:22 30:2 54:21	produce 10:17 17:10,11 66:7 67:9 81:17
preceded 44:15	production 29:10 31:10
precludes 41:5	productioncost 12:22 14:2 15:13 15:14 25:5
preliminary 27:4	productive 75:21
premiums 77:20 81:20	program 15:12 67:3
preparation 3:12	programs 64:8 77:2
prepare 20:3	progressing 70:17
prepared 2:25 10:2	project 12:20,25 14:4,22 18:9 18:14,17,20,24 19:4 21:24 23:8 26:24 27:12,22,22 28:2 29:5 32:13 43:11,24 44:14 58:21 61:21,22 62:2,10,21,25 65:20 67:9,16,17,23 68:2,22 71:6 74:11
preparedness 29:13	projected 66:8
present 21:3 22:8 32:7 56:14 78:13	projections 48:6
presentation 37:14	projects 11:3 16:6 17:6 18:16 18:20,23 19:11,14 20:17,23 21:2 22:3 23:24 24:25 25:2,21 27:10,17 28:10,22 38:9,25 39:2 44:4 47:12 51:8 52:11 59:12,16,19 61:19
presented 14:12 15:7 56:20	promoting 10:20 29:17 77:12
presenting 3:20 61:7 77:2	prong 71:21
presents 77:6,7	proper 72:7
president 72:18	properties 59:18
press 13:16	property 52:2
pressure 20:15	proposal 18:13 26:17 33:6 35:7 41:7 54:24 61:16,17 65:14 66:3 76:9
presuming 43:19	
presumption 41:23	proposals 11:2,25 12:3,9,10,16 12:20 14:23,23 18:13 32:12 41:2,6 42:17,19,19 52:5 62:22 82:7
pretax 16:8	
pretty 10:24	
prevent 53:14	
prevents 44:16	
previous 68:20	
previously 20:25 78:10	
price 48:11 81:10	
priced 86:16	
prices 30:10 40:16,16,19	
primarily 5:16 13:11 14:10 15:6 44:23	
primary 30:22	
principles 4:5	
private 78:3,20 83:24	
probably 40:17 43:4 44:13 63:23	
problem 54:12 74:4,8 75:25	
problems 10:22 22:21 73:11	
procedure 23:15 44:16	
proceeding 3:16 10:10 13:17	

propose 41:14 59:15
proposed 12:5 16:24 17:19 18:15
 18:16 19:20 26:20 27:9,16
 32:17 34:15,19 35:9,10,18
 36:19 52:15 55:5 63:3 89:3
proposes 22:20 64:18 65:25
proposing 35:23
prove 4:24
provide 14:19 23:23 48:11 79:9
 81:3 86:11
provided 39:9 79:5
provides 25:23 29:5 81:25
proximity 78:4
prudence 63:2 67:22 68:6 71:2
 71:15,19
psc 1:1 2:1,15 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 39:1,7 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 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
public 1:4,6 2:5,19 4:19,24 5:6
 5:17,18 6:2,5 11:10,16 13:6,7
 14:17 19:25 23:16 24:11 25:17
 25:18,22 26:2,4,5,8,14,16,23
 26:24 27:2,4,6,8,14,25 28:6,6
 28:20 29:4 40:23 42:16 46:5
 47:16,17 51:18 52:10 53:18,19
 55:2 57:4,7 59:25 72:9 73:13
 76:24 77:21 78:3
publicly 82:7
purchase 81:20
pure 24:14
purple 23:4
purpose 22:11 23:23
purposes 24:19 25:15 33:17
 64:11
pursuant 4:5 20:17 42:21
pursue 43:4 51:19 59:19 71:16
 71:20

pursued 30:23 65:19 66:3 71:7
pursuing 67:25
pursuit 68:21 70:9
put 18:12 20:14 21:21 44:11
 63:13,21 72:19 76:18
putting 49:9 55:11 74:10 75:12

Q

qualify 24:14
quality 27:18
quantified 15:22
quarter 43:2
quebec 58:21
question 7:24 32:7,9 42:14
 43:18 46:12,20 47:19 51:21
questions 37:10,15 38:5 39:19
 39:20 42:5,6 45:21,23 61:8
 68:17 71:23 77:3 82:13
quickly 44:18 50:12
quite 45:9

R

raise 33:18,21,22 82:24
raised 12:2
raj 3:21 37:9,20 40:17 42:9
 44:9
ramapo 64:22
range 10:24 11:16 34:9
ranks 27:18
rate 2:14 16:11,13,16,18 20:16
 20:21 61:17 67:5 69:13,15
 70:18 73:17 80:17 85:10
ratepayers 21:5
rates 4:9 16:4 20:15 77:20
 79:22
ratio 16:25 17:2,3 29:7
reach 5:8
reaches 23:5
read 39:22
ready 37:15 38:19 40:22
real 72:4 74:13
realities 79:18
reality 7:15
really 39:23 40:9 46:6 47:16
 50:5 51:7,21 57:17 58:5,11,12
 58:20,23 59:9 69:22 72:5,15
 73:19,21 74:23 75:14,21 83:8
 83:9,13,22,23 86:18 87:8,16
 87:18 88:3,16,17
reasonable 64:11 66:3 69:4

79:22	reform 77:7
reasonably 28:17 86:16	reforming 30:17
reasons 5:10,13 45:3 47:18	refurbish 46:21 52:14
50:23 51:19 52:2 53:24 55:5	refurbished 46:8 54:22
78:15	regarding 31:8 81:25
reassess 62:4	regardless 27:12 30:23 31:16
rebuild 54:25	45:10 58:8
rebuilding 29:24	region 30:10 31:2 32:21 61:20
recall 2:20 72:4	71:4
receipts 15:19	regional 87:23,24
received 5:20 11:25 12:11 42:19	regionally 36:9
63:22	regions 48:24
recession 62:12,14 63:6 71:9	regular 3:14 27:21
recognize 53:10	regularly 26:13
recognized 10:15	regulate 4:8,10,21 78:13
recommend 19:25	regulated 27:17,22 77:16 78:10
recommendation 17:16,22 20:8	regulates 4:9
23:6 46:4 53:25 70:24 76:23	regulation 4:11 26:4
88:24	regulations 26:12
recommendations 3:21 19:19	regulator 48:16
23:17 40:6 59:23 60:7 71:18	regulators 55:15
76:7,16 77:7 83:6 89:7,19,23	regulatory 4:4,7 13:19 20:18
recommended 19:2 22:17 32:4	rehearing 67:21
66:22	reject 11:24
recommending 11:24 14:15 17:7	rejected 59:13
37:2 67:12 77:10 81:23	related 24:18 64:22 67:2,22
recommends 28:4,11 65:24 80:18	80:19
81:11 82:3,6	relates 5:16
reconsider 70:25	relating 77:8
record 3:8 5:22 6:7 39:10,22	relative 14:24 68:21
40:14 44:20 47:15 55:16 67:6	relevant 75:5
79:14 89:15 91:7	reliability 10:13,18,22 24:6,8
recordkeeping 79:19	24:8,14,16,17 29:12 43:14
recoverable 65:9	46:14,17 47:5,19,23 49:8
recovering 62:13	53:20 55:4 58:15
recovery 5:6,9,14 20:2 41:10,19	reliable 53:10 56:24 58:19 75:9
66:6 69:8 71:15 77:20	86:19 87:15
recusals 89:17	reliably 79:9
recuse 89:11	relief 29:10
reduce 18:9 28:7 29:10 30:10,11	relies 4:19 68:8
50:18 52:20 53:5 64:3 84:25	relieve 54:10
reduced 15:17 25:7 55:3	relook 71:19
reducing 10:18 29:8,9,9,18	rely 31:4
reduction 62:18 64:5 65:2	remain 34:13 64:14
reductions 25:8 30:8	remainder 7:6
referred 77:21	remaining 31:14 43:6 44:22 67:8
referring 43:19	78:13,17,20 87:11,24
refinements 77:11	remains 24:18 25:13 81:16
reflect 14:3 16:14 88:4	remediation 64:8
reflected 81:21	remind 74:9

<p> removed 34:25 renewable 15:18 29:17 31:3 58:8 renewed 62:25 repeatedly 11:18 replace 6:10 32:22 33:6,18 35:7 replaced 33:9,10 34:9 35:2,16 replacement 29:23 33:20,25 34:16 replacing 53:2 report 2:25 3:2,12 10:2,3 13:10 14:7,15,21 15:10 18:4 23:14 46:14 63:20 64:23,24,25 65:3 65:7,9 82:6 reported 91:4 reporter 91:13 reporting 79:20 reports 63:21 repowered 31:16 request 13:3 19:25 21:16 59:16 72:4 requesting 23:16 requests 19:19 41:10 require 5:5 21:16 32:13 required 12:21 13:25 23:4 78:6 requirement 26:2 41:19 57:5,7 requirements 14:17 23:17 27:18 28:20 52:15,16 59:25 78:9,22 78:24 79:9,11,21 81:21 requires 28:14,16,24 requiring 21:21 24:16 25:10 resiliency 29:14 55:3 resilient 90:8 resolution 76:19 resource 24:21 29:11 32:25 resources 3:4 10:21 29:17,18 30:9 32:20 48:11 49:19 50:2 50:11,13 respect 78:22 respond 30:16 38:25 response 12:2 62:23 68:9 responsible 56:15 responsibly 57:10,21 restricted 22:11 result 3:5 13:9 17:17,22 41:10 61:15 resulted 9:18 12:24 results 5:8 36:2 70:23 retain 48:24 retire 49:9 retired 31:15 </p>	<p> retirement 49:4 retirements 10:23 29:14 retires 49:5 return 20:16,21,22 80:25 rev 30:21,21,23 50:6,14 55:23 55:24 56:3 revenue 79:21 81:21 reverse 5:11 review 14:9 15:3 19:11 22:2 36:17 86:21 reviewed 3:2 69:2,3 reviewing 38:8 revise 39:2 76:23 revised 12:3,10,16 14:6 revisions 12:17 83:6 revisiting 62:4 revolving 85:11 right 6:15,23,23 13:21 16:11 23:13 31:6 34:17 35:15 39:13 40:9 41:16 44:19 50:24 51:17 53:17 54:2 59:4 68:20 69:20 69:21 73:18 rightofway 34:8,14 35:5 44:12 52:6,12 rights 30:3 rightsofway 12:4 33:7 34:10 54:20 rise 17:3 66:17 risk 20:7 21:19 75:12 river 32:5,8,10,12,14,20 49:11 61:22 64:22 road 8:7 70:12 72:9 robust 30:25 36:10 39:10 47:22 57:5,12 59:6 rock 22:16 rockland 62:5 66:8,12 68:9,10 69:24 71:20 72:5 73:6 rocky 70:12 role 5:17 83:9 roles 53:20 60:20 roll 72:21 room 44:2 roosevelt 33:3,3 round 11:25 route 69:21 routes 29:22 32:24 37:4 row 60:18 rule 44:15 rulemaking 26:5,7 28:5 rules 26:10,11,13 33:16 44:11 </p>
--	--

run 22:5 42:10 57:21 72:6	scenario 43:16
running 59:4	scenarios 21:17
<hr/>	
S	
s 2:11 3:15,20,20 4:6 5:16,17	schedule 43:14
5:23,24 6:11,12,14,24 7:14	schematic 11:20 17:19
8:2,9,13,19,19,25 9:4,10,25	schematics 36:14
10:24 11:4,23 15:12,15,19,22	schumacher 22:13
16:11 17:5,8,18,18,19 18:5,7	scope 7:11 25:2 82:2
20:8,18 21:9,9,11,25 22:15,19	scotland 8:23 9:13
22:21,24 23:2,16,18,25 25:12	screen 34:23
25:23 26:9 27:3 29:3,7 31:11	season 90:10
31:13 32:3,6 33:3,3,15,20	seats 2:3
34:21,22 35:3,14,16,21 36:8	second 9:5 15:5 24:6 26:17 29:3
36:12 37:25 39:11 40:3,10,11	43:2,18 48:4
40:18,22 41:13,22 42:4,16	secretary 2:7 89:25
44:2,3,15,17,19 45:2,7,11	section 2:14,19 28:13,15
46:2,3,11,12 47:16,18,19 48:2	sections 10:16
48:4,8,22 49:6,10,14 50:2,21	secure 80:7
51:5,7,11,19 52:2,7 53:9,15	see 3:7 6:25 17:14,18 18:11
53:19,24 54:2,2,5,11 56:11,18	19:6 21:25 22:21 23:3 35:14
57:7,11,12,15,20,21 58:3,8,22	36:6 43:16 53:8,22 56:17
59:3,17,24 60:16,19,25 61:4	70:18 74:5 87:10
62:23 63:23,23 64:24 65:3,4,7	seeing 47:2
65:9,13 66:2,7,22 67:21 69:9	seek 67:20 84:3
69:10,16 70:2,3,8,20 72:14	segment 18:14 19:12,14,15,16
74:4,11,20,21 75:3,14 76:23	20:9,10 22:25 23:3 32:3,18,24
76:24 77:6,7,10,16 82:9,10,14	segments 18:17,17 19:5 20:11
82:15,16,17,21,21 83:10,12,16	37:4,7
84:13,22 85:12,24 86:20,22	select 27:20 67:23
87:7,7,12 88:17,20 89:2,3	selected 27:22,25 61:22
90:3	selecting 36:23
safe 75:9 79:21 83:2 86:16,19	selection 26:23
87:15 90:10	sense 11:9 29:24 41:12 47:8
safety 33:17 49:13	48:12,15 49:3 53:12,14
safetyrelated 79:11	sensitivity 16:20
salary 37:24	seny 14:19
sale 80:16 81:7	separate 28:2
sales 81:9	separately 20:12
satisfaction 27:19	september 14:14
satisfied 27:17	series 36:20 61:18,19
satisfy 26:24 27:10,22	serve 6:19 7:3
savings 15:13,14 18:5,6 25:5	service 1:4,6 2:19 4:19,24 5:18
65:10,22 66:7,16,18	19:25 26:4,8 27:14 28:7 63:5
saying 41:7 47:18 51:5 60:3	76:24 79:22 86:17
76:12 89:4,20	serving 62:5
sayre 1:13 54:8 73:25 74:2	session 90:4
says 49:2 56:3	set 3:14 20:17 21:13
scale 12:5 83:10	sets 21:21
scarcity 71:4	setting 4:18
	seven 7:12
	share 4:7 34:8,10

<p> sharpen 51:13 52:3 sheer 55:14 shore 50:4 short 38:12 61:18 shortterm 81:5 shoulder 51:12 shouldn 58:25 showed 62:15 showing 11:20 shown 6:22 22:12 28:25 35:20 36:14 shows 6:16 8:21,22 9:7 17:6,20 40:15 side 6:23,25 74:12,13 sides 51:10 70:16 74:25 75:21 signals 79:7 significant 12:17,21 13:24 31:13 32:8 40:8 silo 24:14 86:23 similar 18:20,24 19:13 79:10 similarly 18:22 32:24 80:20 81:17 simplification 10:8 simply 41:7 44:17 46:17 simulates 15:12 single 7:15 35:16 38:14 sister 79:12 sit 48:12 siting 4:22 5:6,19 6:4 12:2 28:3 57:2 sitting 51:12 60:16,17 situations 78:21 six 17:5,6 sixty 42:18 slated 29:23 33:10 sleep 60:9 sleeves 72:21 slide 6:14,16,22,24 8:13,20 9:4 9:7 12:7,8 17:5,6,18 18:11 19:12 21:25 23:2 34:21 35:11 35:14,21 slides 6:14 slightly 33:7,9 35:2,9 small 6:21 18:5,8 65:18 77:9,12 77:23 79:4,15,24 80:6,9 81:14 82:22 85:23 86:4,9 87:14,22 89:3 smaller 9:14 11:9 17:16 83:11 86:10 smart 13:3 14:12 15:7 30:5 </p>	<p> smarter 51:13 soft 26:10,13 solar 49:16 50:4 solely 25:5 solicit 27:7 42:17 82:7 solicitation 12:2 19:22,23 solicited 11:2 solicits 27:9 solution 13:7 20:2 23:10 25:25 32:4 36:24 37:5 51:14 54:18 68:8 72:13,13 74:4,7 76:2 solutions 19:20 26:17,21 27:7,9 27:15 36:21 41:15 75:4 somebody 22:20 somewhat 18:24 33:21 sorry 29:6 sort 9:2 34:24 39:23 52:4 53:17 85:18,20 sought 61:23 sound 49:22 source 56:4 61:5 71:12 sources 56:8 65:18 70:5 south 8:24 9:10 49:7 southeast 6:16,20 7:8,13,17 8:2 8:19 spans 34:19 44:25 speaker 82:14 speaking 76:22 specific 12:25 specifically 80:24 spend 31:24 spending 20:5 spent 40:7 spirited 63:12 74:24 75:19 spoton 47:16 spread 35:25 staff 2:24 3:11,20,20 12:18 13:10,25 14:6,14,21 15:10,24 16:5,11,17,24 17:7,16,22 19:2 23:13,16 28:4,10,11 29:24 32:3,17 34:3 36:11,19 37:2 38:7,8 39:22 42:7 46:4 48:18 52:22 53:24 54:17 59:12 65:25 66:17 67:11 69:6 73:21 74:3 76:23 77:6,7,10 78:12,21 80:18 81:11,19,23 82:3,6 83:5 84:5 88:20 89:3,9 stairs 57:19,21 74:22 stakeholders 39:5 stand 37:15 </p>
--	--

<p> standard 15:18 standards 33:11 79:18 stands 8:18 stanton 72:19 stare 57:18 74:22 start 3:24 44:21 45:24 71:15 started 72:4 state 1:3,10 4:7,20 5:6,8,12 6:17 7:22 23:14 26:3,6,7 27:4 28:3,6,12,14,14,19,23,24 31:11,19 46:9 48:12,24 53:13 53:21 54:25 55:20 58:9,13,25 59:3,4 60:20 91:2 stated 86:14 91:5 statement 72:10 73:13 74:19 86:8 states 4:21 25:21 64:13 83:5,7 87:3 88:8 statewide 88:14 status 2:18 stay 44:11 52:5,11 58:17 90:8 steel 34:16 35:23 steer 19:10 36:23 step 27:4 57:19 74:22 75:12 85:13 stepped 72:8,19 steps 26:15 42:15,25 54:9 57:19 74:22 85:5 stood 38:19 stool 70:6 stormhardening 29:14 storms 47:24 straightforward 54:9 78:2 strategies 28:19 stream 81:3,9 stress 46:3 48:14 stricter 33:11 strictly 24:9,23 stringent 80:18 81:24 strong 30:15 50:17 63:8 68:11 structure 35:2,8,23,25 36:3,3 structures 12:5 35:10,13 stubborn 55:18 studied 14:4 studies 5:21 6:8 14:2 22:3 36:20 38:19 study 2:21,23 12:21 13:4 22:20 24:21 48:18 64:18 66:23 stuff 23:4 50:7 subject 23:18 </p>	<p> submissions 19:9 27:12 submit 19:20 20:2,9,10,11,12 27:10 41:9 42:18 46:4 submitted 41:2 62:23 64:23 submitting 3:10 subscribed 91:10 subsequent 27:8 substantially 18:21 substation 9:12 22:14,16 substations 17:20 successful 64:13 76:19 84:14,22 successfully 83:7 succession 81:17 suffered 59:6 suffern 64:20 sufficiency 26:20 27:13,18 sufficient 7:25 8:11 13:6 64:16 sufficiently 87:13 sugarloaf 22:13 suggested 20:25 summary 36:19 81:23 supplies 67:2 75:7 supply 7:9,9 10:20 29:16 61:5 61:19,20 62:5,9,11,16 63:4,6 64:9,13,19 65:18 66:23 68:2 68:14 70:6,22 71:5,12,21 72:6 76:10 support 38:21 53:24 55:6 65:14 83:7 84:9 supported 35:23 supporter 24:18 25:14 supportive 66:13 surcharge 69:2 80:11 surcharges 80:19 81:25 sure 19:21 39:23 49:5 52:22 55:15 56:5,6,12,14 57:21 66:10,11 73:21 75:5 82:24 88:3,20 surprising 79:23 sustain 67:7 sustainability 66:14 sustaining 77:9 system 4:6,17 6:9 7:2 9:9 10:16 10:18 13:12,25 14:25 15:13 24:7,23 29:12 30:22,23,25 47:3,22,23,25 48:3 49:18 50:20 53:6 56:17 58:11,19 65:5 73:12 75:13 77:13,25 78:3,25 79:4,6,6,8,15 80:8,11 80:14,15,17 81:2,5,6,7,14 </p>
---	---

82:5 86:17 87:14,14,17,21,21 87:22,22	territory 62:19 63:5
systemimpact 22:20	testimony 40:5,14
systems 56:5 64:20 66:25 77:9 77:24 78:11,13,17,20,21 79:17 79:24 80:5,6,22 82:22 86:10 86:11,25 88:7,21	th 90:5
	thank 2:16 3:11 4:2 8:14 37:13 37:18,19 38:3 42:3 54:5 55:7 55:9,10 57:23,24 60:8,10 61:13 68:15,16 73:19,24 74:16 74:18 75:22,23 76:17 82:12 84:9 85:14,15,17,17 88:22,23 89:9 90:7
T	thankfully 37:14
t 5:11,14 7:18 11:22 17:13,14 19:17,22 21:23,23 22:11 41:11 48:19 49:12,22 53:14,22 58:4 58:16,18,25 59:14 60:23 70:7 74:6 79:17 83:13 86:2 87:4,9 87:12,14	thanks 82:19
table 15:22	thing 18:13 22:24 36:12 49:22 51:17 53:18,19 64:11,25 73:18 86:2
take 37:10,15 38:4 42:8 43:11 43:13 45:17 47:8 48:5 54:9 58:4 59:11 69:21 75:16 76:4 83:2 84:4,15 85:13 87:3,9 88:20	things 17:9,16 20:16 36:22 39:13 44:25 45:12 55:18 58:2 58:15,15 73:4 84:24
taken 58:3 69:14 79:23 87:8	think 16:11 36:17 39:4,6,14,21 40:2,17 46:2,6,14 47:10,11,15 48:18 51:7,13,17,22 52:10,13 52:21,24 53:9 56:21 57:15,16 58:2,14,21 59:7,14 63:15,23 68:22 70:21 71:2,13 72:15 73:2,4,18,23 74:14,19 75:15 75:24 82:20 83:15,25 84:7,20 85:7,12,24 86:20 88:16,17
takes 26:13	thinking 39:12 52:4 73:5,8
talents 72:16	third 18:10 24:20 26:19
talk 6:12 19:18 45:5 58:6 69:25 70:2	thirteen 61:4
talked 31:23 72:23	thomas 57:14
talking 4:3 36:18 50:3	thought 38:2 41:18 76:18
taller 35:2	thoughtful 75:20
tariff 2:12 19:21 23:18,20,23 24:2 26:3 27:5,24 42:17,21,23	thousand 7:13,14 9:17 11:6 47:11,13 63:24
task 63:21 64:23 65:15 69:23 70:11 72:15,21 73:20 74:3	three 1:10 3:14,14 40:7,25 42:20 43:11 51:8 52:11 59:19 71:20,20 75:4
taskforce 63:15	threelegged 70:6
tavern 22:16	threepart 66:2
tax 15:18 16:14 69:10	threeprong 65:23 70:4
taxing 78:4	thursday 1:9
technical 14:8,10,13 15:3,5,8 79:4,25	till 90:8
telecom 60:16	tim 61:7,9 76:19 77:3
telecommunications 35:6	time 7:17 19:4 20:12 25:6 33:16 38:12 43:23 45:20 46:17,25 58:3 62:20 64:15 69:4 71:3 72:11,16 77:23 84:21 85:2 86:8 88:17 91:4
tell 4:14 58:6	timeframe 63:8
telling 41:9	
ten 9:19 64:14 66:21	
tenure 85:3	
tenyear 25:6	
term 61:19 64:17 65:20 66:14	
terms 38:24 40:13 42:13 50:6 52:16 55:2 65:5 79:13 83:6	
terribly 51:23	

timeline 42:9,14
times 27:2 54:19 83:11
to date 31:19
today 2:17 3:14,21 5:16,23,24
 11:23 23:18 27:3 31:10 41:5
 48:23 57:2,3 63:3 90:2,4
tomorrow 2:22 3:11
topography 32:6
topology 47:22
tos 18:15 19:13,15 20:9,10
 34:15,18
total 31:12 62:17
tour 45:18
tourism 34:4
tower 33:9,21 34:19 35:15,19
 36:4 44:24,25
towers 33:7,8,8,10,13,18,23
 34:2,6,8,9,11,12,12,14,16,17
 34:24,25 35:6,7,18 45:6 52:20
 53:2,2,3
town 41:22
traditional 80:7
traffic 8:8,9,11
transcription 91:6
transfer 6:11 8:3 9:16 11:3
 17:23,25 18:2 46:22 47:6,8,13
 67:16 87:21,21
transferred 8:16 77:24 87:18,19
transfers 77:25 78:2
transmission 3:17 4:8,10,17,22
 5:4,20 6:2,3,4,9,13 7:25 8:4
 8:11,15,25 9:9 10:5,6,10,11
 10:16 11:4 12:5,12,13,14 13:5
 13:7 14:8,16,18,19 15:2,17
 16:6,23 23:10,20,21 24:2,3,4
 24:17,19 25:11,13,14,17,18,20
 25:25 26:6,14,16,20,24,25
 27:6,9,15 28:2,7,10,21 30:6
 30:15,21,25 31:21 32:15,22
 35:15 36:24 38:9,13 42:16
 44:11,12 46:7,8,12,19 47:22
 48:2,21 49:6,9,20,25 50:8,16
 50:19,20 51:2,25 53:15 54:18
 56:23 57:5,7 59:6,24,25
transpired 63:11
tremendous 38:11 54:17
trend 31:20 49:24
trial 12:18 13:10,25 14:6,14,21
 15:10 16:5,17,24 17:16,22
 23:13,16 28:10 38:7

trialstaff 10:2
trick 5:7
tries 80:15 81:7
trip 45:13 71:25
troubled 86:4,10
true 26:9 70:4 91:7
truly 75:11
try 21:9
trying 21:12 58:22
turn 2:17 3:13 25:13 61:3 75:25
 76:21
turned 32:13
twenty 21:3,19 79:15
twentytwo 12:10
two 7:14 8:15,22 15:25 18:19,23
 33:8 34:24 35:7,24 39:8 40:7
 40:7 43:4,11 48:20 63:24 65:7
 67:8 71:18 78:17
twolane 8:7
twothirds 7:21 46:9
type 16:9 27:12
typewritten 91:6
typically 16:16

U

ultimate 37:5
ultimately 75:9 77:9 81:7
unable 80:7
uncertainty 59:17
underscore 68:7
understand 37:20 51:24 52:18
 69:6 78:24
understanding 45:14 78:9 86:23
understands 21:14
undertake 12:19
undertaken 36:21
underway 2:23
undisputed 46:7
undoubtedly 30:13
unduly 48:20
unforeseen 81:3
unidentified 82:14
united 61:16,17,21 63:5,15,16
 64:2,9,25 65:24 66:4,12,20,22
 67:22,25 69:13 76:8
units 48:25
unpunished 20:25
unrealistic 30:15
upcoming 67:5
update 2:18 13:25

updated 22:16 62:8
upgrade 22:23 29:25 46:22 56:18
upgraded 6:10 22:23
upgrades 3:18 10:16 22:18 23:4
 23:9
upny 14:18
upnyseny 8:17 9:11 10:7,12 11:5
 11:11,19,21 13:13 17:24 60:2
upper 66:15
upstate 6:3,11 7:7,9,12,20 8:2
 8:16,19,23 9:17 10:21 13:13
 14:20 29:18 31:3,19,20,22
 46:13 47:7 48:10 54:11 58:10
 58:25
urging 71:6
usage 30:17 62:18
use 4:9 16:11 28:5 31:16 48:23
 52:7 53:12 72:14 80:18,25
 81:12,25
useful 54:23
users 32:19,19
uses 16:16 54:20
usually 78:3
utilities 12:14 23:8 51:3
utility 16:8,14 33:7 74:6 75:16
 76:25 78:3 80:10,17 87:23,25
utilitycompany 23:7
utilize 12:4

V

vaclav 57:16 74:20
valley 8:24 13:3,16 14:5,11
 15:7 18:18 30:4,5 32:21 34:5
 34:6,8 35:19 36:9
valuation 3:4,6
value 15:15 16:18,20,25 25:7
 47:5 56:22 80:15,25 81:7,8
 88:19
valueadded 80:17
values 16:22
valuing 77:9
various 10:17 72:11
vary 34:6
vehicle 23:23 25:24 48:3
venture 57:18 74:21
vertically 36:2
viability 26:19 27:13,17 77:14
 79:4
viable 79:24 87:13
view 16:12 30:14 44:4 55:2

71:13
views 65:21 81:8
vigorously 30:23
vision 30:17 57:14,17 74:20
 75:5,19
visual 32:8,18,20 53:5
voltage 33:22
volunteered 72:16
vote 53:24 59:11,21 71:17 76:4
 85:19
voting 55:6 89:12,15

W

wake 61:19
walkkill 41:22,23
want 3:2 4:16,23 7:18 8:7 19:22
 20:12 31:23 37:21 38:5,17,23
 39:23 40:17,24 45:5,12 48:25
 50:9,9,10 53:11,11 55:10
 58:17,18 59:11 60:14 70:7,10
 74:6 85:18,20
wanted 2:18 3:9 19:10 36:6
wants 8:12 21:8 25:12 51:14
 58:13
warranted 44:17
wasn 60:23
water 61:5,16,18,19,20,21 62:5
 62:9,11,18 63:4,15,16 64:9,20
 64:22 65:4,8,10,22,24 66:4,12
 66:20,23,24 67:25 68:14 69:13
 70:3 71:5 72:6 73:8,10,15
 76:8,22 77:9,12,17,19,23
 78:10,13,23,25 79:4,9 80:10
 82:5,22,25 83:13,17,18,19,21
 85:23 86:4,9,10,16,18,25
 87:13,14 88:18,21 89:3
waters 63:5 64:2,25 67:22
watershed 64:22 67:2
way 17:10 20:12 22:10 29:22
 30:3 35:24 39:13 56:15 57:8
 58:5 70:7,23 72:7 75:21 83:14
 83:25 84:21 85:21
weighted 16:8,14
welcome 2:4 60:15,24 61:9 77:4
wells 64:9,21
went 23:14 73:12 77:25 85:24
weren 21:23
west 30:11 49:7,23
western 53:13 57:6
whatsoever 32:19

<p>whereof 91:9 wider 36:3 willing 72:12,20,25 73:2 willingness 38:25 63:17 wind 31:18 49:16,24,25 50:3,4 53:14 winner 19:10 21:23,24 winning 43:3 winnowed 17:9 43:3 winning 14:24 32:11 wire 33:14 wires 33:13 35:25 wish 89:11 90:9 wishes 55:19 withdraw 37:3 59:16 withdrawal 37:6 withhold 7:5 witness 91:9 wobbly 70:8 woman 60:17 won 66:18 wondered 41:25 wonderful 32:25 72:15 76:2 wondering 60:17 word 10:7 11:9 worden 3:21 words 4:13 work 3:11 18:22 23:7 33:25 35:25 38:7,11,21,21 39:4,11 47:9 50:14 54:13,17 67:17 69:23 70:7,13 72:12,21 73:2 74:11 75:16 84:6 worked 2:24 70:20 72:17 73:20 73:21 88:13 working 60:20 72:18 73:22 74:3 74:6,15 75:2,12,21 88:19 wouldn 5:11,14 48:19 49:12 wrong 76:6</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>x 1:14</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 44:8 45:5,22 58:24 69:19 71:24 84:20 year 9:21 18:6,7 43:2 46:15 48:8 69:18 years 9:19 16:6 31:2 38:15 43:11 45:7 46:24 59:6 63:10 64:14 66:22 72:22 79:16 80:4</p>	<p>85:22 york 1:3,11 4:16,18,23 5:25 6:5 6:9,17,17,20 7:3,5,8,8,9,13 7:18,20 8:2,19,19 9:6,7 10:17 12:12,14,19 13:13,21,24 18:15 19:13,15 21:16 22:4,4 23:18 24:16,18,23 25:10 26:3,7 27:5 27:7,16,24 28:6,24 31:13,15 31:19 34:15,18 36:21,23 38:18 39:13 42:17,20 46:18 49:15 52:9 56:11 57:6 58:5,9,25 61:17 76:8 77:16 85:23 91:2 young 72:2</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zibelman 1:13 2:2,16 31:7 37:19 37:25 40:12,21 41:16,25 44:9 45:2,20 54:5 55:7 57:24 59:9 60:5,11,14 61:12 68:16 69:5 69:12,18,20 72:2 73:24 74:16 75:23 76:14 82:10,12,15,17,19 85:15 88:23 89:6,16,22 90:7 zone 2:14</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>09 17:4</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 16:25 17:2 29:5,6 40:3 91:5,7 10 1:9 118 18:6 12 13:15 12172015 1:1 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 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 13 16:7 130 78:16</p>
---	--

14 90:6	
15 2:15	
15062 76:22	
156 18:7	
15e0569 2:12	
17 1:9	
1990s 77:17 79:10	
1994 76:24 77:17 86:7	
19th 1:10	
2	
2 17:4 29:5,6 40:3 65:8	
20 18:2	
200 77:23	
2003 47:25	
2006 61:16 71:3	
2007 61:22 63:7 71:3	
2008 61:24 63:7	
2012 10:4,9	
2013 61:25	
2014 62:7,23 67:24	
2015 1:9 13:10,15 14:14 28:12 91:10	
2016 3:6 43:2,7	
2017 43:9	
2019 9:22 18:6 43:16 45:3	
2020 62:16	
2024 9:23 18:7	
2035 62:16	
21st 85:8 90:5	
22 14:14,22 16:25 38:8	
24th 91:10	
250 78:13	
254 85:24 87:9,11	
261 89:14	
270 89:14	
271 89:14	
3	
3 1:10 65:8,10	
30 1:9	
300 16:21,25 84:21	
301 3:15	
345 14:17 28:9 33:22 59:25	
365 9:20	
372 89:14	
373 2:11	
375 17:24	
39 69:4	
	4
	40 68:23 80:9
	401 60:12 61:3
	403 77:6,6
	45 2:14 16:6
	450 85:3,24 87:9
	473 9:23
	49 17:2
	5
	5 16:14 65:8,8
	50 78:17 82:23
	500 85:2
	562 9:24
	6
	6 16:14 65:10
	61041 28:13
	61045 28:15
	66n 2:20
	6th 13:10
	7
	7 5:18 36:5 43:4,6,8 44:10,16 44:22 52:21
	700 16:21 17:3
	720 13:16 14:5
	8
	89 91:7
	8th 86:7
	9
	9 16:7
	939 17:17,23