

Monthly meeting - 5-16-2019

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

MONTHLY MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, May 16, 2019  
10:32 a.m.  
Three Empire State Plaza  
Agency Building 3, 19th Floor

Albany, New York

COMMISSIONERS:

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

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2 (The meeting commenced at 10:32

3 a.m.)

4 CHAIR RHODES: Good morning. I

5 call this session of the Public Service

6 Commission to order.

7 Secretary Burgess, are there any

8 changes to the final agenda?

9 SECRETARY BURGESS: Good morning

10 Chair, Commissioners. There are no changes to

11 this morning's agenda.

12 CHAIR RHODES: Thank you.

13 Then we'll get right into it. The

14 first item for discussion is an informational

15 item, Item 301, Case 19-E-0254, which is an

16 information presentation on 2019 summer electric

17 system preparedness, presented by Jonathan

18 Forward, Utility Engineering Specialist 3, and

19 Paul Darmetko also Utility Engineering Specialist

20 3.

21 Jonathan, would you please begin?

22 MR. FORWARD: Good morning Chair

23 Rhodes and Commissioners. My name is Jonathan

24 Forward, a Utility Engineering Specialist 3 in

25 the bulk electric systems of the Office of

1                   Monthly meeting - 5-16-2019  
2           Electric, Gas, and Water. Today we'll be  
3           briefing you on the state's electric transmission  
4           and distribution system preparedness for the  
5           summer of 2019. Next slide.

6                   Based upon Staff's review and  
7           assessment of utility data, meetings with the  
8           individual utilities and the New York I.S.O.,  
9           Staff finds that the state's electric system,  
10          both transmission and distribution systems, are  
11          prepared to reliably meet New York consumer's  
12          expected summer electric demands. Our review  
13          found that the utilities will complete all major  
14          planned reinforcements, inspections, and repairs  
15          prior to the start of the summer season and they  
16          have adequate spare equipment on hand to meet any  
17          unforeseen circumstances. Next slide.

18                   This chart shows the historical  
19          actuals and forecast statewide peak demands as  
20          projected by the New York I.S.O. What's  
21          important to note here is how the forecast peak  
22          demands have changed over time. As you can see,  
23          the current forecast, which is the lower orange  
24          line on the graph, is substantially lower than  
25          the 2016 forecast, which is the upper green line,

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2 and is also below the previous two years'  
3 forecast shown in purple and black.

4 As has been the case in previous  
5 years, the New York I.S.O. attributes the reduced  
6 peak demands primarily to the positive effects of  
7 the state's energy programs and to underlying  
8 forecast econometric growth rates.

9 If we compare the forecast made in  
10 2016, the green line, for the year 2026 with the  
11 current forecast, or the orange line, for the  
12 same year, the current forecast is about 2,800  
13 megawatts less, a substantial decrease, or the  
14 equivalent of several large power plants.

15 To give a feel for what that means  
16 in terms of residential customers served, the  
17 energy associated with 2,800 megawatts is enough  
18 to supply approximately 2.5 million average-sized  
19 residential homes. Next slide.

20 Corresponding to the previous  
21 graph, this chart shows the forecast impacts of  
22 the contribution of energy efficiency and  
23 distributed generation towards reducing peak  
24 demands. The blue bars represent the energy --  
25 the forecast energy efficiency impacts and the

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2 red bars represent the impacts of distributed  
3 generation.

4 By the year 2029, the combined  
5 effect of energy efficiency and distributed  
6 generation is expected to quadruple to over 40 --  
7 4,500 megawatts from the current forecast for  
8 2019 of about 1,000 megawatts.

9 This table shows the available  
10 installed capacity for 2019. The installed  
11 capacity comprises installed in-state generation  
12 capacity, special case resources and net firm  
13 imports from neighboring I.S.O.s. In total, the  
14 New York I.S.O. expects to have about 42,056  
15 megawatts available to serve load in 2019.

16 This table shows the forecast  
17 statewide peak demand of 32,382 megawatts for the  
18 summer of 2019, which is slightly down from last  
19 year's forecast of about 32,904 megawatts. To  
20 reliably meet this peak demand for 2019, the New  
21 York State Reliability Council has determined  
22 that a minimum installed capacity reserve  
23 requirement of 17% above the forecast peak demand  
24 is required.

25

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2 This 17% installed reserve  
3 requirement results in a 5,505-megawatt minimum  
4 requirement above the forecast peak demand for a  
5 total installed capacity requirement of 37,887  
6 megawatts.

7 As mentioned previously, the total  
8 available capacity for 2019 is 42,056 megawatts,  
9 which is 4,169 megawatts above the minimum  
10 required. This means that the actual installed  
11 reserves are nearly 30% above the forecast peak  
12 for 2019, providing further cushion to serve the  
13 peak load beyond the 17% required by the New York  
14 State Reliability Council.

15 This chart shows load relief  
16 programs for each of the utilities throughout the  
17 state. These programs include the distributed --  
18 Distribution Load Relief Program, the Commercial  
19 System Relief Program, and the Direct Load  
20 Control Program. Through these programs, the  
21 utilities will pay customers to provide load  
22 reductions, if and when needed.

23 Currently there is over 1,000  
24 megawatts enrolled in these programs for 2019 to  
25

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2 further facilitate peak demand reductions during  
3 the summer's hottest days.

4 In evaluating the summer  
5 preparedness of the electric transmission and  
6 distribution systems, Staff reviewed the  
7 utilities' responses to our survey and conducted  
8 interviews with each utility to discuss planned  
9 and completed system reinforcements, spare  
10 equipment inventories, and to confirm that they  
11 will reliably meet customer demands for the  
12 summer of 2019.

13 The New York I.S.O. and each  
14 utility have operating procedures in place to  
15 further mitigate any unforeseen reliability  
16 issues. Staff is confident that the electric  
17 system is prepared to reliably meet New York's  
18 customer's needs for the summer of 2019.

19 This completes my portion of the  
20 presentation. I'll now turn it over to Paul for  
21 discussion on summer price outlook.

22 MR. DARMETKO: Good morning  
23 Chairman Rhodes.

24 Good morning Commissioners.

25

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2 So in this portion of the  
3 presentation, I'll be providing you with a  
4 summary of how the utilities have performed at  
5 reducing electric supply price volatility for  
6 their full-service residential customers. I'll  
7 provide an overview of the utilities residential  
8 electric supply portfolio composition for this  
9 summer, compare this summer's forecast electric  
10 market prices to last summer's forecast and  
11 actual prices, provide you with information on  
12 historic full-service residential customers  
13 average commodity rates, and also with my -- add  
14 my expectations for this coming summer. And  
15 finally, I'll provide you with a summary of the  
16 state's historic electric supply costs from 2006  
17 through last year.

18 This graph shows the results of the  
19 electric utilities supply price volatility  
20 mitigation efforts since December of 2008. It  
21 compares the average New York I.S.O. market price  
22 volatility, the red line, with the volatility of  
23 the utilities residential electric supply  
24 portfolios, the blue line. Or more simply  
25 stated, the lines show what the volatility of the



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2 utilities portfolio would have been had they only  
3 purchased from the market versus what it actually  
4 is because they engaged in hedges.

5 Each point on the line represents  
6 the volatility over a 12-month period as measured  
7 by the coefficient of variation. As you can see  
8 from the chart, the utilities have continued to  
9 do a good job at reducing the portfolio price  
10 volatility compared to market. The highest point  
11 on the chart represents the volatility that was  
12 experienced as a result of the polar vortex in  
13 the winter of 2014. The following run-up in  
14 volatility and then drop is the result of a  
15 combination of electric market prices steadily  
16 falling and a price spike that occurred in  
17 February of 2015. This price spike was nowhere  
18 near as high as the prior winter, but it did  
19 cause the volatility to rise.

20 We then experienced a few years of  
21 relatively stable prices due to mild weather,  
22 followed by another price spike that occurred in  
23 January of 2018, again mainly driven by cold  
24 weather. As you can see, the statewide portfolio  
25 continues to perform very well.

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2 This chart shows the elements of  
3 the composite residential electric supply  
4 portfolio for this summer. As shown, about 59%  
5 of the portfolio consists of fixed price  
6 contracts. Of those fixed price contracts, the  
7 majority of those are financial in nature. The  
8 fixed portion also includes newer physical  
9 contracts, older legacy contracts, and a small  
10 amount of the utilities own generation with fixed  
11 fuel costs, as well as NYPA contracts.

12 The balance of the portfolio is  
13 predominantly made up of market purchases,  
14 followed by relatively small amounts of utilities  
15 own generation with variable fuel cost and index  
16 contracts that are primary indexed to natural  
17 gas.

18 This chart shows this summer's  
19 expected average energy market prices based on  
20 NYMEX futures and how they compare to last  
21 summer's futures and actuals for New York City,  
22 Hudson Valley, and Western New York or New York  
23 I.S.O. Zones J, G, and A, respectively.

24 Last summer's expected energy  
25 market prices that we reported to you last May

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2 are in green. Last summer's actual market prices  
3 are in blue. And this summer's expected market  
4 prices are in red. Last summer, energy prices  
5 across the state ended up being higher than what  
6 was expected going into the summer and this was  
7 mainly driven by a moderate increase in natural  
8 gas prices. At this point, going into this  
9 summer, energy prices are expected to be slightly  
10 lower than last year's actuals.

11 This slide is new for this year and  
12 shows what the historic statewide average full-  
13 service residential supply rates have been  
14 running since 2012. As you can see, the summer  
15 commodity rates have been fairly stable. And,  
16 based on my discussions with the companies and my  
17 review of the market price futures, and the  
18 companies portfolios, I expect that this summer  
19 will be in line with the last few years or  
20 potentially slightly lower. But as I always have  
21 to say, the actual prices will vary based on many  
22 factors including weather and other economic  
23 conditions.

24 This last slide is really just to  
25 provide a bit of context and some history of the

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2 supply costs in New York State. The energy,  
3 ancillary services, and capacity cost information  
4 that's contained in this chart was computed by  
5 Staff and shows what the statewide supply costs  
6 would have been had all energy, ancillary  
7 service, and capacity were priced at market.

8 We've also added gas price  
9 information from the Energy Information  
10 Administration to show the relationship between  
11 electric energy costs and natural gas prices. As  
12 you can see, there is a pretty high correlation  
13 between gas prices and energy costs because in  
14 most hours throughout the year, gas plants are  
15 setting the energy price.

16 The jump in energy and ancillary  
17 service costs from 2013 to 2014 is mainly due to  
18 the polar vortex and the high delivered gas  
19 prices that occurred during that winter. In  
20 2015, '16, and '17, energy costs dropped due to,  
21 again, lost gas prices and overall mild weather,  
22 followed by a price spike in January of 2018 due,  
23 again, to cold weather.

24 The biggest takeaway, however, I  
25 think from this slide is that electric supply

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2 costs in the state remain at relatively low  
3 levels and they're expected to remain low this  
4 summer, which is good news for all customers.

5 So in conclusion, overall at this  
6 point going into the summer, it's expected that  
7 supply costs will be about the same as last  
8 summer, but even if the market does experience  
9 any price swings, the full-service mass market  
10 customers will not experience full magnitude of  
11 those price swings because of the utilities  
12 hedging.

13 And that concludes the  
14 presentation. We are here for questions.

15 CHAIR RHODES: Thank you very much,  
16 Jonathan and Paul. To me, this is a very  
17 reassuring, informational report, good, high-  
18 quality work by the Staff, confirming that the  
19 system is ready, confirming that the supplies we  
20 need or that New Yorkers need are in place, and  
21 that the price outlook is reasonable, likely to  
22 be very much in the same zone as in recent years  
23 and very little likelihood, if any, significant  
24 deviation. So that's just about how it should  
25

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2 be, so this is very comforting for New Yorkers in  
3 my mind.

4 Commissioner Sayre?

5 COMMISSIONER SAYRE: Good work and  
6 very reassuring, I completely agree with the  
7 Chair.

8 CHAIR RHODES: Commissioner Burman?

9 COMMISSIONER BURMAN: Thank you.  
10 Jonathan, this is your first time  
11 presenting. Is that correct?

12 MR. FORWARD: Yeah, that's correct.

13 COMMISSIONER BURMAN: You did a  
14 good job. Thanks.

15 So each year, the Staff provides a  
16 report to the Commission on the status going into  
17 the summer, looking at the utility preparedness  
18 for the upcoming summer load period. I know that  
19 we have, from the session where we were looking  
20 at the plans to be filed for the emergency  
21 response plans, looking at incorporating those.  
22 Normally, we are looking at those as we go into  
23 the summer season. I know, just as mentioned,  
24 that the hurricane season starts for our purposes  
25 June 1st through September and the utility plans

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2 are to be refiled consistent with the order on  
3 May 20th.

4 So we are, you know, cognizant of  
5 the fact that those plans need to be looked at  
6 and then approved. So I am anxiously awaiting  
7 engagement on those issues and how they may help  
8 us in our planning, you know, for all seasons.  
9 But in particular, I am cognizant of the fact  
10 that those conversations are very important and  
11 then to get them to the Commission to approve, we  
12 would have done it normally in March, so -- or  
13 so.

14 One of the comments that I just  
15 want to make is really looking at and -- and  
16 talking about the supply costs. If I am correct,  
17 last year, we were anticipating that the supply  
18 costs would be slightly higher than the last  
19 summer before that. So how does that correlate,  
20 because I do believe that for -- for me, it's  
21 also looking at what that now means?

22 And, you know, I know some of the  
23 slides taken out of context can be deceiving if  
24 you're not looking at them very carefully and  
25 what they mean. So I do think it is important

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2 that we're very clear when something is just for  
3 commodity side, when its delivery, and also what  
4 we're looking at specifically.

5 In this case, we really are looking  
6 largely focused on power supply issues and the  
7 pricing that goes along with that. We've  
8 expanded some of our focus, but it is not  
9 necessarily the full picture. And so I think  
10 people need to be cognizant of that.

11 And also, when we do look at the --  
12 the numbers and the slides, some of it is tricky  
13 because we're only looking at the commodity  
14 prices for the summer, not the annual average.  
15 And there can be a wide price range across the  
16 state due to the different zones and utility  
17 service territories and other issues.

18 So we do need to be cognizant of  
19 that. And I do think we need to make sure that  
20 folks understand that, as well.

21 So can you just speak a little bit  
22 about the supply costs last year and, you know, I  
23 know that -- what that means sort of  
24 historically.

25



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2 MR. DARMETKO: So if I -- I -- I  
3 think, if I understand the question, you'd like  
4 me to speak to the -- the market prices --

5 COMMISSIONER BURMAN: Uh-huh.

6 MR. DARMETKO: -- and how they  
7 compare historically?

8 COMMISSIONER BURMAN: Right.

9 MR. DARMETKO: So last year going  
10 into the summer, this -- slide 12, if you look at  
11 slide -- slide 12, that shows what the futures  
12 prices are, which is actually what the market's  
13 trading at --

14 COMMISSIONER BURMAN: Right.

15 MR. DARMETKO: -- immediately going  
16 into the summer. So last year, there was a --  
17 I'll say a marginal increase in gas prices, which  
18 caused the energy prices to go up beyond what was  
19 expected, what the market was trading at. This  
20 year, again, this is the futures price of energy  
21 for these three zones. And you're right that  
22 there are other zones, but those aren't really  
23 liquidly traded. There's not a lot of trading  
24 that goes on so that's why we focus on these  
25 three.

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2 COMMISSIONER BURMAN: Okay.

3 MR. DARMETKO: But you are right  
4 that the price will be -- it could be very  
5 different from one zone to another across the  
6 state.

7 COMMISSIONER BURMAN: Right.

8 MR. DARMETKO: And generally  
9 speaking, at a really high level and a very  
10 simplistic level, the prices generally are lower  
11 in the west. As you go to the east and then  
12 south, they, generally speaking, become higher.  
13 The one real exception to that is zone D, which  
14 is up in the north which tends to be low almost  
15 all the time, relatively speaking, to the rest of  
16 the zones.

17 But I'm -- I'm trying to figure out  
18 exactly what the question is. But I -- I -- I  
19 think you're right, that the prices will vary  
20 based on the zone and the utilities service  
21 territories and where customers are served.

22 And the -- the slide -- let me see,  
23 it's slide --.

24 COMMISSIONER BURMAN: I -- I think  
25 it's really for me, it's just making sure that we

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2 -- you know, sometimes we make pronouncements,  
3 prices are going to be high, prices are going to  
4 be low, we're all set, you know. And I think  
5 that it's -- it's a -- it is important that we  
6 keep it in context. And so when we make  
7 pronouncements that we're anticipating that  
8 electricity prices are going to be low or going  
9 to be high, it's -- that's not necessarily a true  
10 picture of what we're looking at.

11 And so I just want to be careful  
12 that we are explaining exactly what we're looking  
13 at because it's not necessarily an evaluation of  
14 the whole picture. And so here we are largely  
15 focused on the power supply issues and the  
16 pricing that goes along with that. And when we  
17 talk about it in terms of from one season to the  
18 next, you also have to remember that sometimes  
19 the season prior to that, we were looking at  
20 either higher prices or lower prices from the  
21 prior year.

22 So it's just important to me from a  
23 context perspective that people understand this  
24 is not necessarily the whole picture, but it is  
25 an appropriate snapshot for us as we look at the

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2 summer planning which is what this is about. So  
3 it's not a criticism at all. In fact, it's just  
4 making sure that the takeaway is understood in  
5 that what we're looking at here when we give  
6 this.

7 And -- and too, you know, I just do  
8 want to say kudos to Tammy Mitchell because I do  
9 think that she has been -- I know you didn't  
10 expect that; right? She has been very good at  
11 trying to make sure that we give a fuller  
12 picture.

13 So from my perspective, I just want  
14 to sort of recognize that, but also it's not  
15 necessarily -- it's a snap shot of certain factors  
16 when we're looking at that. And so I just, you  
17 know, wanted some clarification on that.

18 MR. MYERS: Commissioner, if I  
19 could just address two things just to complete  
20 the record? With respect to different crisis  
21 across the state commodity-wise, energy-wise, the  
22 -- the difference, because of the low growth and  
23 demand, has actually shrunk over the years. So  
24 it's like the last 12 months I'm looking at,

25

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2 maybe, 3 to 5 mil difference across the state for  
3 L.B.M.P.

4 The big driving factor, of course,  
5 is ICAP. And ICAP tends to be fairly stably high  
6 in the summer downstate and year after year,  
7 quite low upstate. And then with respect to  
8 delivery charges, those, by their design through  
9 rate cases, are very stable. So this is  
10 addressing the -- the -- as you know, the -- the  
11 most potentially volatile and potentially  
12 deviating from our expectations --

13 COMMISSIONER BURMAN: Right.

14 MR. MYERS: -- those commodities.

15 COMMISSIONER BURMAN: Okay. That's  
16 very helpful. And you did -- since you talked  
17 about demand, I do just want to mention, you  
18 know, U.I.U. has been pretty consistent in  
19 talking about what the summer demands, summer  
20 peaking issues may be and our need to focus on  
21 that from a -- a cost perspective, but also in  
22 terms of reliability perspective.

23 So I do just want to flag, while  
24 this is not the day for that discussion, it is  
25 one that I have noticed that they have

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2 consistently been raising as an issue and it is  
3 one for us, in the short term, to address so that  
4 we are looking at it from a longer-term  
5 perspective of what that means. So I do just  
6 want to flag that.

7 Last year we were also looking at a  
8 new program with Power Authority, Con Ed, and  
9 NYCHA in the D.L.R.P.s and what that looked like  
10 with NYCHA and what that may mean on reliability  
11 and impact.

12 And so for me, I just flag it again  
13 because it is something that, while we're  
14 focusing on the demand response programs and, you  
15 know, we've had some experience, some positive  
16 and some negative, across statewide in terms of  
17 sometimes it has not been as robust or we have  
18 not been able to garner as much interest in them  
19 as -- as we expected. So it is something that we  
20 need to be cognizant of as we look in forecasting  
21 and -- and projecting forward and -- and keeping  
22 our -- our eyes on that.

23 I -- I also -- we talked in here  
24 about the New York State Reliability Council.  
25 And I would be remiss in not recognizing that

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2 it's there. And for those of you who don't know,  
3 their mission is to promote and preserve the  
4 reliability of the electric system on the New  
5 York State Power System. And they just  
6 celebrated, last week, their 20-year anniversary.  
7 And they've been very consistently diligent in  
8 working with all the various stakeholders and  
9 really focusing on their mission in a very  
10 positive way.

11 And so to the extent that, you  
12 know, we've utilized a lot of their information  
13 in this, I -- I just wanted to recognize them for  
14 that.

15 It also, for me, every -- to plan  
16 the utility summer electric system preparedness  
17 item, Staff does work with the utilities in  
18 looking at what their procedures and activities  
19 are for the coming summer. And they do submit, I  
20 believe, some filings, is that correct, on what  
21 they're doing, and then work very closely  
22 throughout the season in updating and keeping  
23 folks engaged on any issues that that may  
24 produce.

25

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2 To the extent that I do want any  
3 information in changes that are occurring that  
4 are going to be important for us from a planning  
5 and reliability perspective, it's very important  
6 to me that that happens in real time and looking  
7 at summer planning contingency analysis that may  
8 have to be done that would be impacted not only  
9 for this summer, but potentially for the future  
10 summer.

11 And then also at the end of the  
12 season, making sure that we do a good job of  
13 looking at what was submitted, their preparedness  
14 and their activities, and then what changes  
15 happened based on circumstances, weather or other  
16 that may have happened, including the specific  
17 projects. So I just wanted to raise that --.

18 MR. MYERS: Commissioner, along  
19 those lines, I just wanted you to make -- make  
20 you aware that the Craft Comprehensive  
21 Reliability Plan just came out from the New York  
22 I.S.O. And it's actually -- it's only about 30  
23 so -- 30 or so pages and it's excellent, if -- if  
24 you read through that to both describe the two-  
25 year cycle that can -- constantly is going on and



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2 -- and the issues that have just bubbled to the  
3 surface and how the I.S.O. and all the  
4 stakeholder groups are planning to address it  
5 with studies or action.

6 And also the -- state of market  
7 report from Potomac Economics has a lot of  
8 interesting things about the latest items on the  
9 front burner that we need to address.

10 And in addition to that two-year  
11 planning cycle, a lot of issues just bubble up  
12 and go through the committee process. One recent  
13 example is the -- about to go to FERC fairly  
14 soon, the change to operating reserves in Zone J.

15 And so those things are -- I just  
16 wanted to assure you or the record that those  
17 things are continuously going on and -- but the -  
18 - the C.R.P. plan is a really -- I found it very  
19 good reading this year.

20 COMMISSIONER BURMAN: Good. Thank  
21 you. Not that I want this to be an info  
22 commercial for the I.S.O., but -- power trends  
23 2019.

24 So the only other thing, and I'll  
25 just end on more of a personal note, us being

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2 prepared for all seasons is very important. It  
3 goes without saying. We all are diligently  
4 working together and we need to be focused on  
5 that. So these types of things and the planning  
6 around it, whether it's at this session, but all  
7 the work that goes on after this is very, very  
8 important.

9 The summer electric system  
10 preparedness item is always a time for me, on a  
11 personal level of importance. I recognize that  
12 and I won't bore you with a longer version of it,  
13 but I recognize that three of my most impactful  
14 events in my life around energy reliability  
15 issues happened in the summer to me, while it  
16 also happened, obviously, to a lot of other  
17 people as well, but two happened globally, more  
18 than just outside of my world, the July, 1977  
19 blackout in New York City, the August 2003  
20 blackout, and then in July a few years ago, when  
21 I had brain surgery and had a device implanted  
22 that relies on electric system for recharging,  
23 and needing that.

24 So I do sort of share that with you  
25 because it is that important that we make sure

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2 that we keep the lights on. And so this planning  
3 and all that goes in there really is very, very  
4 important. And we need to remember that, you  
5 know, on a -- really on a daily basis as we -- we  
6 do affect and impact people's lives. So with  
7 that, thank you very much.

8 CHAIR RHODES: Thank you.

9 Commissioner Alesi?

10 COMMISSIONER ALESI: Thank you, Mr.  
11 Chairman.

12 I think we're very fortunate that  
13 we have this picture of reliability as far as  
14 supply and pricing. We are really fortunate that  
15 it's based on the hard work and expertise of our  
16 Staff. So thank you very much.

17 CHAIR RHODES: Thank you.

18 So this was an informational item,  
19 no action to be taken.

20 We'll now move to the second item  
21 for discussion, which is Item 302, Case 15-E-0751  
22 as it relates to standby and buyback service  
23 rates, presented by Ted Kelly, Assistant Counsel.  
24 Rob Cully, Utility Engineering Specialist 2;  
25 Warren Myers, Director of Office -- Director

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2 Office of Market and Regulatory Economics; and  
3 Marco Padula, Director of Markets and Innovations  
4 are available for questions.

5 Ted, please begin -- or take a seat  
6 --.

7 But before we do, may I just ask  
8 sort of a housekeeping question? Can people hear  
9 us speaking through the microphone or are there -  
10 - is the sound okay? All good? Okay. Great. I  
11 thought I saw some faces signaling something  
12 else, but terrific. Thank you.

13 Ted, please begin.

14 MR. KELLY: Good morning, Chair  
15 Rhodes and Commissioners. Thank you.

16 Item 302 is a draft order adopting  
17 modifications to standby service and buyback  
18 service rates. Standby service rates generally  
19 apply to customers who have on-site generation  
20 that serves much of their load, but still depend  
21 on the utility to provide partial or backup  
22 service. They are designed to ensure that the  
23 cost of -- the -- being available to those  
24 customers is recovered.

25

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2 They contained three main  
3 components, a customer charge fixed at the same  
4 amount for all customers in the service class, a  
5 contract demand charge individually fixed for  
6 each standby customer based on that customer's  
7 individual maximum demand, and an as-used demand  
8 charge which varies each month based on the  
9 customer's usage during peak periods that month.

10 As part of the Reforming the Energy  
11 Vision proceeding, a reliability credit was also  
12 established as part of standby rates. This  
13 allows standby customers to earn a credit towards  
14 their contract demand by reliably avoiding using  
15 the grid during peak periods.

16 Standby service rates are  
17 applicable only to a customer's delivery rates.  
18 A standby customer would also be billed for  
19 supply by the utility or by an ESCO of their  
20 choice. Certain types of customers and resources  
21 are generally exempt from standby rates. For  
22 customers with generation that does not fall  
23 under an exemption, standby rates are generally  
24 mandatory.

25

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2 Buyback service rates apply to  
3 customers who have on-site generation that is not  
4 eligible for net metering or the value stack and  
5 who sometimes inject electricity into the grid to  
6 sell it to the utility. A customer may be both a  
7 standby and buyback customer or, if the customer  
8 only has a generator and no on-site load, would  
9 then be a buyback-only customer. Generally,  
10 buyback rates contain the same customer charge  
11 and contract demand charge components as standby  
12 rates, but some variation exists among utilities  
13 at this time.

14 In addition, rather than paying for  
15 supply, a buyback customer is compensated for  
16 their injections based on wholesale market energy  
17 and capacity prices.

18 Standby rates were implemented in  
19 New York in 2002 -- in 2002 and 2003, I believe  
20 buyback rates are actually older than that and --  
21 and were the result of the Federal Public Utility  
22 Regulatory Policy Act allowing generators -- non-  
23 utility generators to sell in to the grid.

24 As part of the Reforming the Energy  
25 Vision proceeding, the Commission initiated a

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2 review of standby and buyback rates. The process  
3 for this review included detailed fillings by  
4 each utility followed by discussion in the value  
5 of distributed energy resources rate design  
6 working group. It culminated in a Staff white  
7 paper issued for comment in December 2018.

8 The draft order adopts a number of  
9 recommendations from the white paper and reflects  
10 the detailed comments submitted by a number of  
11 interested parties. I will summarize the major  
12 decisions in the draft order. These decisions  
13 will result in the filing of a study and draft  
14 tariff changes by each utility on September 1st  
15 for review and comment by interested  
16 stakeholders, followed by consideration and  
17 ultimately an implementation order from the  
18 Commission with the exception of a couple of  
19 minor tariff changes that will be made  
20 immediately following this order because of their  
21 overall simplicity and -- and the lack of need  
22 for further review.

23 First, the draft order adopts the  
24 recommendation in the white paper that standby  
25 rates or standby-like rates should be made

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2           available as an opt-in rate option for all  
3           customers regardless of whether they own  
4           generation resource.

5                   As standby rates are among the most  
6           theoretically accurate rate designs for aligning  
7           a customer's contribution to system costs with  
8           the rates that that customer pays, it is  
9           appropriate to offer them as an option to any  
10          interested customer. This may prove a beneficial  
11          rate for customers with certain types of  
12          distributed energy technologies to adopt,  
13          including heat pumps and electric vehicles,  
14          depending on their overall usage patterns.

15                  Because the migration of customers  
16          to standby rates could cause cost shifts among  
17          customers, which may be undesirable even if those  
18          rates -- even if those cost shifts reflect actual  
19          cost causation because the original cost  
20          distribution reflected the decision in a rate  
21          case or the negotiated settlement that -- that  
22          resulted in a rate decision, the utilities will  
23          track and regularly report on that migration.  
24          And if there's any signal that cost shifts may be  
25          occurring at an unacceptably high rate, we would



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2 come back -- Staff would bring that to the  
3 Commission for consideration.

4 And in rate cases this should be  
5 able to be reconciled so that it really would  
6 only be an issue prior to any rate cases when  
7 opt-ins are happening.

8 Second, the draft order adopts a  
9 new method for the allocation of costs between  
10 the elements of standby rates, that is primarily  
11 between the contract demand charge and the as-  
12 used demand charge, which is called the allocated  
13 cost of service study or ACOS, A-C-O-S. Since  
14 the institution of standby rates, costs have been  
15 allocated based on matrices developed through a  
16 negotiation process that happened in about 2003,  
17 which has not subsequently been updated for any  
18 of the utilities other than National Grid.

19 The ACOS offers the opportunity to  
20 update those allocations and base them on a more  
21 detailed, rational engineering analysis --  
22 engineering driven analysis.

23 National Grid moved the ACOS method  
24 in a recent rate case which resulted in a  
25 reduction in contract demand charges and an

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2 increase in as-used demand charges for standby  
3 customers at that utility and was generally  
4 something that was supported by all interested  
5 customers in that rate case. The other utilities  
6 are directed to conduct such studies and file  
7 them in September.

8 Note that all of the standby rate  
9 design changes being ordered will also be filed  
10 in September based on the application of that  
11 ACOS. This approach will enable a comprehensive  
12 and consistent review by D.P.S. Staff and  
13 stakeholders followed by Commission consideration  
14 of the resulting rates across all utilities at  
15 the same time.

16 Third, the order directs all  
17 utilities to implement more granular time periods  
18 for as-used demand charged. Con Ed currently has  
19 a pilot under which a narrower, local peak is  
20 used. The peak is also devised into peak and  
21 super-peak periods during the summer months. For  
22 utilities other than ConEdison, the as-used  
23 demand charge is generally based on the same  
24 rather lengthy on-peak demand period as typical  
25

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2 non-standby customers. However, it does not  
3 include a summer super peak period at all.

4 The -- the more granular time  
5 periods, including the more narrowed summer super  
6 peak period, provided improved cost alignment,  
7 price signals, and customer ability to control  
8 bills and use the system efficiently and should  
9 be implemented statewide.

10 Fourth, the draft order modifies  
11 rules for the reliability credit to clarify that  
12 a customer cannot receive the reliability credit  
13 for a generator that's already receiving value  
14 stack compensation, as value stack compensation  
15 already accounts for the potential benefits to  
16 the grid that the reliability credit is based on.

17 Fifth, the order directs the  
18 implementation of multi-party campus offset  
19 tariffs at all utilities that do not currently  
20 have them. Offset tariffs generally allow a  
21 customer -- allow standby customers to connect a  
22 generator behind one meter and use it to offset  
23 as-used demand charges at other nearby meters.  
24 They originally were limited in application to  
25 meters in the same building and owned by the same

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2 customer. They have been gradually expanded to  
3 include multiple buildings in a campus  
4 arrangement, as well as multiple customers in one  
5 building.

6 At ConEdison, in a recent rate  
7 case, they have also been expanded to include  
8 multiple customers with multiple buildings in a  
9 campus arrangement and the other utilities are  
10 directed to expand their tariffs in the same way.  
11 To ensure that this does apply only to true  
12 campus arrangements, the buildings will be  
13 required to share a thermal from the generator  
14 which generally would be likely to be a  
15 consolidated heat and power or perhaps fuel cell  
16 generator and, therefore, provide thermal heating  
17 or cooling.

18 The next several recommendations  
19 are specific to buyback rates. The draft order  
20 standardizes buyback rate design across the  
21 utilities by directing the implementation of each  
22 of the buyback rate components by utilities not  
23 already using them for both dual service, standby  
24 and buyback customers and for buyback-only  
25 customers. For dual service customers, they

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2 generally would only have to pay the higher of  
3 the two rates, the two customer charges and  
4 contract demand charges.

5 The draft order also standardizes  
6 buyback purchases across the utilities, by  
7 requiring that all utilities purchased up to five  
8 megawatts of capacity from buyback customers. In  
9 the past, some utilities weren't purchasing  
10 capacity at all, whereas others were purchasing  
11 unlimited or higher amounts of capacity  
12 potentially.

13 Finally, the draft order directs a  
14 technical modification to buyback rates that will  
15 slightly reduce costs allocated to those rates.  
16 The implementation of these recommendations will  
17 alignment between standby rates and system costs  
18 to avoid over or undercharging customers, enhance  
19 the ability of customers to manage their bills by  
20 managing their usage, allow customers with a  
21 variety of distributed energy resources,  
22 including electric cars and heat pumps, to choose  
23 a rate that allows them to reduce their costs by  
24 using energy at times of low demand, and  
25 encourages efficient grid utilization and peak

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2 demand reductions. This represents a meaningful  
3 step towards achievement of the state's goals for  
4 a cleaner, more distributed electric system.

5 Thank you. Rob, Warren, Marco and  
6 I are available for questions.

7 CHAIR RHODES: Thank you, Ted.

8 This is obviously a complex topic  
9 and I -- I applaud the work the Staff has done.  
10 This, to me, is a careful, smart, and I don't  
11 know what other word to use except practical,  
12 although it's a very complicated subject,  
13 approach going forward. So I'm going to be in  
14 favor of this item.

15 Commissioner Sayre?

16 COMMISSIONER SAYRE: Like the  
17 Chair, I see a tremendous amount of hard and good  
18 work by Staff on this item. I particularly  
19 appreciate the careful, reasoned attention paid  
20 to the comments and the positions of the  
21 interested parties. Overall, I'm very  
22 comfortable establishing a rate design that more  
23 closely tracks the cost of service and in the  
24 details, I'm comfortable with the specific  
25 recommendations and reasoning in the draft order.

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2 CHAIR RHODES: Commissioner Burman?

3 COMMISSIONER BURMAN: Thank you.

4 So standby rates have been controversial and  
5 hotly debated over the years. There's sometimes  
6 questions on the proper allocations of costs, as  
7 well as whether or not this is a barrier to  
8 sensible D.G. development including C.H.P.

9 And since I've been on the  
10 Commission, it has been a focus of many parties  
11 to address in a real way with real reforms and  
12 that would give regulatory certainty -- business  
13 certainty and customer certainty. I do think  
14 that we were overly ambitious in 2015 in thinking  
15 that it would happen overnight and that the  
16 signal was we were ready to go.

17 Now I don't think that's a -- I  
18 don't mean that as a criticism. And so now that  
19 we're looking four years later at this, it is not  
20 necessarily, you know, a what happened, why'd it  
21 take so long. But rather, I do think it is us to  
22 be cognizant of the fact that the workloads that  
23 we are engaged in and the substantive policy  
24 issues that we really need to look at in a  
25 holistic way in what is fitting, and where, and

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2           how it is going to get implemented, and in what  
3           timeframe, and also to have more realistic policy  
4           implementation timelines and update them as  
5           appropriate.

6                                   So for me, when I saw that this was  
7           on, I was happy to see that because I do think  
8           that folks have been very focused on this issue.  
9           But it did require a great deal of clunky  
10          research on -- on my end in terms of going  
11          through all the different records to find what  
12          everyone's focus was. It wasn't just about, to  
13          me, reading the Staff white paper and using that  
14          as -- while I did use that as sort of the  
15          baseline and then the comments that came in from  
16          that. It was more about going backwards and  
17          making sure that I had properly done my due  
18          diligence from a historical perspective,  
19          especially since the standby rates have been  
20          around since the early 2000s and there's been a  
21          number of different orders that we've done for  
22          that.

23                                  So it was important for me to fully  
24          understand and then also to try to see how it  
25          fits in all of our other different rate design



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2 discussions. And I don't think it's an apples-  
3 to-orange comparison, but I do think it's one  
4 that is helpful to be looking at.

5 Now, as I kind of see it in a  
6 snapshot is that standby rates are really tariffs  
7 that are designed to recover the costs incurred  
8 by the utilities to provide service to those  
9 customers that use the utility transmission and  
10 distribution system for only a portion of their  
11 electric energy requirements. And they typically  
12 apply to customers who electricity requirements  
13 are partly self-supplied through on-site  
14 generation and the cost shift issues is one that  
15 we have to contend with.

16 I had some great reservations,  
17 initially, on this order because it was not  
18 giving finality to the standby rate issue. And  
19 so I was locked in to when are we going to have  
20 that finality. But after going through  
21 everything and looking at this, I do think that  
22 we're in the right direction in the forward  
23 progress and sending a signal on -- on what we  
24 are looking to do to enable sensible D.G.  
25 development and to work through that process.

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2 This is not a revenue issue in this  
3 item. And so for me -- and when we have the cost  
4 of services study, we can be looking at some of  
5 those issues in there. And that initially caused  
6 me a little bit of concern on what that would  
7 look like.

8 I'm comfortable with the fact that  
9 the output of the allocated cost of services  
10 studies and all of the revised rates will be  
11 subject not only to Staff review, not only to  
12 public notice, but also importantly, for me,  
13 Commission approval in a future order before any  
14 new rate goes into effect.

15 So for me, that approach is one  
16 that ultimately was helpful for me to be  
17 comfortable with in looking at what that means  
18 and understanding that the Commission will be  
19 examining the standby rate design in what is to  
20 be a consistent and comprehensive approach.

21 The second hurdle that I had was --  
22 or one of, I don't know, I may have ticked off a  
23 couple of other hurdles ahead of it before I  
24 started counting, so excuse me.

25 CHAIR RHODES: The next.

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2 COMMISSIONER BURMAN: So was the  
3 Con Ed standby rate pilot, rider Q, because that  
4 had been through a rate case through joint  
5 proposals, settlement. And when it came to us,  
6 the focus was that that pilot would inform what  
7 we were doing on standby rates. So I initially  
8 was concerned.

9 And that also meant that for me, on  
10 my end, I had to then focus on looking back at  
11 all of the different attributes that got us to  
12 the rider Q and that pilot, and then the comments  
13 that had been submitted. And it is not easy to  
14 find things in D.M.M. I'll just say that for the  
15 record. So it caused me to have a lot of paper,  
16 more than I normally do, all over the place in  
17 searching.

18 But what I did find and what I  
19 think really I landed on was that the Con Ed  
20 pilot, while it is ongoing and we will be -- and  
21 it is important that we look at, in real time,  
22 what's happening and how that can be  
23 incorporated, it is not a holdup to us at this  
24 point and that it can still inform us when we get  
25 to examining standby rate designs and, because

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2 ultimately when we're looking at this and the  
3 message that we're sending is that granular rate  
4 designs are important and are helpful to a more  
5 accurate reflection on the underlying cost to  
6 serve customers. And so the signal that we're  
7 looking at is really trying to move in a  
8 consistent direction to allow customers to have  
9 the ability to make economic decisions to improve  
10 the efficient use of the system. And so I  
11 ultimately was comfortable with that.

12 I do want to focus a little bit on,  
13 as we go forward in future rate cases, whether  
14 they're pending or in -- in the future, and we  
15 still will be examining the standby rates. I am  
16 going to be very focused and -- and want to make  
17 sure that when we look at standby rates in the  
18 rate cases, that it is not sort of teed up to us  
19 as a here, we're going to do X now because all of  
20 the parties in the joint proposal agreed to it,  
21 without necessarily examining, independently of  
22 that, what that means, not only for that utility  
23 and that customer, but the businesses, and also  
24 what that means statewide, and that the record  
25 needs to be very clear before you go into any

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2 settlement discussions leading to a joint  
3 proposal.

4 And even still, coming out, the  
5 Commission itself needs to really hone in on  
6 that. There are other issues too, you know, that  
7 we'd need to hone in on, but in this particular  
8 case, I am cognizant of the fact, since the rider  
9 Q pilot came about through a joint proposal  
10 settlement, I just want to make sure that, you  
11 know, we are cognizant of that issue.

12 This does not currently, as it  
13 stands, apply to PSE&G Long Island; however, I  
14 think that PSE&G Long Island typically will  
15 examine our orders and, as appropriate, align  
16 themselves with what we're doing.

17 I do want to caution, like for all  
18 orders that we do, the examination has not been  
19 done by this Commission on what that means for  
20 customers in the PSE&G Long Island territory.  
21 And so there really needs to be a comprehensive  
22 analysis that is done by the appropriate folks on  
23 that issue. And for me, it's important to have  
24 information on what that may look like as we  
25 don't directly regulate, but in many instances,

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2 we indirectly have responsibilities to that  
3 system, as well. And it's very important for us  
4 to know, so I just raise that.

5 I am going to be concurring. I'm  
6 very happy the Staff has worked, I think, very  
7 diligently on these issues and I'm going to save  
8 you all -- I'm not going to ask any questions  
9 because I think I covered all my issues, so.

10 CHAIR RHODES: Thank you.

11 Commissioner Alesi?

12 COMMISSIONER ALESI: Yeah, I  
13 suspect that my comments in general are going to  
14 be the same as they were for the previous item  
15 and most likely will be for the next item as  
16 well. So I'll simply concur with my colleagues  
17 on this for this item. Thank you.

18 CHAIR RHODES: Thank you very much.

19 So with that, we will proceed to a  
20 vote. My vote is in favor of the recommendations  
21 to modify standby and buyback services rates as  
22 discussed.

23 Commissioner Sayre, how do you  
24 vote?

25 COMMISSIONER SAYRE: Aye.

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2 CHAIR RHODES: Commissioner Burman,  
3 how do you vote?

4 COMMISSIONER BURMAN: I concur.

5 CHAIR RHODES: Commissioner Alesi,  
6 how do you vote?

7 COMMISSIONER ALESI: Aye.

8 CHAIR RHODES: The item is approved  
9 and the recommendations are adopted.

10 So we move now to the third item  
11 for discussion, which is really different, Item  
12 303, Case 19-E-0079, which is the matter of the  
13 continuation of standby rate exemptions as  
14 presented by Ted Kelly, Assistant Counsel. Rob  
15 Cully, Utility Engineering Specialist 2; Warren  
16 Myers, Director of Office and Market and  
17 Regulatory Economics; and Marco Padula, Director  
18 of Markets and Innovation are available for  
19 questions.

20 Ted, please begin.

21 MR. KELLY: Thank you.

22 Item 303 is a draft order extending  
23 certain exemptions from the standby rate which  
24 were due to expire on May 31st, 2019, the end of  
25 this month.

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2 Since standby rates were  
3 instituted, small generators using a clean energy  
4 technology, as well as combined heat and power  
5 generators, C.H.P., meeting certain efficiency  
6 rules, have qualified for an exemption from  
7 standby rates if -- if below one- megawatt-rated  
8 capacity. The exemption is permanent if the  
9 generator is installed prior to the expiration of  
10 the exemption period.

11 More recently, an exemption was  
12 offered to efficient C.H.P. resources sized at  
13 between 1 and 15 megawatts. That exemption only  
14 lasts for four years from the resources  
15 installation, after which period it becomes  
16 subject to standby rates. The previous extension  
17 of the exemptions noted that -- that it is  
18 appropriate to extend them until such time as the  
19 standby rate reforms contemplated in the  
20 Reforming the Energy Vision proceeding were  
21 implemented.

22 As the previous item presented,  
23 begins the process of implementing those reforms,  
24 a further limited extension is appropriate to  
25 allow the implementation process to be completed



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2 before the exemptions are removed. Therefore,  
3 the draft order extends the exemption period by  
4 two years to May 31st of 2021. To be clear, this  
5 does not extend the four-year period of exemption  
6 for individual C.H.P. resources. Rather, it  
7 extends the in-service state deadline for all  
8 types of resources to qualify for an exemption.

9 Currently existing C.H.P. resources  
10 would still roll into standby rates at the end of  
11 four-year current timeline and new resources  
12 would be subject to a four-year timeline from  
13 their installation.

14 Rob, Marco, Warren, and I are  
15 available for questions.

16 CHAIR RHODES: Thank you very much.

17 To me, this item is timely,  
18 limited, and sensible, especially given the  
19 discussion and the vote we just took on the prior  
20 item. I'm going to be in favor of this one.

21 Commissioner Sayre?

22 COMMISSIONER SAYRE: To me, this  
23 order is just a logical extension of the order  
24 that we just adopted. I don't see any need and,  
25 in fact, I think it's not a good idea to tinker

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2 with the standby rate exemptions until we and the  
3 interested parties can get a look at the standby  
4 rate filings that the utilities are going to make  
5 in compliance with today's standby rate order.  
6 So extending the exemption structure for a brief  
7 period of time therefore makes very good sense to  
8 me.

9 CHAIR RHODES: Thank you.

10 Commissioner Burman?

11 COMMISSIONER BURMAN: Thank you.

12 Since its inception in 2003,  
13 standby exemptions have been an option for  
14 customers to choose between paying the standard  
15 delivery rates or the applicable standby rates.  
16 And similar to the S.I.R. process, a periodic  
17 reevaluation of the -- of the exemption has come  
18 before the Commission before and the Commission  
19 generally examines the effect of the exemption on  
20 the promotion of a sensible D.G. development, as  
21 well as its impact on other ratepayers and on who  
22 may be exposed to higher costs if D.G. customers  
23 avoid standby rates that accurately charge them  
24 for the cost of electric service.

25

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2 I am ever mindful of the cost shift  
3 issues. And I'm also ever mindful of the need  
4 for finality. So while I do agree with an  
5 extension of time on the exemptions, I am just  
6 noting that we really do need to get under the  
7 hood and have -- continue our progress forward,  
8 but in a way that is truly transparent and  
9 engaging of all stakeholders and truly  
10 collaborative in looking at the specific issues  
11 that are presented, which may be different from  
12 utility to utility and may be different from  
13 customer to customer.

14 And so for us, it is very important  
15 that we not operate sort of in a silo  
16 perspective, but also making sure that we are  
17 examining this properly and also in a way that  
18 explains it in layman's terms to the folks who  
19 may be interested in this so that it is not just  
20 a lot of our technical jargon that doesn't  
21 translate.

22 And then keeping in mind that, as  
23 this is a foundational rate and these exemptions  
24 are there for now as needed, we do need to look  
25 at what that means and how it works with other

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2 aspects of our energy portfolio and incorporate  
3 that in a way that is not in isolation.

4 So I will be concurring.

5 CHAIR RHODES: Thank you very much.

6 Commissioner Alesi?

7 COMMISSIONER ALESI: Okay. I  
8 changed my mind. I'm not going to say the same  
9 things. Actually, I will. Again, the -- the  
10 result of good work and effort by the Staff.

11 But I would say that it's a  
12 pragmatic move to extend the deadline. And I  
13 think another benefit here, it gives the Staff  
14 and gives the Department and the Commission an  
15 opportunity to see how things are going since  
16 they seem to be going well. If there's room for  
17 improvement and room for tweaking, that gives us  
18 an opportunity. So good work again. Thank you.  
19 And I'll be supporting the issue.

20 CHAIR RHODES: Thank you.

21 So with that, I will proceed to  
22 call for a vote. My own vote is in favor of the  
23 recommendation to extend the standby rate  
24 exemptions as discussed.

25

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2 Commissioner Sayre, how do you  
3 vote?

4 COMMISSIONER SAYRE: Aye.

5 CHAIR RHODES: Commissioner Burman?

6 COMMISSIONER BURMAN: Concur.

7 CHAIR RHODES: Commissioner Alesi?

8 COMMISSIONER ALESI: Aye.

9 CHAIR RHODES: The item is approved  
10 and the recommendations are adopted.

11 We'll now move to the consent  
12 agenda. Do any Commissioners wish to comment on  
13 or recuse from voting on any items on the consent  
14 agenda?

15 Commissioner Sayre?

16 COMMISSIONER SAYRE: No.

17 CHAIR RHODES: Commissioner Burman?

18 COMMISSIONER BURMAN: Yes. I want  
19 to -- I will be voting no on 561, which is the  
20 Charter item. I have been voting no since this -  
21 - this -- orders have come before us. I don't  
22 know whether it's the eighth or the ninth time.

23 However, this time this confirming  
24 order is different from the past in that we do  
25 have now a proposed agreement between the

1                                   Monthly meeting - 5-16-2019  
2           Department of Public Service and Charter to  
3           resolve disputes over the network expansion  
4           conditions that were imposed by the Public  
5           Service Commission at the special session in  
6           July.

7                                   I do recognize that issued  
8           yesterday was a notice seeking comments on the  
9           settlement agreement. And if my timeline is  
10          accurate, with that and the SAPA, it means that  
11          the earliest this could be decided is,  
12          ironically, July of this year.

13                                  My concern and the reason I vote no  
14          is really related to the procedural and legal  
15          technical issues that were presented from the  
16          underlying order and special session, and also  
17          the -- the -- what I believe is inappropriate  
18          reading of the Public Service Law which granted  
19          the Commission the ability to, for good cause  
20          shown, extend the time for a petition for hearing  
21          to be filed.

22                                  While my other Commissioners did  
23          not agree with me, I do still substantively will,  
24          you know, reserve or preserve my concerns with  
25          that. However, I am looking forward to

1 Monthly meeting - 5-16-2019  
2 addressing the underlying substantive proposed  
3 settlement agreement and I will be reviewing and  
4 looking carefully at that for what is in the  
5 public interest of the -- of New Yorkers in  
6 deciding on how to vote on that.

7 I will, however, just comment that  
8 when we do look at settlement agreements, whether  
9 they're from joint proposal settlement agreements  
10 or after issuing orders to show causes and Staff  
11 and utilities go into settlement negotiations, it  
12 is important for me, as a Commissioner, when I'm  
13 examining the -- what's in the public interest of  
14 the settlement agreement, not just to look at the  
15 outcomes of the settlement agreement, but also to  
16 look at what got us there and also what the  
17 litigation risks are.

18 It's in my due diligence in  
19 examining that even if that means that counsel  
20 needs to, you know, give us a confidential memo  
21 for -- for attorney/client privilege in looking  
22 at that. It's important for us in looking at the  
23 entire picture from the underlying orders that  
24 came.

25

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2 Why is that important? Because I  
3 do think that we need to examine the initial  
4 actions that were taken by Staff in bringing  
5 orders to show causes and the initial actions by  
6 the Commission in allowing that to go forward.

7 And so to the extent that, for me,  
8 that procedural process is one that also is about  
9 fairness, but also understanding the actions that  
10 we're doing and the appropriateness of using  
11 those hammers and whether or not then that is  
12 appropriate and what those potential metrics are  
13 for what would trigger an order to show cause or  
14 orders that take us into court in some fashion.

15 So I do think -- I -- I -- I share  
16 this because I think it's not just for the Staff  
17 to be aware of, but I think in terms of all of us  
18 looking carefully and understanding where my  
19 thinking is and what I will be doing in examining  
20 it and examining the record because when we have  
21 gotten settlements that come before us for  
22 approval, it has not necessarily had that aspect  
23 of it. And I do think that that's something now  
24 that we do need to look more -- at least I do  
25 need to look more holistically at in



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2 understanding that, and then also understanding  
3 what it is that we as a Commission are doing  
4 because sometimes the ends do not justify the  
5 means, but it doesn't necessarily mean that we  
6 can't focus on where we're at. But what we need  
7 to do is also look at is there a better way and a  
8 better process that we can engage in that is  
9 helpful to the overall picture.

10 And for me, it's also active  
11 engagement with all concerned and interested  
12 parties to be able to fully understand whether or  
13 not this is truly in the public interest. So I  
14 look forward to that review on 561, but for now  
15 I'll be voting no for my underlying concerns  
16 which I still preserve.

17 I do also want to recognize that we  
18 have a number of consent items that are about  
19 street lighting. And as I've said before, I do  
20 think it's important for us to look at all of the  
21 different impacts that our street lighting  
22 actions have had, and potentially good or bad,  
23 and potentially look at barriers and  
24 opportunities in that. But it is -- you know, I  
25 do recognize that for us, we're approving the

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2 sale of street lights in many cases to  
3 municipalities.

4 So far to date, I haven't done the  
5 numbers to add in this month's, but to date minus  
6 this month's, the Commissions approved nearly --  
7 the sale of nearly 45,000 street lights to 18  
8 municipalities across New York State. That's a  
9 lot. And so I do think it's incumbent on us to  
10 look at that. It -- while we do have sister  
11 agencies who are involved in it, it may also be  
12 for us to understand if there are better  
13 processes in place.

14 It's no secret that I have  
15 questioned whether or not NYPA needs to be  
16 involved in fully managing and implementing a  
17 customer's transition to L.E.D. street light  
18 technology and whether or not that's appropriate  
19 and if it's giving the best to all the customers  
20 is something we can examine and look at, and also  
21 making sure that we have fully examined any  
22 hiccups or hurdles that municipalities and  
23 utilities and customers have had or continue to  
24 have and challenges, because it's a lot that's --  
25 that's out there. And there are some other

1                   Monthly meeting - 5-16-2019  
2           issues including maintenance, et cetera that go  
3           into account that we need to look at. So we just  
4           need to be aware of that, so -- so I point that  
5           out.

6                   Thank you.

7                   CHAIR RHODES: Thank you.

8                   So I'll call for the vote. My vote  
9           is in favor of the recommendations on the consent  
10          agenda.

11                  Commissioner Sayre, how do you  
12          vote?

13                  COMMISSIONER SAYRE: Aye.

14                  CHAIR RHODES: Commissioner Burman,  
15          how do you vote, recognizing --?

16                  COMMISSIONER BURMAN: I vote yes,  
17          except for Charter 561, I vote no.

18                  CHAIR RHODES: Thank you.

19                  Commissioner Alesi, how do you  
20          vote?

21                  COMMISSIONER ALESI: Aye.

22                  CHAIR RHODES: The items are  
23          approved and the recommendations are adopted.

24                  Do you want to --?

25

1 Monthly meeting - 5-16-2019

2 COMMISSIONER BURMAN: So thank you,  
3 Chair, for recognizing me to make a few comments.  
4 So thanks.

5 We had the pleasure this semester  
6 of having an intern working on our 20th floor,  
7 Nina Salerno, who's a SUNY Albany student getting  
8 her bachelor's of arts in political science. She  
9 is currently a junior. She has worked closely  
10 with me in looking at all things energy related.  
11 And this is her last week with us and I just  
12 really wanted to recognize the importance of  
13 mentoring and internships.

14 Nina has been a true asset to us.  
15 And I have no doubt that she will go on to do  
16 incredible things. When she came to me and I  
17 interviewed her, one of the things I asked her is  
18 what she wanted to do with her future. And she  
19 said she was considering whether or not to go to  
20 law school and she was not necessarily sure  
21 exactly what she wanted to focus on.

22 For me, it was making sure that the  
23 internship was not about just giving her data  
24 entry work or things that would be helpful to me,  
25 but really to enabling her to look at her skill

1                                   Monthly meeting - 5-16-2019  
2                   sets and look substantively at some issues that  
3                   may be of interest to her or not, regardless of  
4                   whether or not she chooses to stay in the energy  
5                   field.

6                                   And I really was quite impressed  
7                   because this was a person who was a go-getter and  
8                   was also someone who I don't think recognizes her  
9                   own potential. She comes from humble background  
10                  and she is somebody that is really focused on  
11                  consistently being engaged, personally and  
12                  professionally. When she leaves the internship,  
13                  she goes off to school. And when she leaves  
14                  school, she goes off to work at a local business  
15                  at the mall.

16                                  And then she consistently makes  
17                  sure she touches base to go back home on Staten  
18                  Island to visit her family, as needed, and is  
19                  never one to showcase any stress and has been  
20                  somebody, I can just tell, is destined to  
21                  continue to make an impact in this world. And we  
22                  need all of the Ninas that there are to help with  
23                  that.

24                                  My favorite person from quote  
25                  perspective is Eleanor Roosevelt. And she says

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2 that success must include two things, the  
3 development of an individual to his utmost  
4 potentiality and a contribution of some kind to  
5 one's world. I have no doubt that Nina will be  
6 someone who would develop to her utmost potential  
7 and she will contribute great things to this  
8 world. And I was blessed to have a small part of  
9 that, working with her this semester. I look  
10 forward to hearing about her happenings and  
11 continued progress forward in the future.

12 So thank you, Nina, for making me  
13 cognizant of the fact that this is one of the  
14 most important parts of my job and something that  
15 gives me great pleasure of be a part of. So  
16 thank you.

17 CHAIR RHODES: Thank you.

18 And so on that very nice note, we  
19 are adjourned.

20 (The meeting adjourned at 11:42  
21 a.m.)

22

23

24

25

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2 STATE OF NEW YORK

3 I, ANDREW BELAIR, do hereby certify that the foregoing was  
4 reported by me, in the cause, at the time and place, as  
5 stated in the caption hereto, at Page 1 hereof; that the  
6 foregoing typewritten transcription consisting of pages 1  
7 through 62, is a true record of all proceedings had at the  
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 23rd day of May 2019.

11

12

13 ANDREW BELAIR, Reporter

14

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