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Monthly meeting - May 18, 2017

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MONTHLY MEETING
OF THE PUBLIC SERVICE COMMISSION

Thursday, May 18, 2017
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS

GREGG C. SAYRE, Chair
DIANE X. BURMAN

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2 (The session commenced at 10:33 a.m.)

3 INTERIM CHAIR SAYRE: Good morning.

4 I'd like to call this session of the Public Service
5 Commission to order.

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

8 SECRETARY BURGESS: Good morning,
9 Commissioners. There's one change to the agenda this
10 morning, Item 361, which is Case 16-E-0480, which is
11 the Petition for Approval of OpenWay Riva CENTRON
12 Meters, is over.

13 INTERIM CHAIR SAYRE: Thank you.

14 We'll start with Item 301, Case 17-E-
15 0194, which is Staff's Report on 2017 Electric Summer
16 Preparedness, presented by Mike Worden, Director of
17 the Office of Electric Gas and Water, Leka Gjonaj,
18 Chief of Bulk Electric Systems, and Paul Darmetko,
19 Engineer Three Electric Weights and Tariffs.

20 Mike, the floor is yours.

21 MR. WORDEN: Good morning Chair Sayre
22 and Commissioner Burman.

23 Every year for as long as I can
24 remember, around this time, we have done a
25 presentation to the Commission on the summer

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2 preparation of the electric utilities to be able to
3 provide load during the summer peak load period. The
4 good news for this summer is that we are in
5 relatively good shape, the system looks to be in
6 order, we have plenty of reserves, and the prices are
7 going to be moderate.

8 You know, it's a seemingly benign
9 presentation about the utility and NYSO preparations
10 because everything's fine right now, but I can assure
11 you that it's anything but. The NYSO and the
12 utilities and Staff -- bless you -- start work on --
13 on preparations for the summer as soon as the
14 previous summer is over. So in this case, in
15 September of last year, they started looking towards
16 this summer and trying to see if there were
17 particular upgrades that needed to be made or if
18 there needed to be alternative solutions presented.

19 Now, often what we find is that for --
20 this is a relatively short term period, they're not
21 able to look at things like non-wires alternative
22 because they don't have a lot of time to go out there
23 and do things. But it also identifies hot spots or
24 growth areas where they might start their process for
25 non-wires alternative. So a lot of that work starts

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2 in the September-October timeframe, going forward.

3 So while we have Leka and Paul, who
4 are going to report on this today, it's actually not
5 only for the companies, but for Staff, it involves a
6 lot of other Staff that monitor the utility
7 preparations, look at the utility design parameters,
8 and try to assess whether they're doing what we need,
9 and that's to make sure they provide safe and
10 reliable service.

11 And as I think both of you are well
12 aware, we've introduced a lot of new things to -- to
13 the systems. There's a lot more distributed
14 generation, which creates issues that we need to make
15 sure the utilities are able to continue to provide
16 safe and reliable service. So again, it's really
17 part of our -- what I consider our bread -- bread and
18 butter.

19 If the utilities, the NYISO, Staff does
20 a good job, you're likely not going to hear much
21 about it, besides today's report. And hopefully,
22 that's what'll happen for this summer. But as we all
23 know, we have to be prepared for the alternative.

24 So I just want to highlight a couple
25 of points for emphasis and then Leka and Paul will go

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2 into more detail on them. First off, prices continue
3 to be down overall, mostly driven by natural gas
4 prices, but there are other factors that get into
5 that and Paul will touch on that. There's a slight
6 uptick from 2016, but that's really largely driven by
7 the fact that last summer was very mild. This summer
8 is predicted and forecast, as you would expect based
9 on average temperatures of what is expected over
10 time.

11 Peak loads also continue to decline.
12 Leka will get into a lot of detail on that. And
13 while we can't line up the reason for the decline on
14 a one-on-one and say, you know, this much is caused
15 by that and this much is caused by, you know,
16 something else, we can point to several things that
17 have contributed to it; more energy efficiency, more
18 conservation, more distributed generation and the
19 positive REV polices that the Commission's enacted
20 over the last three years.

21 So, you know, a lot of times we think
22 the industry is slow to change, but if you look at it
23 over a period of time, you'll -- you'll see that
24 there have been quite a few significant changes that
25 have taken place over the years.

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2 So finally, you know, I'm reminded on
3 what seems like a daily basis, that what is fine
4 today can be a problem tomorrow. And that's why the
5 utilities have emergency plans. The plans that you
6 approved back in -- in March are largely driven by
7 wind, storm events, but they also have communication
8 components to them. And those communication
9 components are critical for the kind of events that
10 can be affected by load issues. And so they still
11 come in to play and it's important that utilities
12 practice those -- those emergency response
13 capabilities and are prepared to implement them if
14 they need them.

15 And so, you know, in conclusion for
16 these just opening remarks, again, hopefully you
17 won't be hearing much from us this summer and that'll
18 mean that things are -- are fine and ducky. But if
19 there is, I think we're prepared to deal with those
20 issues as they come along.

21 So with that, I'm going to turn it
22 over to Leka.

23 MR. GJONAJ: Good morning Chairman
24 Sayre and Commissioner Burman.

25 As Mike mentioned, I'm here to brief

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you on the Staff's review and assessment of the state's transmission and distribution system preparedness for the upcoming 2017 summer season. And before we get into all the details of our presentation, there's quite a few statistics in there but at the outset I'd like to say that, based upon Staff's review and assessment of utility data, meetings with the individual utilities and the New York ISO, the State's electric system, in both the transmission and distribution system, are prepared to reliably meet New York consumers' expected summer electric demands.

Next slide. Thank you.

Slide three here, this -- this chart shows the actuals -- historical actuals and forecast statewide peak demands as projected by the New York ISO. And what's interesting to note is how the forecast peak demands have changed over time.

And the green line represents the statewide peak demand forecast made in early 2015. That's the upper line there on the right-hand side. The purple line represents the statewide peak demand forecast made in early 2016, just a year ago. And finally, the blue line represents the statewide peak

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2 demands made in early 2017.

3 As you can see, the current forecast,
4 or the blue line, is significantly lower than the
5 2015 forecast, or the green line. And also below
6 last year's forecast, in this case the purple line,
7 the New York ISO attributes the reduced peak demands
8 primarily to the positive effects of the state's
9 energy programs and, of course, underlying forecast
10 econometric growth rates.

11 Just as -- take a -- just to put some
12 numbers to the -- to this year, if we compare the
13 forecast made in 2015, again the green line, for year
14 2023 with the current forecast, or the blue line for
15 the same year, the forecast is about 2,000 -- the
16 peak forecast is about 2,000 megawatts less, a rather
17 significant drop or equivalent of several large power
18 plants. To give a feel for what that means in terms
19 of, for example, residential customers served, the
20 energy associated with 2,000 megawatts is enough to
21 supply approximately 1.6 million average size
22 residential homes. So it's -- it's not
23 insignificant, what we're seeing here.

24 Next slide, please.

25 Okay. Slide four, this chart shows

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2 the pieces more granularly that are helping -- that
3 are -- that are helping cause the decrease in peak
4 demands. The blue bars represent the forecast energy
5 efficiency impacts and the red bars represent the
6 impacts of distributed generation. By year 2023, the
7 combined effect of energy efficiency and distributed
8 generation is expected to triple to over 2,500
9 megawatts from the current forecast for 2017 of about
10 800 megawatts.

11 Next slide, please.

12 Slide five is -- shows the -- the
13 available capacity for 2017 to meet expected customer
14 demands. The install capacity is comprised of
15 installed in-state generation capacity, special case
16 resources, and net firm imports from our neighboring
17 ISOs. And the total capabilities, when you sum those
18 all up for 2017, is approximately just a little over
19 41,000 megawatts is available to meet expected
20 customer demands for the summer.

21 Next slide, please.

22 This table shows a forecast statewide
23 peak demand of nearly 33,200 megawatts for the summer
24 of 2017, down from last year's forecast of 33,360
25 megawatts. To reliably meet this peak demand for

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2017, the New York State Reliability Council has determined that a minimum installed requirement -- installed reserve requirement of capacity of 18% above the forecast peak demand is required. This 18% installed reserve margin -- installed reserve requirement results in a 5,972-megawatt minimum requirement or -- or a total installed capacity requirement of 39,150 megawatts.

As we saw in the -- on the previous slide, a total available capacity for 2017 is 41,013 megawatts, or approximately -- or 1,863 megawatts above the minimum required. So this means that the actual installed reserves are about 25% above forecast peak, providing some cushion above minimum.

Next slide, please.

As you're well aware, Con Edison has quite a complicated distribution system comprised of a number of individual networks that from time to time can experience various issues that require local solutions to provide load relief or, you know, demand reductions. To provide that, Con Edison has several demand response programs that it has paid customers to be available to provide demand reductions if needed. These programs are the Distribution Load

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2 Relief Program, the Commercial System Relief Program,
3 and the Direct Load Control Program.

4 This -- this table indicates that
5 there are several hundred megawatts available to Con
6 Edison should it need it for this summer capability -
7 - capability period. The other utilities also have
8 similar load relief measures they can turn to should
9 they be needed, with National Grid having the next
10 highest level available to them.

11 Next slide, please.

12 Finally, this slide, at a high level,
13 summarizes Staff's action, findings, and some
14 observations that allowed us to conclude that the
15 State's electric system is prepared to reliably meet
16 this summer's expected customer demands. As I stated
17 at the beginning of my presentation, based on the
18 information we reviewed and conversations we had with
19 all the utilities and the New York ISO, we conclude
20 that the State's electric system is prepared to
21 reliably meet New York consumer's expected summer
22 electric demands.

23 One thing I'd also like to mention is
24 that, later today, the New York ISO will be releasing
25 its so-called power trends report this -- later this

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2 afternoon. And it basic -- which basically
3 summarizes bulk system activities and accomplishments
4 and also discusses issues that it sees maybe on the
5 horizon, going forward. That's just an informational
6 point.

7 That completes my presentation. I'll
8 turn it over to Paul for the remainder of the
9 presentation. Thank you. Also, I'd be happy to
10 answer any questions that you may have as a result of
11 that presentation.

12 INTERIM CHAIR SAYRE: Go ahead, Paul.
13 We'll -- we'll save our questions for the end.

14 MR. DARMETKO: All right. Thank you.
15 Good morning Chairman Sayre. Good
16 morning Commissioner Burman.

17 In this portion of the presentation,
18 I'll be providing you with a summary of how the
19 utilities have performed at reducing the electric
20 supply price volatility for their full service
21 residential customers; I'll provide you with an
22 overview of the utilities' residential electric
23 supply portfolio composition for the summer; I'll
24 compare this summer's forecast electric market prices
25 to the last summer's actual prices; and finally, I'll

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2 provide you with a summary of the State's historical
3 electric supply costs.

4 This graph shows the results of the
5 utilities' electric supply price volatility
6 mitigation efforts since December of 2008. It
7 compares the average New York ISO market price
8 volatility, the red line, with the volatility of the
9 utilities' residential electric supply portfolios,
10 the blue line. Or more simply stated, the lines show
11 what the volatility of the utilities' portfolio would
12 have been had they only purchased from the market,
13 versus what it actually is because they engage in
14 hedges.

15 Each point on the line represents the
16 volatility over a 12-month period as measured by the
17 coefficient variation. As you can see from the
18 chart, the utilities have continued to do a good job
19 at reducing the portfolio price volatility compared
20 to market. The recent high points in the chart
21 represent the volatility that was experienced as a
22 result of the polar vortex in the winter of 2014.

23 The most recent run-up and then drop
24 is the result of a combination of electric market
25 prices steadily falling and a price spike that

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2 occurred in February of 2015. This price spike was
3 nowhere near as high as in the prior winter, but it
4 did cause the volatility to rise. The sudden drop in
5 volatility is due to the February price spike falling
6 out of the 12-month rolling average.

7 This chart shows the elements of the
8 composite residential electric supply portfolio for
9 the summer. As shown, about 64% of the portfolio
10 consists of fixed price contracts. Of those fixed
11 price contracts, the majority of those are financial
12 in nature. The fixed portion of the portfolio also
13 includes newer physical contracts, older legacy
14 contracts, and a small amount of the utilities on
15 generation lists, fixed fuel costs, as well as NYPA
16 contracts.

17 The balance of the portfolio is
18 predominately made up of market purchases, followed
19 by relatively small amounts of utilities on
20 generation with variable fuel costs and index
21 contracts that are primarily indexed to natural gas.

22 This chart shows this summer's
23 expected energy market prices based on NYMEX futures
24 and how those prices compare to last summer's futures
25 and actuals for New York City, Hudson Valley, and

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2 Western New York, or New York ISO zones J, G, and A,
3 respectively.

4 Last summer's expected energy market
5 prices that we reported to you last May are in green,
6 last summer's actual market prices are in blue, and
7 this summer's expected market prices are in red.
8 Last summer, as you can see, energy prices in New
9 York City and Hudson Valley ended up being very close
10 to what was expected, going into the summer.
11 However, Western New York experienced greater
12 congestion that wasn't -- than was expected, which
13 led to actual prices that were higher than was
14 estimated.

15 This summer's energy prices in New
16 York City and Hudson Valley are expected to be higher
17 than last year, mainly due to increased natural gas
18 prices, whereas in Western New York, the prices are
19 expected to be held in check due to the availability
20 of imports into the area.

21 This slide shows what last summer's
22 New York ISO strip auction capacity prices were and
23 what this summer's strip auction capacity prices are.
24 The biggest change here really is in the G through J
25 locality, for the new capacity zone, where this

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2 summer there's a higher reference price and higher
3 locational capacity requirements.

4 This last slide is something we put
5 together a few years ago. And it's really just to
6 provide a bit of context on -- on the supply costs in
7 New York State. The energy and ancillary service
8 costs, as well as the capacity costs information
9 that's contained in this chart, was computed by Staff
10 and shows what the statewide supply costs would have
11 been had all energy ancillary services and capacity
12 were priced at market.

13 Recent -- in recent years, we've also
14 added gas price information from the Energy
15 Information Administration to show the relationship
16 between electric energy costs and natural gas prices.
17 As you can see, there's a pretty high correlation
18 between gas prices and energy costs and that's
19 because in most hours throughout the year the gas
20 plants are setting the price of energy.

21 The jump in energy and ancillary
22 service costs from 2013 to 2014 is mainly due to the
23 polar vortex and high gas prices during that winter.
24 And then the subsequent drop in 2015 and '16 in
25 energy and ancillary service costs are primarily due

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2 to low gas prices. The biggest takeaway, I think,
3 though, from this slide is that supply costs in the
4 state are really at historic lows, which is good news
5 for consumers.

6 So to conclude, overall at this point
7 going into the summer, it's expected that supply
8 costs will be slightly higher in most parts of the
9 state, but even if the market does experience un
10 expected price swings, the full service mass market
11 customers will not experience the full magnitude of
12 those price swings because of the utilities' hedging.

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

15 INTERIM CHAIR SAYRE: Thank you Mike,
16 Leka, and Paul. I do not have any questions on my
17 own behalf.

18 Commissioner Burman, do you have any
19 questions or comments?

20 COMMISSIONER BURMAN: Yes. On the
21 first slide.

22 INTERIM CHAIR SAYRE: Do you have a
23 microphone?

24 COMMISSIONER BURMAN: Thank you.

25 The one with the load forecast, I

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2 think that was page three. If the economy improves,
3 what happens to the load forecast?

4 MR. GJONAJ: Well the general tendency
5 would be for probably the peak loads to increase if
6 the economy really heats up.

7 COMMISSIONER BURMAN: And are we
8 accounting for that? How do we do that with our load
9 forecast projecting out, assuming that the economy
10 would increase? What are projections?

11 MR. GJONAJ: When the New York ISO
12 does these projections, they don't -- they look at
13 all these econometric factors also that are all
14 blended into providing this forecast. So to the
15 extent that the future is what it appears to be,
16 that's -- this would be the forecast. If -- if
17 businesses and whatever took off more, I presume
18 there'd be increase to peak loads.

19 COMMISSIONER BURMAN: Okay. Thank
20 you. I have no further questions.

21 INTERIM CHAIR SAYRE: Thank you very
22 much.

23 We'll move to the next item on the
24 agenda. We're now taking up Item 401, Case 16-W-
25 0259, which is the Proceeding as to the Rates,

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2 Charges, Rules, and Regulations for New York American
3 Water Company, presented by Administrative Law Judges
4 Ashley Moreno and James Costello. Tim Canty, Chief
5 of Water Policy, Office of Accounting Audits and
6 Finance; and Doris Stout, Director of the Office of
7 Accounting Audits and Finance; Mike Rieder, Chief of
8 Gas and Water Rates; and Luann Scherer, Director of
9 the Office of Consumer Services are available for
10 questions.

11 Judges, please begin.

12 A.L.J. MORENO: Good morning, Chair
13 Sayre and Commissioner Burman.

14 The proposed order before you today
15 would adopt the terms of a joint proposal with
16 modifications that would approve a four-year rate
17 plan for New York American Water. In our view, the
18 rate plans satisfies the Commission's settlement
19 guidelines and it would produce rates that are both
20 just and reasonable.

21 The joint proposal was signed by Staff
22 and New York American Water, who are ordinarily
23 adversarial parties. There were three other parties
24 who actively participated in the case, the Long
25 Island Clean Air Water and Soil, also known as CAWS,

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2 North Merrick Community Association, and the Public
3 Utility Law Project of New York.

4 CAWS and North Merrick opposed the
5 joint proposal. And PULP neither supported nor
6 opposed the settlement as a whole, but rather,
7 submitted a letter commenting on certain aspects of
8 the settlement.

9 If we could move to the first slide?

10 So the record before you for this
11 proceeding is complete and it provides an adequate
12 basis for your decision today. As you can see on our
13 slide, before parties entered into settlement
14 discussions, both initial and rebuttal testimony were
15 filed. New York American Water provided sufficient
16 notice of the commencement of settlement negotiations
17 to all interested parties.

18 Following the filing of the joint
19 proposal, parties were given the opportunity to file
20 both statements in support or opposition and replies
21 thereto.

22 An evidentiary hearing was held to
23 evaluate the joint proposal, and parties were given
24 an opportunity, as well, to file post-hearing briefs
25 and replies.

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2 The record also reflects input from
3 members of the public. Six public statements
4 hearings were held where approximately 60 statements
5 were made on the record by members of the public,
6 elected officials, and parties to the proceeding.

7 And in addition, over 1,300 written
8 comments were filed for your consideration. And
9 broadly, those concerns include existing and proposed
10 water rates and their affordability, especially as
11 compared to neighboring municipal water systems, and
12 also the quality and service provided by New York
13 American Water. And these comments are -- are
14 discussed in greater detail in the draft order before
15 you today.

16 So before we do discuss the provisions
17 of the rate plans, we'd like to give you a little bit
18 of a background on New York American Water System
19 that will provide some context. So if we could just
20 move to the next slide?

21 The New York American Water service
22 territory is -- spreads out over some -- some
23 distance. There are -- the bulk of -- of customers
24 are in Long Island. There are -- and currently they
25 are -- have 12 water districts, which were acquired

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2 over time. Those districts are currently served by
3 four different tariffs with different terms and
4 conditions, and their customers are currently billed
5 on different billing cycles.

6 And so one of the -- one of the things
7 that the draft order does is to move and -- is to
8 move all of the customers to one tariff with a
9 uniform set of terms and conditions. And it would
10 also create two separate service areas for purposes
11 of rate setting and would set uniform rates for
12 customers within those two service areas.

13 So in looking at this map's service
14 area, one is comprised of the Lynbrook District,
15 which is the largest district. It has approximately
16 73,000 customers. And we'll move to the next slide
17 in just a moment that shows the other upstate
18 districts, which are -- are quite small and are
19 joined with the Lynbrook District to comprise a
20 Service Area One, or SA1. And Service Area Two, or
21 SA2, is comprised of the Merrick District, which is
22 on the south shore, and the Sea Cliff District, which
23 is on the north shore of Long Island.

24 So if you could move to the -- the
25 next slide?

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2 So you can see there are scattered
3 systems throughout Upstate New York that have the --
4 the stars next to them. They are much smaller
5 systems. And again, those are -- with Lynbrook,
6 represent Service Area One.

7 So if you could look to the next
8 slide, please?

9 So the rate order approves revenue
10 increases quite a bit lower than what was originally
11 proposed by the company. When the company initially
12 filed, it was looking for an increase in revenues of
13 \$5.8 million. That's incremental, which we'll get
14 into in just -- just a moment, in Service Area One,
15 and 2.7 million in SA2. The resulting rate order
16 before you is -- includes a four-year plan that would
17 span between April 1st, 2017 through March 31st,
18 2021. And in rate year one, the increase is -- for
19 Service Area One is 3.26 million. And for Service
20 Area Two it's \$330,000. And those, again, are the
21 incremental numbers.

22 And as you can see when the company
23 originally filed, they were looking for a return on
24 equity of 10.75% with a 48% equity ratio. The rate
25 order before you today would -- if approved, would

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set a 9.1% return on equity and a 46% equity ratio.

One of -- and just looking at this while it's up, one of the notable differences when the company initially filed, they were seeking recovery of a large project, a geothermal pilot program in the Valley Stream School District that was \$4.5 million. The resulting rate plan before you only allows \$130,000 as a research and development cost, as opposed to including it and the -- the project does whole and base rates. So that's one of the large ticket items.

Moving onto the next slide, this just provides a bit of an overview about what the four-year plan represents with the increases in each of the rate years. I won't go through each of the numbers with you, but I will highlight that one of the components of the rate plan before you today would be to levelize the increases over the four-year plan, which will mitigate to some extent the impact of the increases for customers.

Okay. If you could please move to the next slide?

The slide before you represents -- shows the major -- shows the incremental increases

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over the -- I'm sorry. It shows the -- the major rate drivers of the increases and it also shows the offsets. So we'll just walk through that quickly. Just looking at the slide, you can see that there -- the revenue increases are a bit higher than what we just met. And that's the difference between incremental. With certain revenue increases that are depicted on this slide were -- would have been approved through previous existing rate cases. So those are -- are not comprised in what we're referring to as the incremental increases.

So just moving through this slide, you can see that the increases are being driven by both established and necessary expenditures that are typical utility costs. Major drivers include capital expenses and property taxes and, to some extent in Service Area One, also declining sales.

As you can see with the -- the amounts related to capital expenditures, associated with -- with the increase in rates, there will be quite a bit of improvement in safety and reliability to the system through this investment and utility plant. Such projects will include water production, treatment and delivery systems among -- among other

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2 projects.

3 And it's also relevant to mention that
4 the rate plan would require New York American Water
5 to make set levels of investment in utility plant
6 throughout the plan. And there's also a mechanism in
7 place to ensure that if the company fails to make the
8 requisite level of investment, that the funds would
9 be deferred so ratepayers would be protected. And if
10 there's no deferral, then -- and likewise, if the
11 company overspends on capital improvements, customers
12 would not be responsible for paying for those
13 investments over the course of the rate plan.

14 And again, one of the items that are
15 required in the rate plan before you would be an
16 annual investment level in and pipe and main
17 replacements and associated infrastructure, which
18 should also have a benefit to customers in -- in
19 quality and service, as well.

20 I'll now turn it over to Judge
21 Costello to continue to walk through.

22 A.L.J. COSTELLO: As you can see from
23 the slide, the color that's light blue, property
24 taxes are another major -- major factor that's
25 increasing -- driving rates up in this phase. The

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2 rate plan would include property tax forecast for
3 each rate year, which then the forecasts are based on
4 actual past tax liability. Property taxes are
5 increasing as a large function of increases to
6 utility plant. And the first-year increases, as well
7 as the subsequent year increases on rates years two
8 through four, there are 4% projected increases in tax
9 liability. And that -- those closely track the
10 increase for utility plant in the company.

11 Also included in the rate plan before
12 you with respect to property taxes is a property tax
13 reconciliation mechanism which will provide
14 protections for both ratepayers and for the company.
15 What happens is if there are -- if the actual
16 property taxes are in excess of what is projected in
17 the rate plan, the company would -- the -- I'm sorry
18 -- the customers would be responsible in the first
19 two rate year -- the first two years of the rate
20 plan. They'd be responsible for 85% of the increase
21 and the company would be responsible for 15% of that.

22 With respect to rate years two through
23 four, that would change to 90% for the customers and
24 10% for the company. This is a big difference from
25 what the company originally proposed, which is -- was

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2 a 100% for the customers to pay for any excess
3 property taxes. So this is a benefit to customers in
4 that respect.

5 There's also a downward modification
6 where if property taxes are less than what are
7 projected, the ratepayers will get 100% of the -- the
8 difference unless the company can come in and show
9 that they had a direct effect -- their -- their
10 actions were the direct cause of the reduction in
11 property taxes, in which case they'd be able to get
12 either the 15% for the company or the 10%, depending
13 on which rate year we're talking about.

14 One of the major contested issues with
15 respect to property taxes was brought up by CAWS and
16 they contested -- they claimed that it was
17 unconstitutional to allow property tax liability to
18 be passed along to ratepayers in the same taxing
19 district where there are other customers of municipal
20 water companies who, because municipal water
21 companies don't have -- generally don't have to pay
22 property taxes, they don't pass those costs onto
23 their customers. So there's a difference in the
24 price for the service.

25 And CAWS maintained that it was

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2 unconstitutional to pass on property taxes to
3 customers of the private water company -- New York
4 American Water Company.

5 The fact is, these two systems are
6 allowed by law. The Commission does not have any
7 jurisdiction over municipal water systems. And the
8 private water systems, it's a necessary and -- cost
9 of business which is allowed to be passed through to
10 ratepayers. It's -- and it's necessary to allow them
11 to achieve a -- a rate of return that -- that is
12 fair.

13 If you'll also look on the slide, you
14 can see in -- it looks like orange-red -- some sort
15 of red color -- it shows the -- the declining sales
16 that are also -- the declining sales driving up
17 prices. And that's shown in red.

18 There -- under the -- under that --
19 under that line for declining -- declining sales,
20 you'll see offsets to -- to the -- to the rate
21 increases. One of those offsets is for state income
22 tax liability. In 2014, the state changed its tax
23 law to allow qualified New York manufacturers to have
24 a 0% state tax liability. And New York American
25 Water Company, through previous rate plans, had been

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2 funded for state income tax liabilities. So they are
3 deferring that amount, which will be paid back to
4 taxpayers in this rate plan.

5 However, and -- and there's also --
6 you'll see it's 0 tax liability and -- and these
7 deferrals. However, there was a recent change in law
8 which appears to make water companies not qualify for
9 the Qualified New York Manufacturing Credit. And
10 because of that, the -- the draft order before you
11 would direct the Secretary to issue a notice
12 instituting a proceeding to determine how this
13 affects the rate plans before you.

14 You'll also see, as an offset to the
15 revenue increases, there's the operations and
16 maintenance expenses for SA1. They're reducing --
17 being reduced by 1.69 million. And in SA2, they are
18 being reduced by 1.03 million dollars. That -- those
19 reductions show that there are earnings sharing
20 mechanisms in place for the company. And they kind
21 of establish that these earnings sharing mechanisms
22 that are currently in place have been effective to
23 make the company seek the cost efficiencies.

24 And the plan before you also would
25 continue the earnings sharing mechanism so that the

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2 company would have an incentive to continue seeking
3 cost efficiencies.

4 There are other provisions of the --
5 the rate plan before you that also would address
6 issues with respect to customer service and also
7 water quality. One of those provisions is called a
8 System Improvement Charge Provision under which there
9 are nine -- nine projects that have been approved.
10 Five of those projects deal with removal of iron from
11 water. There's naturally occurring iron in the
12 ground water in Long Island and several of these
13 projects would address those issues. One of the
14 projects also would address an issue as to water
15 pressure.

16 The system improvement charges protect
17 ratepayers because it puts a cap on the amount that
18 these projects can -- the company can recover for
19 these projects. And the companies also cannot
20 recover anything until the projects are placed into
21 service and then they would get their carrying costs.

22 The rate plan also contains a customer
23 service performance incentive, which would subject
24 the company to negative revenue adjustments if
25 there's a certain amount of escalated complaints --

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2 an average of escalated complaints per year that are
3 returned against the company.

4 A.L.J. MORENO: There's just a few
5 more provisions of -- of the rate plan that we'll
6 discuss briefly. One of them, which again touches on
7 water quality that will be -- be an improvement for
8 some customers, is the inclusion of the rate plan of
9 a lead pipe replacement program, which is a -- I
10 don't believe has been -- has been seen before in a -
11 - a water rate proceeding. And pursuant to this
12 plan, this is actually sort of, in some respects,
13 outside of -- of the rate plan in that it is funded
14 by shareholders, as opposed to ratepayers.

15 Through this program, the shareholders
16 would fund the program in the first year up to
17 \$75,000 and it would remove a customer's lead service
18 line in instances where the customer's lead service
19 line is connected to mains and services being
20 replaced by the company in its regular course of
21 business. So, this is a benefit to -- to those --
22 those affected customers in that ordinarily, should a
23 -- a customer choose to replace their line, it would
24 be at their own cost.

25 This -- excuse me -- this program

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would also include a provision that would commence a -- a collaborative, which is also notable. The collaborative would explore with stakeholders the replacement of customer-owned lead services and the possibility of the creation of an on-bill finance program.

And importantly, there are funds available that have become recently available by acts of the Legislature to make funds available to municipal -- to municipalities for the replacement of customer-owned service lines -- lead service lines. And this would also produce a platform by which the company and Staff might better inform some municipalities about their eligibility for this program and to help them, perhaps, become familiar with the -- the process for applying for such funds.

There's two additional components of the rate plan that I'll mention. The draft order before you would not adopt a low-income program. The draft order acknowledges that the Commission recently directed Suez in its rate proceeding to work with Staff and interested stakeholders to design a low-income discount program. And the program has not yet been presented to the Commission or -- or considered

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2 by the Commission.

3 So in this instance, the -- the draft
4 order before you would defer the budget for the low-
5 income program to offset costs that are associated
6 with the Qualified New York Manufacturer's Credit
7 that we discussed earlier, that -- because it -- it
8 may no longer be available to customers, that the
9 funds would be deferred for that use.

10 And finally, the last item provision
11 of the rate order before you that I'll discuss, just
12 acknowledges that there is one district within New
13 York American Water's territory that has particularly
14 high property taxes. And that's the Seacliff
15 District within Service Area 2.

16 The -- instead of sharing a portion of
17 the Seacliff's property taxes with customers and --
18 in the Merrick District, as what was proposed in the
19 joint proposal, the rate order would keep the
20 Seacliff property taxes in Seacliff by surcharging
21 the customers any property tax incremental to the
22 per-person Merrick property tax burden.

23 So with that, I will turn it back to
24 Judge Costello to conclude our presentation.

25 A.L.J. COSTELLO: This is a true

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2 conclusion.

3 As discussed in detail in the draft
4 order and as we previously discussed today, the
5 advisory staff believes that the terms of the draft
6 order before you are in the public interest and that
7 the resulting rates are just and reasonable. As a
8 result, advisory staff recommends that you adopt the
9 draft order before you.

10 And this concludes our presentation.

11 We are available for any questions you may have.

12 Thank you.

13 INTERIM CHAIR SAYRE: Thank you very
14 much, Judges, for a full and helpful explanation of
15 the order that we're considering.

16 In my judgment, this is a good plan in
17 front of us, which I think fairly balances the public
18 interest, and I support it. I think the order speaks
19 for itself, but I would like to make a brief remark
20 on one item, the recovery of property taxes.

21 Property taxes are a legitimate and
22 necessary expense of a utility and they are routinely
23 recovered from ratepayers as part of the utilities'
24 cost of service. I see no basis in this case to
25 disallow recovery of any of the property taxes. So

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2 the issue we wrestled with is how to allocate the
3 property tax expense to the customers as a matter of
4 rate design.

5 Everybody knows property taxes are
6 high on Long Island. But in some situations like the
7 one we have here, the property taxes are beyond the
8 ordinary, even for Long Island. In the Seacliff
9 territory of this company, local property taxes are
10 more than half of the utility's expenses.

11 Because this ratemaking district of
12 the company consists of just Seacliff and Merrick, we
13 faced a decision whether to take some of the Seacliff
14 tax burden and spread it over Merrick customers. Now
15 that kind of spreading makes perfectly good policy
16 sense if you've got two adjoining water districts,
17 where one district incurs taxes on property such as
18 wells and treatment and storage facilities that also
19 benefit the other district. But that's not the case
20 here.

21 Seacliff's and Merrick's water systems
22 aren't interconnected and, in fact, they're separated
23 by the width of Long Island. So when presented with
24 the idea of shifting some of Seacliff's property tax
25 expense to Merrick customers, I concluded that that

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2 just wasn't fair. So this order leaves Seacliff's
3 taxes in Seacliff, which means, as a result, Seacliff
4 customers are otherwise getting a higher rate
5 increase, but that's the kind of tough choice that
6 this Commission has to make.

7 Commissioner Burman, do you have any
8 questions or comments?

9 COMMISSIONER BURMAN: I have several
10 both comments and questions. The first question is,
11 since my iPad's not pulling up the PowerPoint, does
12 someone have a copy that they can give me?

13 Not you Ashley because I'm going to
14 need you. All right. You can share? Thank you.

15 My first threshold question is a legal
16 one. If we did -- if I voted no on this item today,
17 what does that mean ramifications-wise for moving
18 forward on this? What happens? What's the potential
19 liability issue from a monetary perspective?

20 A.L.J. MORENO: If -- currently the
21 rates are suspended through June 23rd in this case.
22 If this order was not approved today, the -- well,
23 let me back up.

24 The -- the rate plan before you
25 requires the Company, in any event, to accept the --

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2 the rate order. If -- if either it was not approved
3 today or the -- the Company did not accept the rate
4 order, the Commission would have until June 23rd to -
5 - to act and make a determination with regards to
6 rates.

7 MR. AGRESTA: Okay. But if -- if you
8 don't act today and you, instead, act in June, you
9 will have to compress the rates by one month. So the
10 rate increase will actually be higher. If you don't
11 act at all before the suspension date, the rates that
12 the Company filed for will go into effect. Those are
13 the higher rates that were on the original slides.

14 COMMISSIONER BURMAN: So what are we
15 talking percentage-wise increase if I -- we didn't
16 act today? If I said no, go back, sharpen your
17 pencils and give us something else? This is an
18 awfully big rate increase -- huge rate increase.

19 MR. AGRESTA: Okay. So I -- I --
20 you're talking about just the compression, the
21 compression would increase the rates by about 1% more
22 than the other -- what is the rate increase now?
23 It's 4 something?

24 A.L.J. MORENO: We've got it on the
25 slide. For rate year one --.

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2 MR. AGRESTA: So I -- believe the
3 increase is about 5%. Instead, it would be 6% if you
4 just waited one month. If you didn't approve
5 anything at all and just let the -- the rates that
6 they filed for go into effect, what would it be?

7 A.L.J. MORENO: The rates that they
8 filed was a \$8.5 million increase, so --.

9 MR. AGRESTA: Instead of -- so it's
10 8.5 million instead of 6 million? I'm sorry --
11 instead of 4 million, so it would be -- it would be
12 double.

13 A.L.J. MORENO: Almost double, right.

14 MR. AGRESTA: So hopefully that's not
15 an option.

16 COMMISSIONER BURMAN: Well, I mean,
17 that -- that is what is at the core of the concern is
18 looking at what actions do we have to take and, if we
19 don't take actions, what's the ramification?

20 I really look and see that I have to
21 be guided in my role as a Commissioner on our 110-
22 year rich history and look at the Commission when we
23 regulate electric, gas, steam, telecom, cable, and
24 water utilities in New York State. And we do have a
25 broad mandate to ensure the consumers receive safe

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2 and reliable utility service at reasonable rates and
3 with the least adverse effect upon the environment.

4 And we sit at the crossroads of the
5 public need for virtually essential core services and
6 the private needs of the shareholder to ensure
7 continued investment in those services. My option
8 today, initially, would be to reject this, to say
9 it's a big -- awfully big rate case increase. It's
10 only a joint proposal between Staff and the Company.
11 There's opposition -- significant opposition
12 submitted on record. The consumer advocacy is
13 limited in that we have PULP, who chooses neither to
14 support or oppose. Yes, pulls out several aspects
15 that -- that they like. However, as a whole, they
16 don't say that this is good for consumers. That
17 concerns me.

18 So when I look at this, I realize that
19 I have to make an action today because failure to do
20 so will produce more harm for the consumer, as well
21 as the fact that because at this point my vote
22 actually matters, I realize that there are several
23 items and areas that was able to be done for this
24 rate case to ensure that the pressures are reduced.

25 I really want folks to understand that

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2 when we look at these rate cases, we are drilling
3 down. We need and we must sharpen our pencils and
4 look at it, especially when we have a joint proposal
5 that's only with Staff and the Company.

6 From my perspective, I'm a formal Long
7 Islander. I consider myself a Long Islander because
8 I was born and bred there. I grew up in Baldwin,
9 Freeport, Massapequa Park. I spent many times in all
10 of the different communities that are affected by
11 this. Property taxes is a huge issue -- are a huge
12 issue.

13 There were many, many news articles
14 talking about the concern on the property taxes as it
15 concerns Seacliff and the closing of Glenwood Landing
16 and the ripple effects of that. The Company legally
17 is required to pay property taxes to school
18 districts, villages, and towns on the buildings and
19 plants used to provide water service. And the
20 property tax forecast included in the rate plan are
21 based on historic tax rates and bills as applied to
22 forecasted increases to utility plant. There're
23 unavoidable ratepayer expenses that must be funded in
24 rates and there is a large bulk of this rate increase
25 that is through no fault of the Company but are due

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2 in fact to the property taxes.

3 However, if the forecast turns out to
4 be too high, ratepayers will recover 100% of the
5 difference through an adjustment mechanism.

6 I do recognize that the allocation
7 method we are adopting as between Seacliff and
8 Merrick ratepayers -- ratepayers recognizes that each
9 community has different tax burdens, and water rates
10 should not be used to subsidize one community of
11 ratepayers at the expense of another. I do recognize
12 that one underlying factor for Seacliff is the power
13 plant closure that generated a taxing issue.

14 So what is the good news here? The
15 good news is that we are looking at this and we're
16 laser focused on it. We are going to be focused on
17 where can we find some more savings. The Company
18 with the -- the pipe replacement program is going to
19 bear full cost of that. It's a small amount, but
20 it's still the Company that's bearing that cost. And
21 we also recognized that the State Legislature, this
22 very budget, saw the wisdom of giving some money to
23 help with some of the water issues.

24 I would like, Ashley, to speak about
25 the next steps with that and focus in on the

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2 municipality aspect of it.

3 A.L.J. MORENO: Sure. Well as you
4 mentioned, there was -- recently in the -- the budget
5 bill there was \$2.5 billion that was allocated to
6 deal with infrastructure issues relating to -- to
7 water and sewer. Of those amounts, 20 million was
8 set aside to be allocated to the Department of Health
9 for replacement of lead drinking water -- lead
10 drinking water service lines. And so the department
11 -- there was a change made to the Public Health Law
12 whereby the Department of Health is responsible for
13 allocating those funds to municipalities.

14 My understanding is, at this time, the
15 Department of Health is -- is charged with putting
16 out regulations that -- and instructions to better
17 describe what the process will be. I think one of
18 the benefits that's included in the rate plan
19 associated with the lead pipe replacement program is
20 this collaborative, so that both Staff and New York
21 American Water have the opportunity to work with
22 municipalities, to advise them of the availability of
23 these funds, and also to, you know, keep in touch
24 with the Department of Health and to better inform
25 those municipalities about how they can pursue those

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2 funds to better serve their constituents, as well as
3 New York American Water's ratepayers.

4 COMMISSIONER BURMAN: Okay. Thank
5 you.

6 It is very important to me that the
7 outreach to the municipalities, since it does appear
8 that the municipalities, themselves, have to apply
9 for these funds, that that outreach is very clear and
10 robust so that municipalities can understand and take
11 advantage of it if it's -- if it's appropriate for
12 them to do so.

13 Okay. The Geothermal Valley Stream
14 Project was one that was announced a few years ago.
15 It was one that was with American Water and the
16 Valley Stream School District. Who in -- on -- who
17 at the Commission is looking at the success of that
18 program, the lessons learned from that program?

19 MR. RIEDER: That would be my staff.

20 COMMISSIONER BURMAN: And have we had
21 any analysis on that?

22 MR. RIEDER: At -- at this point, no.
23 We have -- we understand that the Department of
24 Health is testing the water that is currently going
25 through the system. We don't have the results of

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2 that at this point, but we are being -- we will be
3 looking into that.

4 COMMISSIONER BURMAN: Okay.

5 Initially, the petition sought for full recovery. I
6 think it was about \$4.5 million. Is that correct?
7 And there was a determination that the shareholders
8 would have to -- would not be able to recover that
9 except for about \$130,000 because it was for R and D.
10 And the focus of it, to me, was I really think it's
11 very important that people understand, when we are
12 looking at projects and we are announcing them and
13 the communities that are -- are supportive of these
14 and are happy that they're coming there, that it is
15 understood at the get-go if there will be a request
16 for recovery and what that means.

17 The press on that had focused on the
18 fact that the community, itself, was not going to
19 have to pay for the infrastructure for this project.
20 So for me, when I saw the petition seeking full
21 recovery, it gave me pause. And I want it to be
22 clear that it is not a punishment on the -- us in
23 rejecting that and only limiting the recovery to
24 130,000. But it is a clear recognition that, moving
25 forward, folks need to get Commission, as a whole,

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support and understanding on what that is or work with the municipalities or whoever else who will understand that they will also, at some point, have to potentially be looking at ratepayer or taxpayer recovery for the -- on the initial.

Here, I am looking forward to the results of that. That was a pilot program that was adopted specifically to see what some of the benefits could be, whether it could be utilized in other school districts. I am cognizant of the fact that we have two proceedings, one at NYSERDA and one here at the Commission, looking at geothermal. And I do understand the need to see how it fits in the entire fuel mix.

However, a positive for me is that the ratepayers will not bear the cost of a project that they initially thought was not going to be borne by them. So that's what, for me, the takeaway is. And I've really felt need to point that out because it's important that people understand that and -- and -- and focus on that when they are seeking rate recovery.

There were areas in the joint proposal that were not well developed. The low-income program

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2 was one of them. If it was truly a good low-income
3 program, I would support it. I did look at all of
4 the testimony and didn't find myself persuaded that
5 this was one that merited ratepayer dollars being
6 utilized, was not well flushed out, and wasn't clear
7 for the long term how this will benefit not only the
8 low-income customers, but the community as a whole.

9 I am cognizant of the fact that in the
10 Suez rate case that we did carve out for the first
11 time an opportunity for the Company to showcase
12 whether they're -- it was appropriate for a low-
13 income water program. They have to come back to the
14 Commission. So that low-income program does not mean
15 that we adopted it and it will go forward.

16 There has to be a record to support
17 that it actually will be a good low-income program.
18 There are many different things that will have to be
19 in there, including data collection, the number of
20 customers that are terminated from -- because they
21 can't pay, how many of them actually are affected by
22 this, you know, and all the different details that
23 I'd like to see flushed out.

24 So at some other time, we can look to
25 see whether or not it's something that we should

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2 adopt in other water rate cases. But right now the
3 joint proposal was lacking in showcasing that this
4 was the right time, especially with a pending pilot
5 that we haven't gotten the results on yet even to say
6 yes it's good, let's try to implement that.

7 So overall, I fall on the side of
8 cognizant of the fact that failure to act today will
9 mean that there would be harm to the customers
10 because of increased compressed rates that I'd have
11 to address and overall knowing that there are some
12 things in here that I was able to pull back on
13 because it is not the appropriate time to pancake the
14 rates with other things, however well-meaning they
15 should be, if it means further rate pressure on the
16 communities affected.

17 I don't believe that folks will see
18 this as a good thing. However, to the extent that we
19 are fulfilling our duty as regulators in trying to
20 balance the need for the essential services to
21 continue with what the shareholders need, the Company
22 needs, to -- to make sure that they are doing what
23 they need to do, it's imperative.

24 So I will be voting for this rate case
25 today. And I do appreciate all the hard work on this

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2 and I do hope that we see, in the future, rate cases
3 that -- where it is more than just Staff and the
4 Company in joint proposals if they come before us, or
5 we may have to fully litigate the cases and go
6 specifically with each.

7 It does seem to be a nod to me that
8 some parties may wish us to look at each separate
9 issue. PULP comes to mind because, again, they
10 submitted neither support nor opposition, but carved
11 out where they had support, what they liked and what
12 they didn't like. So it does seem to me that they
13 are giving a nod that maybe it should be an issue-by-
14 issue matter put before the Commission.

15 Okay. Thank you.

16 INTERIM CHAIR SAYRE: Thank you,
17 Commissioner Burman.

18 I will call for the vote on the
19 proposed order, which, as described by the judges, is
20 subject to unconditional acceptance by the Company.
21 Chair votes aye.

22 Commissioner Burman?

23 COMMISSIONER BURMAN: Aye.

24 INTERIM CHAIR SAYRE: The
25 recommendation is unanimously approved.

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2 We will now move to the consent
3 agenda. I have no comments on the consent agenda.
4 Commissioner Burman, do you wish to recuse from
5 voting or comment on any of the items in the consent
6 agenda?

7 COMMISSIONER BURMAN: I do wish to
8 comment on two of the items. I just need a minute to
9 gather my consent agenda items.

10 I'm ready. So Item 262, which is a
11 Proceeding on the Motion of the Commission in regard
12 to Reforming the Energy Vision; Petition of Niagara
13 Mohawk for Limited Waiver of Tariff Electric
14 Provisions.

15 Here today, we're focused on approving
16 National Grid's petition to waive the monthly
17 incremental metering charge as it experiments with
18 the residential voluntary time-of-use rates. I
19 believe this is part of its demand reduction REV demo
20 project in Saratoga County in the Town of Clifton
21 Park. Is that correct?

22 MR. PADULA: I can answer -- I can
23 answer that. It's Marco Padula, Deputy Director of
24 Markets and Innovation. Yes, that's true.

25 COMMISSIONER BURMAN: Okay.

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2 MR. PADULA: Clifton Park peak load --

3 .

4 COMMISSIONER BURMAN: We're not
5 approving the REV demo? We're just approving a --
6 making sure that the waiver of the charge is done.
7 Is that correct?

8 MR. PADULA: That's correct.

9 COMMISSIONER BURMAN: Can you explain
10 why we're waiving it for these customers in the REV
11 demo, as opposed to others?

12 MR. PADULA: Sure.

13 COMMISSIONER BURMAN: Thanks.

14 MR. PADULA: So the voluntary time-of-
15 use rate that's in effect -- is in effect across the
16 whole service territory. And when a customer
17 voluntarily chooses to opt into that rate, there's an
18 existing additional -- I believe it's \$3 and some
19 change customer charge to cover the metering costs.
20 When a customer who is in the Clifton Park REV
21 demonstration project opts into that voluntary time-
22 of-use, the actual meters that are being installed in
23 Clifton Park under the demo project are already being
24 funded through the REV demonstration project.
25 Therefore, without the waiver, there would be a

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2 double recovery. This prevents the double recovery
3 of the meter costs.

4 COMMISSIONER BURMAN: Great. Thank
5 you.

6 It is a -- this one is a good news
7 item because it is flagging a potential problem with
8 double recovery if we didn't address it. So I am
9 going to vote for it.

10 I do flag for folks that I, you know,
11 continue to want to see more drill-down and analysis
12 on REV demos and looking at some of the costs and
13 benefits and lessons learned and what needs to come
14 back to the Commission.

15 I know Staff is working and -- and the
16 folks involved in the REV demos are working
17 diligently. And -- and kudos for that. We've had
18 some really good demonstration project ideas.
19 However, I do want to see it flushed out more for the
20 Commission as a whole to look at it and understand
21 what the landscape, going forward, looks like and
22 what people need to prepare for.

23 And also, to the extent that there may
24 be some things in there, like community choice
25 aggregation or other things that need to, from other

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2 orders that we've done, come to the Commission for
3 approval before it goes forward, before folks go too
4 far down the road, they really should come and -- and
5 come to the Commission for decision-making on that or
6 at least flag it, at least for this Commissioner, on
7 what we need to look at because I -- I really don't
8 want to miss the core issue until it -- until it --
9 until after it's too late and want to weigh in on it.
10 So it's important.

11 I know Staff has heard me say this
12 before, internally, but I really want to make people
13 aware that I am very much wanting more information
14 that is takeaway analysis, not just the analysis to
15 say yes to the program, but further and to drill down
16 on it. I think that can benefit all of us.

17 The other item that I want to talk
18 about is Item 369, Consolidated Edison Company of New
19 York Tariff Filing to Revise PSC Number 10,
20 Electricity General Rule 8.3, Generating Facilities
21 used on an Emergency Basis for Export to Permit the
22 Export of Electricity Discharge by Battery Storage
23 Systems During Demand Response Events under the
24 Brooklyn/Queens Demand Management Program.

25 I just need a minute to pull up my

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2 notes to myself.

3 Marco, this again is yours.

4 I can't say enough good things about
5 how hard Marco works. Really, he's incredible.

6 Don't shy away from it. Own it.

7 MR. PADULA: Well, thank you.

8 COMMISSIONER BURMAN: So this is my
9 understanding. And if you could just clarify if I'm
10 wrong, because I want to make sure because I did
11 struggle over this item. Con Edison filed a
12 petition. It had a very narrow focus to address
13 battery storage projects that bid into and won awards
14 under its BQDM Demand Response Procurement Auction.

15 Now as part of that BQDM DR Program,
16 Con Edison procured demand response assets for both
17 2017 and 2018 summer capability periods through an
18 auction mechanism. And then as a result of the
19 auction, Con Edison was able to enroll customers who
20 plan to use battery storage as their source of demand
21 response.

22 So if we didn't adopt this
23 modification to the tariff, batteries would be locked
24 out of participating in the BQDM DR Program because
25 it's not in the tariff. So it's a tariff issue in

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2 terms of the language. So this helps to expand, for
3 Con Edison, the applicability of the tariff
4 revisions, not just to the BQDM Program, but we're
5 going further because we anticipate -- again, we're
6 looking at what does this mean in the bigger picture.

7 So there was some question because it
8 was initially brought in and was narrow to the BQDM
9 because that's where the need was because of the
10 2017-2018 auction, it didn't make sense to not apply
11 it to all of Con Edison if Con Edison looked at it
12 and realized that it was appropriate and they could
13 do it without any harm to customers and actually
14 enter the program but it actually benefit.

15 So by expanding it through this tariff
16 revision, we're expanding it to all non-wire
17 alternative projects in Con Edison's territory. So
18 essentially, this just eliminates the barrier for Con
19 Edison to have to come for future tariff filings each
20 time they want to pursue a non-wires alternative that
21 includes battery as a selected alternative. Is that
22 correct?

23 MR. PADULA: Yes -- yes.

24 COMMISSIONER BURMAN: And it -- but we
25 do make clear to the market here, because I think the

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2 signal we're trying to send also that batteries are
3 not excluded. We're not picking batteries over
4 another. We're just making sure that it's clear and
5 that the tariff itself does not trip up this issue;
6 correct? Okay.

7 MR. PADULA: Correct.

8 COMMISSIONER BURMAN: So I believe
9 that the non-wire filings have been very broad. They
10 ask for DER alternatives. They do not reference, as
11 they should not, any specific technology solution;
12 correct?

13 MR. PADULA: Yes, correct.

14 COMMISSIONER BURMAN: Okay. I'm doing
15 well so far.

16 So tariff revisions to allow for
17 battery discharge from customers with hybrid PV,
18 battery storage systems, eligible for the value stack
19 under VDR, that's not what we're doing; right? We're
20 not looking now at the -- the eligibility for this
21 under the value stack of DER? In fact, the
22 Commission will be acting on the VDER implementation
23 plans at some point in the near future. Okay? So
24 that aspect of it is still an open issue. Okay?

25 So I guess the question then becomes,

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2 since we took the narrow petition and then expanded
3 it to -- to all Con Ed territory, then the question
4 becomes why not then expand it further? And I think
5 my understanding is that we don't go further because
6 we do have to look at it more holistically and we
7 need more information.

8 So for example, outside of Con Ed
9 territory, other utilities need to look at and see
10 how it applies, whether it makes sense for them. And
11 this order then gives them the direction that they
12 should look at exploring these options and come back
13 to the Commission and we'd weigh in on that.

14 What are the other reasons that we're
15 not expanding?

16 MR. PADULA: So the biggest reason is
17 you want to have the compensation mechanism follow
18 the ability to allow for injection. So we've done
19 that through tying it to the NWA provision -- NWA
20 offerings --

21 COMMISSIONER BURMAN: Uh-huh.

22 MR. PADULA: -- like the BQDM But to
23 say, for example, to expand it to the demand response
24 programs, the -- the dynamic load management
25 programs, would not be appropriate until we get

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2 additional information from the utilities in terms
3 of, for example, what is the baseline calculation to
4 be used for battery injection under those programs
5 and the appropriate compensation mechanism.

6 COMMISSIONER BURMAN: Okay. So it
7 does seem to me like that is then the next step, and
8 separate. So looking at it from how to take it up in
9 phase two, is that where the place would be?

10 MR. PADULA: For the dynamic load
11 management tariff filings?

12 COMMISSIONER BURMAN: Uh-huh.

13 MR. PADULA: The utilities would
14 actually present their findings in the annual reports
15 --

16 COMMISSIONER BURMAN: Okay.

17 MR. PADULA: -- that come in, in
18 December.

19 COMMISSIONER BURMAN: December 2017.

20 MR. PADULA: They would propose tariff
21 filings that would become effective for the summer
22 capability period.

23 COMMISSIONER BURMAN: Okay. Okay. Is
24 there anything further you think, or your colleagues
25 think is important to reflect as to what we're doing

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2 now and what we may do in the future, and the
3 distinction between the limitation here in this being
4 just somewhat of a housekeeping clarification for the
5 tariff, but is not expanding beyond that to the Value
6 DER compensation aspects?

7 MR. WEINER: If I may? Excuse me. I
8 just want to point out that the application of
9 storage -- the implication of storage in the context
10 of VDR is one of many issues that's going to be
11 discussed on Tuesday at an organizational conference
12 to kick off phase two of VDR. So that will be a topic
13 among many that'll be discussed over the coming
14 months with specific recommendations coming to the
15 Commission as to the compensation mechanism that
16 would be appropriate. And the VDR process, I think,
17 will weave together a number of regulatory threads
18 that exist currently involving storage issues.

19 COMMISSIONER BURMAN: Okay. Great.
20 If someone wanted to find out about the
21 organizational meeting, is it open to the public?

22 MR. WEINER: It's open to the public.
23 A notice was filed and -- in the proceeding which is
24 15-E-0751. And the proceeding will be webcast.

25 COMMISSIONER BURMAN: Excellent. All

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2 right. Thank you very much.

3 So those are the only two items that I
4 had I wanted clarification to make sure we were
5 focused on these items. So thank you.

6 INTERIM CHAIR SAYRE: Thank you,
7 Commissioner Burman.

8 I'll call for the vote on the
9 recommendations on the consent agenda. The Chair
10 votes aye.

11 Commissioner Burman?

12 COMMISSIONER BURMAN: Aye.

13 INTERIM CHAIR SAYRE: The
14 recommendations are unanimously adopted.

15 Secretary Burgess, is there anything
16 further to come before us today?

17 SECRETARY BURGESS: There's nothing
18 further today. The next Commission meeting is June
19 15th in Albany.

20 INTERIM CHAIR SAYRE: This session of
21 the Public Service Commission is adjourned.

22 (The session adjourned at 11:53 a.m.)

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STATE OF NEW YORK

I, LESLIE TOMPSON, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 60, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto
subscribed my name, this the 25th day of May, 2017.

LESLIE TOMPSON, Reporter

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