

1 Monthly meeting - PSC Commission - 4-20-2016

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4 PUBLIC SERVICE COMMISSION

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6 MEETING OF THE PUBLIC SERVICE COMMISSION

7
8
9 Wednesday, April 20, 2016

10 11:00 a.m.

11 Three Empire State Plaza

12 Agency Building 3, 19th Floor

13 Albany, New York

14 COMMISSIONERS

15 AUDREY ZIBELMAN, Chair

16 GREGG C. SAYRE

17 PATRICIA L. ACAMPORA

18 DIANE X. BURMAN
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1 Monthly meeting - PSC Commission - 4-20-2016

2 (The meeting commenced at 11:00 a.m.)

3 CHAIR ZIBELMAN: Good morning, everyone. So
4 I just -- before we start, I wanted to note for the record
5 that despite our huge commitment to clean energy in this
6 state and carbon reduction, and even though this is Earth
7 Week, only Commissioner Burman got the memo on the uniform.

8 So we're going to commence the session. And
9 Secretary Burgess, are there any changes to the agenda?

10 SECRETARY BURGESS: Good morning, Chair and
11 Commissioners. There's no changes to the agenda this
12 morning.

13 CHAIR ZIBELMAN: Okay. Now, we have 2 items
14 for the regular agenda. The first item is Item 301. It
15 relates to the guidance on Distributed System Implementation
16 Plans, or DSIPs. Tammy Mitchell, who's chief of the electric
17 distribution systems, will be presenting. Mike Worden and
18 Raj Addepalli are also here and available for questions.

19 So, Tammy, please begin.

20 MS. MITCHELL: Thank you.

21 Good morning, Chair and Commissioners.

22 As you mentioned this morning, I will be
23 discussing some of the highlights of the draft order before
24 you, which sets forth the requirements for utility
25 Distributed System Implementation Plans, or DSIPs.

1 Monthly meeting - PSC Commission - 4-20-2016

2 The draft order contains a lot of background
3 discussions, specific requirements related to DSIPs. But for
4 the purpose of my presentation today, I will focus on the
5 major subject matters in the DSIPs that will be critical to
6 the success of the REV goals and objectives.

7 As described in the Commission's Track 1
8 Order, the DSIPs will be the roadmap for utilities to
9 establish a Distributed System Platform, or DSP. This
10 platform is the set of tools and functions utilities will
11 need to develop to enable the integration of increasing
12 amounts of Distributed Energy Resources, or DER, into the
13 grid in order to bring efficiencies to the electric industry.

14 To that end, the key principles of the DSIPs
15 that I will touch on are providing information, stakeholder
16 engagement, and developing necessary tools.

17 The first important principle of the DSIPs is
18 information sharing. DER providers need timely access to
19 pertinent system data and information in order to identify
20 opportunities to provide cost effective and meaningful market
21 solutions to distribution system needs. This information
22 needs to be readily available well in advance of utilities
23 proposing system upgrades in the context of a rate case.

24 Under the current construct, utilities
25 control distribution system data and information. The DSIP

1 Monthly meeting - PSC Commission - 4-20-2016
2 will be a mechanism to level the playing field and allow
3 third parties to become effective market participants.
4 Improving the quality and flow of information will encourage
5 innovation and allow for improvements in system efficiency.

6 As such, the contents of the DSIP filings
7 will primarily focus on data and methodologies related to
8 utility system planning and operations. Specific information
9 will include granular locational and time differentiated
10 distribution system data. Recognizing that such granular
11 data may not be available for every location at this time,
12 the utilities should begin to offer as much information as is
13 readily available to begin the process of supporting optimal
14 DER investments.

15 Utilities will also be required to provide
16 detailed capital investment plans. While utilities currently
17 file 5-year capital investment plans, the DSIP should include
18 capital plans organized in a manner to help identify
19 beneficial locations for DER deployment, such as areas in the
20 utilities footprint where there is an impending or
21 foreseeable delivery infrastructure upgrade, or where DER may
22 provide other reliability or operational benefits. DSIPs
23 will provide the necessary information for third parties to
24 invest capital into projects which will offset the need for
25 ratepayer funded, utility rate-based capital expenditures.

1 Monthly meeting - PSC Commission - 4-20-2016

2 Another critical component of the DSIPs will
3 be hosting capacity information. Hosting capacity is the
4 amount of DER that the electric distribution system can
5 reliably accommodate without material utility system
6 upgrades. Hosting capacity information will indicate areas
7 of the distribution system where DER can be interconnected in
8 the most economical and expeditious manner.

9 Along with information related to system
10 needs and proper pricing, hosting capacity information will
11 allow DER to provide the greatest benefits and allow
12 utilities to effectively and reliably design and operate the
13 grid with greater levels of DER. The draft order requires
14 the utilities to develop a common definition and methodology
15 for determining hosting capability on all distribution system
16 circuits, and develop hosting capacity maps that will be
17 available to DER providers.

18 Furthermore, utilities should identify
19 protocols or means for increasing hosting capability of
20 circuits, including the use of emerging technologies and
21 distributed resources such as storage.

22 Along with hosting capacity information, a
23 streamlined interconnection process is critical to
24 facilitating DER investments. A number of efforts are
25 underway to facilitate DER interconnection in New York,

1 Monthly meeting - PSC Commission - 4-20-2016
2 including the establishment of a DER ombudsman and an
3 interconnection technical working group. Additionally, last
4 month the Commission approved updated standard
5 interconnection requirements which will help facilitate DER
6 interconnection.

7 In their DSIPs filings, utilities will be
8 required to port -- report on ongoing efforts and other
9 proposed improvements to the interconnection process,
10 including status of the development of an online
11 interconnection portal.

12 Another key tenet of the DSIP filings is
13 stakeholder engagement. Active collaboration among utilities
14 and stakeholders prior to the filing of DSIPs will inform the
15 DSIP filings in a way that will be most useful to third
16 parties. The open stakeholder engagement process will
17 promote utility stakeholder relations and provide more
18 information about utility operations and planning.

19 The stakeholder engagement process, to be led
20 by the utilities, will be used to vet major DSIP topics.
21 Utilities and stakeholders are expected to collaborate to
22 determine the types, level, amount, and format of data and
23 information to be provided in the DSIPs. While it is
24 expected that utilities use a robust stakeholder engagement
25 process to inform initial and, particularly, the supplemental

1 Monthly meeting - PSC Commission - 4-20-2016
2 DSIP filings, it is expected that stakeholder engagement will
3 continue beyond these first filings and into the future.

4 Now turning to tools. An -- an essential
5 requirement for successful integration of DER and evolution
6 of DSP functionalities is the development of proper tools.
7 Utilities will need to improve forecasting methodologies and
8 algorithms. They will need to develop more advanced system
9 modeling capabilities. They will need to increase
10 monitoring, communication, and control capabilities. They
11 will need to be able to effectively manage significantly
12 increased amounts of data. And with increased integration of
13 third-party energy resources and sharing of granular system
14 data and customer data, potential issues related to security,
15 both physical and cyber, and privacy, will need to be
16 identified and addressed.

17 Through the DSIP, utilities will identify
18 improved utility processes systems and tools that can and
19 should be developed to reliably operate a distribution system
20 with high DER penetration levels.

21 Another tool which will offer benefits to
22 both utilities and customers is advanced metering. Granular,
23 real-time data will enable utilities to improve system
24 design, provide greater system visibility, and enhance a
25 customer's ability to manage their bill. Utilities will be

1 Monthly meeting - PSC Commission - 4-20-2016
2 required to report, in their initial DSIP filings, on any
3 current or planned AMI deployment plans. Any AMI proposals
4 must be accompanied by a detailed business plan, including a
5 benefit cost analysis consistent with the benefit cost
6 analysis framework order issued in January, as well as
7 metrics related to such areas as customer participation in
8 new programs, system operation impacts, and environmental
9 benefits. AMI business plans must also include a thorough
10 customer engagement plan.

11 With respect to customer data, the utility
12 DSIP should address the tools and technologies that utilities
13 will need to employ to enable the provision of customer data.
14 Utilities will be required to enable customer and authorize
15 third-party access to customer data, and data exchange
16 between ESCOs and utilities.

17 While the DSIP should address potential data
18 exchange mechanisms, other issues such as the specific
19 customer data to be provided and potential charges for such
20 data will be addressed in ongoing proceedings and will be
21 determined at a later date.

22 Finally, the utilities have begun to
23 implement demonstration projects as required by the
24 Commission in its Track 1 order. In the DSIP filings, the
25 utilities should discuss current and near term demonstration

1 Monthly meeting - PSC Commission - 4-20-2016
2 projects, and how these projects are informing decisions
3 related to achieving specific DSP functions, DSP goals, and
4 the state energy objectives.

5 Now turning to the DSIP process. The DSIP
6 will be multi-year plan subject to public comment and regular
7 updates. Specifically, the DSIPs will document utility plans
8 over a 5-year period with updated DSIP filings required every
9 2 years.

10 In this first round, utilities will be
11 required to make 3 filings in 2016. First, on or before May
12 5th, the utilities are required to file a plan and timeline
13 for stakeholder -- for a stakeholder engagement process.
14 Second, each utility will be required to file individual
15 utility initial DSIPs on June 30th. And third, a joint
16 supplement DSIP filing will be required by utilities on
17 November 1st.

18 The initial DSIPs will require the utilities
19 to provide a base level of data and describe system planning
20 and operation practices. Initial DSIPs will also identify
21 the limitations of current utility operations and tools that
22 can be developed to reliably operate a distribution system
23 with high DER penetration levels.

24 The supplemental DSIP filing is intended to
25 provide common approaches, tools, and protocols. Outcomes of

1 Monthly meeting - PSC Commission - 4-20-2016
2 the supplemental filing would be applied to all distribution
3 utilities so developers and third parties will be able to
4 interact and obtain information in the same manner regardless
5 of the underlying utility, allowing consistency in business
6 making decisions and easier entry into all areas of the
7 state.

8 The supplemental DSIP filing must also
9 recognize how the processes to be established will be able to
10 adapt to increases in DER deployment, changes in technology,
11 and other advancements as the distribution grid continues to
12 evolve.

13 In conclusion, the DSIP will serve as a
14 template for utilities to develop and articulate an
15 integrated approach to planning, investment, and operations.
16 These DSIP filings, along with other activities including
17 improved tariff and price -- pricing mechanisms and alignment
18 of utility incentives, will serve as an initial step toward
19 establishing the distributed system platform. DSIPs will
20 also enable the Commission to monitor and evaluate a
21 utility's preparedness for assuming the active role of a DSP.

22 This concludes my presentation. I'd be happy
23 to take any questions.

24 CHAIR ZIBELMAN: Thank you, Tammy.

25 And I have to note the emoticons are great.

1 Monthly meeting - PSC Commission - 4-20-2016

2 Even though we had a little problem with Mr. Addepalli about
3 getting them out the door, they're -- they're great
4 emoticons.

5 So first of all, I -- you know, I want to
6 start with -- we need to acknowledge the fact that the DSIP
7 order in front of us today is -- is really the product of a
8 great deal of work that actually started with Track 1. We
9 had the MDPT working group that looked at the technology and
10 helped us think through the architecture, the DSIP guidance
11 document, the many comments that we got in response to that
12 that came out of the -- the Staff paper, as well as the
13 working group works. So I want to note my appreciation.

14 The fact that -- I think that this document
15 as you'll -- and the order -- is very well thought out. It
16 sets out a process to really convert the distribution
17 utility, as we know it today, to really an integrated
18 platform that allows us to integrate distributed resources
19 much more effectively, much more efficiently, thinking about
20 technology getting the markets going, but recognizing that
21 this is a crawl-walk-run approach. This is not going to
22 occur overnight, and that we need to, first of all, baseline
23 where we are, understand where the constraints that we have
24 today get smarter as we move forward, and think about
25 developing the market in a way that's deliberative and that

1 Monthly meeting - PSC Commission - 4-20-2016
2 we're in a position that the distribution utilities can
3 accommodate market change as quickly as it happens, but
4 doesn't necessarily get ahead of it.

5 So I think that the order represents the
6 right types of activities and the thinking we need to do, as
7 well as, you know, how the -- we anticipate these platforms
8 to get developed. Since -- I think about this as a planning
9 document. So and -- and it is the result of a great deal of
10 work. I think about this as a planning document, and so I
11 have my own quote, actually, today. So you think about Yogi
12 Berra, how he said that any path -- if you don't have a plan,
13 any -- any road looks good.

14 And that's -- would be our concern. If we
15 didn't have a plan around the distribution systems, we really
16 wouldn't know where we were going. And that this is really
17 the plan so that people can see where the systems are going
18 and can help us, you know, get to the right place.

19 The things that I think are going to be
20 really important -- and I -- and -- and the order touches on,
21 and Tammy, I think, did a very nice job summarizing are the
22 things that are going to be very interesting for us as we
23 modernize the distribution grid. The issue of hosting
24 capacity, which we touched on, to me, is going to be the
25 issue that the -- this Commission and future commissions will

1 Monthly meeting - PSC Commission - 4-20-2016
2 continue to evolve on, is how you think about the capability
3 of the distribution system to integrate resources, both in
4 terms of the hardware necessary, the software necessary, and
5 the markets necessary.

6 And I think we are going to be on a journey
7 on this to really thinking of converting the distribution
8 system today, which is largely a one-way system, to truly a
9 transactional system and what that's going to mean. And I
10 also think that we will advance the technologies. So the
11 tools that we talk about here, not only are they tools around
12 operating the system, but it's really understanding how
13 consumers are going to behave on the system, how do you use
14 distributed energy resources better.

15 I think that integrating in the learnings
16 that I anticipate that we're going to get from the
17 Brooklyn/Queens projects and other -- other demonstration
18 projects on how we use distributed resources is really going
19 to inform how this distribution system can work, and, really,
20 how do we make it more efficient and really help utility
21 operators who, after all, have to keep the lights on all of
22 the time, not just some of the time, making sure that they
23 can rely on these resources so that we can meet the needs of
24 consumers.

25 I think that this -- the way we're thinking

1 Monthly meeting - PSC Commission - 4-20-2016
2 about this and understanding that while a lot of the
3 technologies are there, a lot of them need to be developed.
4 And frankly, New York's going to lead the way in helping get
5 these done. And I -- and these DSIP processes are going to
6 be there -- be part of it.

7 To that end, the other big piece that I -- I
8 think is really important, as laid out in the order, is the
9 stakeholder engagement. And this is a little different than
10 simply just informing. One of the things that I'm hoping we
11 get -- and expect that we'll get through these stakeholder
12 processes, is that the utilities will be able to identify
13 their vision of what they can do and what they think the
14 system can accommodate, and then third parties who are really
15 the innovators can come in and say well, if you look at it a
16 little differently, you can solve more problems at a lower
17 cost, and we want to partner with you.

18 So this is more about not just involving
19 stakeholders in an adversarial understanding, but actually
20 getting the partners in, and the partners understanding what
21 the utilities are perceiving as the need, and then helping
22 them meet those needs in a much more efficient way. So I
23 think that engagement early on, and I know our utilities have
24 already started thinking about that, in terms of getting
25 people engaged and so they can get good partnering.

1 Monthly meeting - PSC Commission - 4-20-2016

2 And so lastly, I think that the other piece
3 that's very important in this order is it -- is it does
4 recommend -- and that in order for us to get where we want to
5 go in REV, we need to get real-time data available to the
6 system and for -- around customers' needs that is granular
7 mechanism as we can, both locationally and time-based.

8 That's how we're going to get the real value
9 of resources. That's what will help -- providers will know
10 what are the economic solutions. And frankly, this is how we
11 show customers that managing demand is going to be the way
12 that they can actually help their own pocketbooks. So
13 requiring, as part of these processes, that utilities develop
14 the plans on how make this information available as quickly
15 as possible, whether through AMI or other means, and thinking
16 about the protocol around getting this information available
17 so that it's useful, because you can't have a market without
18 information, I think is another very important part of what
19 we're saying that we expect the utilities in this state to be
20 able to provide.

21 So with all of that, I think that the order
22 does an extremely good job of setting up the process. It
23 allows the utilities to show what they have today, but also
24 sets the path forward. It allows for utilities working
25 together so we can get that scale that we want. And it puts

1 Monthly meeting - PSC Commission - 4-20-2016
2 the thumb on the scale on what the things that we think are
3 important, including the importance of stakeholder engagement
4 and getting real information out there.

5 So with that, I'm very pleased. Appreciate
6 the work of the Staff, again, and the parties. And I intend
7 to vote for it.

8 Any questions or comments for Staff?

9 COMMISSIONER SAYRE: The REV process is a
10 very complicated mix of competing interests, and
11 stakeholders, negotiations, working groups, and incremental
12 process. I'm afraid it can be pretty expensive for parties
13 to participate in this process because it can take a lot of
14 time and expertise to participate in one or a number of -- of
15 working groups at the same time. But that's really how it
16 has to be if we're going to be using everybody's expertise in
17 making this process work. And it's this kind of process that
18 I can see behind the order that's in front of us today.

19 This item is part of the nuts and bolts of
20 REV, what we need to make it work, as Chair Zibelman has
21 said. It goes very deep into the weeds, and I very much
22 appreciate Staff's work in helping me understand the
23 complications and -- and complexities that are in this order.
24 I'm very happy to support the achievement of one more
25 milestone on the way to REV.

1 Monthly meeting - PSC Commission - 4-20-2016

2 CHAIR ZIBELMAN: Commissioner Acampora,
3 questions, comments?

4 COMMISSIONER ACAMPORA: No question, however
5 I can say that I'm surprised, but I'm continuously in awe of
6 the work that is done by our Staff. I mean this is
7 monumental. And the Chair has said it all. But I think in
8 order for REV to be successful, this component adds to the
9 strong foundation of what we started.

10 So I have nothing more to add but my thanks
11 to our Staff for the hard work, and to all the parties who
12 really have come together. When you think you're going to
13 start something like this, and as Commissioner Sayer said,
14 this is very, very complicated, and to have all these
15 wonderful minds come together and share, to do something
16 that's really going to change not only New York, but change
17 the country and outside of our country, too, I think.

18 So I really do support this and, again, thank
19 everybody for their really strong efforts in order to really
20 make this something we can be proud of.

21 COMMISSIONER BURMAN: I just have to fix my
22 chair for a second.

23 (Off-the-record discussion)

24 COMMISSIONER BURMAN: So, first of all, thank
25 you for giving me the opportunity to speak on this. I do

1 Monthly meeting - PSC Commission - 4-20-2016
2 have a number of different questions. There's no trip-up
3 question. It really is just looking to sort of help to set
4 the framework and the table in terms of where we're going
5 with this.

6 I think Chair Zibelman accurately talked
7 about the quote of having a plan -- without a plan, any road
8 looks good. So this is really sort of asking some of these
9 questions in order to help facilitate my understanding and
10 the framework of what we're doing.

11 One of the threshold questions, to me, when I
12 look at the draft order is that I see that there were 3
13 filings that we'll be looking to vote on today. The first is
14 the guidance proposal, the stakeholder engagement plan. The
15 second is the initial DSIP filing. And the -- the first
16 plan, I think, is due on or before May 5th. The initial
17 planning is due on or before June 30th, 2016. And then we
18 have the third one, which is the supplemental DSIP filing,
19 which is due on or before November 1st, 2016.

20 And just a side note, for those of you who
21 like organization, you should be happy with my doing this, so
22 -- this part of also making sure that we're all on sort of
23 the same page.

24 But when I -- when I look at this, in the
25 order it speaks to having further Commission action on the

1 Monthly meeting - PSC Commission - 4-20-2016
2 initial DSIP filing and on the supplemental DSIP filing. It
3 doesn't speak to Commission action on the first engagement
4 guidance proposal. So my question really is why the
5 distinction between the initial DSIP filing and the
6 supplemental filing having Commission action? And when we
7 talk about Commission action, what is that actually entailing
8 or envisioned by future Commission action?

9 CHAIR ZIBELMAN: Kim, are you going to take
10 that?

11 MS. HARRIMAN: Yeah, I'll go ahead and take
12 that.

13 Specifically, the -- in customer engagement
14 plan, especially given the short turnaround time for the
15 initial DSIP filing being on June 30th, is not coming back to
16 the Commission specifically for approval or action. As you
17 know, anytime the Commission does take action, we have to
18 comply with the State Administrative Procedure Act, which
19 oftentimes takes around 60 days from the -- the date you
20 submit to the Department of State for publication, to the end
21 of the 45-day comment period. So for the first go around,
22 it's not conducive to getting the plans filed by June 30th
23 for Commission consideration.

24 Secondly, and I think on a substantive and
25 procedural basis, is that the engagement plans, they're

1 Monthly meeting - PSC Commission - 4-20-2016
2 living and breathing things. I think that they're going to
3 be morphing as -- as both utilities and stakeholders and
4 Staff get experience with how to actively engage the
5 requisite entities.

6 And you will have an opportunity to, let's
7 say, impart your wisdom with respect to the engagement plans
8 anytime the Commission has action on a DSIP filing because I
9 -- I have no doubt that in filing comments on the DSIP
10 filings, whether it's the initial, supplement, or the
11 biannual, that stakeholders have never been shy with the
12 Commission or -- or with Staff, of imparting their wisdom and
13 beliefs. And so it may end up being something you do opine
14 upon through that action on the DSIP initial and supplemental
15 and biannual.

16 With respect to your second question
17 concerning what is -- what does it mean to have Commission
18 action, in this case, given the uniqueness of the filings and
19 the breadth of the filings, action is simply that it will be
20 brought back at a session for Commission disposition. And
21 the Commission may, at that time, approve, reject, modify.
22 There may be elements that it will not approve such as 5-year
23 capital budgets and indicating some sort of blessing on
24 revenue requirement to support those budgets.

25 Again, anytime the Commission, quote, takes

1 Monthly meeting - PSC Commission - 4-20-2016
2 action, it needs to be put out for public comment. And
3 oftentimes we do that in 2 forms. And they are done
4 concurrently and that is -- or consecutively -- no --
5 concurrently, which is a notice in the State Register, the
6 running of the 45-day comment period. And oftentimes we
7 couple that with a secretary's notice. It's like our
8 flashing neon sign of pay attention to me and file comments.
9 I would envision that that same process would be done for the
10 -- the initial and the supplemental, as well as the biannual.

11 COMMISSIONER BURMAN: Okay. Thank you.
12 That's very helpful.

13 When we look at this, how does the overall
14 fitting in of the initial DSIPs and the supplemental DSIPs,
15 how does this process fit when we have other proceedings like
16 the clean energy standard, the Value D, comments came in I
17 think on the 18th. We're, you know, looking at the Code of
18 Conduct where those filings will come in. There are other
19 proceedings that are connected. There's some petitions for
20 rehearing. So how do all of -- all of this fit within what
21 the utilities are being asked to do, and then, really, what
22 the stakeholders will be asked to do in commenting on it?

23 MS. MITCHELL: All right. So certainly, the
24 draft order recognizes that the -- the DSIPs will need to
25 incorporate information that comes out of other proceedings.

1 Monthly meeting - PSC Commission - 4-20-2016

2 I mean one of the main ideas of the DSIP is to allow for more
3 information so that we can enable more DER to meet our clean
4 energy goals. So I think that fits very well.

5 With respect to the Value of D, we recognize
6 that the -- the vetting and final determination of -- of how
7 that value will be determined will take some time. In the
8 meantime, in the DSIPs, we're looking at other intermediate
9 steps such as, as the Chair mentioned, the hosting capacity
10 maps which will help facilitate DER and beneficial locations
11 of the system. And then when we have that Value of D, it
12 will feed back into future updates to the -- the DSIPs.

13 CHAIR ZIBELMAN: Let me -- let me just add to
14 this.

15 Commissioner Burman, you raise a -- I think a
16 very valid question and good point that we need to think
17 about. I mean we have a lot of activities that are going on
18 around development of the markets, getting actual pricing,
19 making sure that the distribution systems can accommodate the
20 types of resources we want to do. And they all are
21 interrelated.

22 Some of them are around the physical
23 properties of the system. Some around the pricing properties
24 of the system, others around market behavior. I think that,
25 given the nature of the activities, you know, whether it's

1 Monthly meeting - PSC Commission - 4-20-2016
2 the BCA, whether it's the LMPD, you know, sometimes I feel
3 like you -- if you -- if you looked at it, it would be sort
4 of this insanity of my brain because I see the picture. But
5 maybe it would be helpful if we put it down on a paper so
6 everybody can see it and see how this works forward.

7 So what -- what I'm going to recommend and
8 see if this makes sense to my fellow commissioners, we'll --
9 we'll have Staff, probably Scott and Raj working together,
10 put together really a template that lays out the entire REV
11 agenda, all the various elements and where they fit because
12 some are market oriented, some are physically oriented, some
13 are behavior -- you know, pricing oriented, rate case. And I
14 think that that would be useful roadmap. Not just for you,
15 the Commission, but also the parties who I think also
16 frequently wonder how this stuff is -- is it all going to fit
17 together and how is it going to fit together.

18 So why don't -- why don't we do that because
19 I think freelancing on it could end up putting us -- you
20 know, we might -- when we take the time and think about it,
21 it -- it may, you know, help. And we often think in terms of
22 -- we have these dangling participles and how do they fit
23 back in, or do they fit anymore. So why don't -- why don't
24 we take that on?

25 COMMISSIONER BURMAN: I think that's great.

1 Monthly meeting - PSC Commission - 4-20-2016

2 CHAIR ZIBELMAN: And we'll -- we'll get that
3 -- that back to everybody and get it published.

4 COMMISSIONER BURMAN: I think that's great.
5 It's almost like you read my mind. So that really is very
6 helpful.

7 CHAIR ZIBELMAN: And then we might share the
8 same insanity.

9 COMMISSIONER BURMAN: Right.
10 You know, when I -- when I look at this, I
11 look also about sort of that master plan or master outline
12 that kind of goes through it, and also identifies the gaps in
13 the road, maybe some of the potholes and what we need to do
14 as part of that. So I do see it as a -- as an instrument
15 that also would be not static. And to the extent that while
16 we go through this process, we do have lessons learned and
17 things that need to be done along that road. It's a time to
18 make sure that we update that and take care of that, so that
19 our pathway is smooth and that we're looking forward to, you
20 know, the -- the end of the trip, and -- or -- or the
21 beginning of the trip really, depending on how you're looking
22 at it.

23 One of the things also to keep in mind is
24 that there are significant discussions around interconnection
25 issues. There's a lot of, you know, from a -- a lot of the

1 Monthly meeting - PSC Commission - 4-20-2016
2 good things that we're doing, we've seen a significant
3 increase in applications for interconnection. And that's
4 great; right? That -- that people are engaged and wanting to
5 be a part of New York?

6 But it does cause a great deal of anxiety,
7 and it also causes us -- you know, I kind of think of it as
8 the amount of people you can fit in a room. Right? If the
9 capacity is 100, maybe you can fit 105. But if you get --
10 start to get -- going over that without planning for the
11 expansion, we could have -- there you go again, Tina -- that
12 you -- we could have some -- some issues.

13 So to the extent that this also is really not
14 micromanaging the process, you know, it seems like we're kind
15 of giving a huge homework assignment to the utilities. And
16 at the end of the day, I really think it's a matter of, you
17 know, embracing that we see this as, again, a -- a flexible
18 document that, when we work through it or trying to make sure
19 we're identifying some of the things that we need to do -- in
20 my mind, interconnection is -- is a huge one -- how it also
21 fits with transmission and infrastructure upgrades, and other
22 things that are sort of non-REV or non-aspects of this
23 particular filing, but that may impact.

24 Especially if we have a -- a -- issues with
25 the cost of commodity and lower demands, we need to factor in

1 Monthly meeting - PSC Commission - 4-20-2016
2 some of those things that we're looking at and -- and what
3 that may mean, and also especially how it impacts all the
4 other different stakeholders while we work through this, and
5 really not look at it as that when the utilities submit this
6 that they're going to get, you know, a big fat F because we
7 don't think that they got it right, or we're going to task
8 them with more things, but rather as an opportunity to start
9 the dialogue and the engagement as a, you know, first drafter
10 of these documents and these filings.

11 You know, I -- I have two sort of thoughts in
12 mind. I remember when I first was, you know, tasked with
13 becoming organized. That's probably was my OCD moment at the
14 time if I look back on it. But I remember writing up this
15 really great, you know, agenda for myself, what I was going
16 to do, you know, when I woke up in the morning at, you know,
17 four thirty, to when I went to sleep. And it fell apart.
18 Right? And I was like what happened.

19 Well, what happened was I never really looked
20 at it. And I didn't do a check-in. So from my perspective,
21 this is also an opportune time for us to do a check-in and --
22 and have that dialogue and that process.

23 One of the key focuses for me is to the
24 extent that -- and I think I've -- I've, you know, been
25 consistent in this -- to the extent that things come back to

1 Monthly meeting - PSC Commission - 4-20-2016
2 the Commission for approval and for guidance, it's very
3 important. This draft order, at first blush, has, you know,
4 everything, including the kitchen sink in it.

5 And to the extent that there are huge policy
6 implications and questions that may come on -- on the costs
7 and the benefits and other things, I -- I appreciate and --
8 and -- and greatly value the fact that we will be having the
9 opportunity to approve these and -- and -- and have input so
10 that it's not in a silo, but input from the -- the relevant
11 stakeholders.

12 To the extent that we're not, you know,
13 putting out for comments and -- and approving the guidance
14 proposal, including the stakeholder engagement, I think
15 that's smart because what I think that is -- is trying to do
16 is say we're not going to wait for the Commission on
17 something as critical as stakeholder engagement. And in
18 fact, it's necessary while we do that.

19 And that part of it fits neatly into when we
20 get to the initial filings. And so if there are gaps in the
21 stakeholder engagement process, we can address that. So it's
22 not barring us from that, but it's really trying to jumpstart
23 that piece of it.

24 So when I look at the whole, my focus is --
25 is a positive one. My focus is not necessarily weighted down

1 Monthly meeting - PSC Commission - 4-20-2016
2 with where I may be on certain aspects, you know, like
3 microgrids. Those aspects of microgrids, what we're doing
4 with microgrids, some of those are going to have to come back
5 to us for regulatory approvals. Some aspects of it, not.
6 That's outside of us. But a recognition that that is going
7 to part -- part of that push and pull.

8 So you know, I'm a -- a concurrence on the --
9 the -- the order because I do see that this gets us to that
10 road and -- and -- and we have the plan. I will say that
11 when we have a plan or -- or a roadmap, if you hold it upside
12 down, you may get to the wrong place. So I'm really
13 comfortable that this plan is right side, and that we're
14 looking at it, and we're going forward. And so for that,
15 I'll -- I'll be a yes.

16 CHAIR ZIBELMAN: So any further questions?
17 Comments? Any further questions or comments?

18 Hearing none, we're going to then -- I'm
19 going to move to a vote.

20 All those in favor of the recommendation to
21 establish DSIP guidance and direct utilities to make filings
22 as described, please indicate by saying aye.

23 COMMISSIONER SAYRE: Aye.

24 COMMISSIONER ACAMPORA: Aye.

25 COMMISSIONER BURMAN: And I concur.

1 Monthly meeting - PSC Commission - 4-20-2016

2 CHAIR ZIBELMAN: Okay. Hearing no
3 opposition, there being none, the recommendations are
4 adopted. Thank you very much.

5 And again, thank you, Tammy.

6 Thank you, Staff.

7 I do echo the comments of Commissioner
8 Acampora. This is a phenomenal piece of work and reflects
9 the professionalism of our Staff as well as their sagacity.
10 Thank you.

11 Turning to wise, Mr. Weiner. So our next
12 item for discussion is Item 201. And it relates to the
13 framework for community choice aggregation programs. Scott
14 Weiner will be presenting that. Christina Palmero, Luann
15 Scherer, and Ted Kelly are also -- have worked very long and
16 hard on this item and are available for questions.

17 Scott, please begin.

18 MR. WEINER: Thank you, Chair.

19 And good morning, Commissioners. And I do
20 want to acknowledge I stand on the shoulders of the people to
21 my right, who have been working at this extensively.

22 The order before you this morning establishes
23 the framework which provides municipalities with the
24 requirements that they would need to follow to establish a
25 Community Choice Aggregation Program, a program that enables

1 Monthly meeting - PSC Commission - 4-20-2016
2 collective action -- collective community action to procure
3 electricity and related products and services, such as DER
4 and energy efficiency.

5 And in so doing, the Community Choice
6 Aggregation Program will provide residents and small non-
7 residential customers with the opportunity to receive
8 benefits that have rarely been available to them, and
9 empowers residents to take greater control of their energy
10 usage and expenses.

11 Collective action, community action has been
12 shown in New York and elsewhere as an effective tool to help
13 achieve our goals of REV. And I point to such initiatives in
14 New York, such as New York Prize, Solarize, and the Community
15 Distributed Generation programs as demonstrations of how
16 effective a vehicle community action can be to deliver clean
17 energy, DER, and achieve the goals of REV. In that regard, a
18 CCA program will be a catalyst for community organization and
19 empowerment. This, in itself, will lead to the ability to
20 manage energy usage and bills. It will facilitate the wider
21 deployment of DER, increase access to benefits of retail
22 competition, and allow for education of consumers on an
23 individual and a community-wide basis.

24 The order before you today sets out specific
25 requirements for establishing a CCA. And in so doing, it

1 Monthly meeting - PSC Commission - 4-20-2016
2 incorporates 5 themes. The first of these themes is the
3 requirement for meaningful communication, education, and
4 community engagement, a strong commitment of this Commission
5 in all of its initiatives, the availability of resources
6 including, of course, DPS Staff, NYSERDA, and the utilities
7 to assist communities in developing their plans and achieving
8 their local and collective state-wide goals.

9 Another theme is collaboration among
10 communities, their local utilities, NYSERDA staff, and all
11 its collaboratives to determine how best to integrate DER,
12 energy efficiency, and the achievement of the REV goals into
13 the CCA offerings and to make an integral part of their
14 plans.

15 The order requires the development of
16 detailed implementation, communication, and data protection
17 plans that will be subject to the review and approval of the
18 Commission, and lastly, holistic planning that will make sure
19 that DER, energy efficiency, and the objectives of REV become
20 an integral part of a CCA plan.

21 The order before you today reflects extensive
22 staff engagement with market participants. This proceeding,
23 as you know, was initiated in December of 2014 with an order
24 and accompanying Staff White Paper which included a series of
25 questions for stakeholder response.

1 Monthly meeting - PSC Commission - 4-20-2016

2 Shortly after the issuance of that order, a
3 petition was received from Sustainable Westchester and,
4 subsequently, the launch of the Sustainable Westchester pilot
5 program through the order of this Commission, which has
6 provided important learnings that are reflected in this
7 order.

8 We received written comments and also 2
9 related technical conferences were held that addressed
10 general data issues, which is also the benefit which is also
11 reflected in this Order. More recently, the ESCO Reset Order
12 of February of this year will control and provide future
13 guidance regarding products that can be offered by a CCA
14 program.

15 This particular order is informed by the
16 experience and Staff's review of the experience under the
17 Sustainable Westchester pilot. And I think, importantly, the
18 draft order reflects the Commission's commitment to
19 continuous improvement, and provides for the ongoing
20 recognitions of lessons learned, not only from Sustainable
21 Westchester to date and going forward, but also incorporate
22 the experience of other community choice aggregation programs
23 as they move forward.

24 At present, there are 3 pending filings and
25 an expression of interest from numerous other municipalities

1 Monthly meeting - PSC Commission - 4-20-2016
2 and community-based organizations. So needless to say that
3 this Earth Week is timely for the Commission to proceed with
4 the consideration and adoption of this order and articulate
5 its authorization for CCA programs, and, in so doing, set out
6 the rules and requirements for organizing CCAs.

7 I want to point out again that this is a
8 framework order that provides guidance to municipalities and
9 other interested market participants and community
10 organizations on how to organize and establish a CCA, but
11 approval of products that can be offered by a CCA will be
12 addressed in the ongoing ESCO Reset proceeding.

13 I want to briefly summarize a couple of the
14 essential elements and requirements that are set forth in the
15 draft order. The first is that the order expressly approves
16 an opt-out enrollment framework. The order acknowledges and
17 recognizes the importance of and the history of supporting
18 affirmative consent, but also notes that there has been
19 experience of the jurisdictions that opt-out enrollment is,
20 in fact, a predicate to the establishment of a successful
21 CCA, and that opt-out enrollment provides a critical mass of
22 participants.

23 But most significantly, opt-out enrollment,
24 as reflected in this order, incorporates consumer protection
25 elements which is an inherent part of the CCA from the moment

1 Monthly meeting - PSC Commission - 4-20-2016
2 of its inception through its operation. And a couple
3 examples would be that municipal action is required. There's
4 a requirement of an enactment of a -- a local resolution or
5 ordinance after notice and public hearing. There are
6 requirements for outreach and public education.

7 Significantly opt-out will not interfere with
8 any choice a customer has already made, and also that the
9 opt-out notice will be provided to customers and residents
10 within a community and their expressed rights of termination.

11 The opt-out process, itself, provides
12 multiple safeguards that I want to highlight. As I
13 mentioned, education and information is inherent and there's
14 a requirement -- expressed requirement for at least 2 months
15 of -- of prior education and information within a community
16 before letters informing a customer about the opt-out program
17 actually goes out.

18 An opt-out letter cannot be sent out before
19 the approval of the implementation and data protection plans
20 by the Commission and the approval of the final text of the
21 opt-out -- opt-out letter, itself, so that the Commission
22 will have its hand on the throttle to make sure the letters
23 accurately reflect the program.

24 The opt-out letters will be sent by the
25 municipalities on official municipal letterhead in an

1 Monthly meeting - PSC Commission - 4-20-2016
2 official envelope, providing information about the program
3 and underscoring the opportunity of no less than 30 days for
4 a resident to opt out of the program. And the kind of
5 information certainly isn't exclusive or totally inclusive,
6 is information about the program, itself, a description of
7 the contract terms with the selected ESCO, an explanation of
8 the implications of not opting out.

9 Also, significantly, customers who do not opt
10 out can return to utility service before the end of the third
11 billing cycle following enrollment without the imposition of
12 any termination fee.

13 Public outreach, public engagement, and
14 protection of data, access to data are all parts of the
15 foundation of a CCA program. And it's for that requirement
16 that the order provides that municipalities must engage in
17 robust outreach and education plans, the details of which is
18 set forth in the order.

19 It is the municipal governing body that is
20 ultimately responsible for ensuring that the CCA is operating
21 in compliance and the interests of residents and participants
22 are protected. And this seems like a logical requirement
23 given it's the municipality that's acting on behalf of its
24 residents to initiate the activity.

25 I want to specifically point out that the

1 Monthly meeting - PSC Commission - 4-20-2016
2 order provides for NYSERDA's active engagement in these
3 programs, and NYSERDA is being tasked with the development of
4 what we're calling a municipal tool kit, things such as, but
5 certainly not limited to standard forms of agreement, advice
6 as to how to organize a CCA, what the implications are of
7 organizing a CCA, detailed guidance on the process for a
8 municipality and community-based organizations to do that,
9 information about what cost might be associated with the
10 formation of a CCA, ways to mitigate those costs, ways to
11 integrate DER and energy-efficiency resources as part of
12 their plan.

13 So Staff and NYSERDA will become important
14 partners and a source of information and guidance for
15 interested municipalities and organizations.

16 There is an implementation plan, as I
17 mentioned, that's required to be filed with the Commission
18 for its approval. Again, without being exclusive, it's going
19 to require a community to articulate its goals, to be able to
20 detail its outreach plan so that the Commission can be
21 comfortable that its expectations are being met. It will
22 describe the extent to which and how a municipality has
23 considered the inclusion of renewable energy, energy
24 efficiency, and other DER resources as part of their
25 planning. They will be copies of the communications that

1 Monthly meeting - PSC Commission - 4-20-2016
2 will be going out to the public.

3 Another specific plan that has to be filed
4 with the Commission is a data protection plan. And again,
5 this is something that the Commission will be approving
6 expressly before actual outreach and data can be requested.

7 I just want to summarize by saying it
8 requires the same level of protection for personally
9 identified information as is currently required and provided
10 by both utilities and ESCOs. It, consistent with current
11 practice, expressly prohibits the sale of data. And again,
12 as part of a logical series of steps in this process, no data
13 can be requested until the Commission has approved the
14 implementation and data protection plans. And then again,
15 there are expressed program requirements that are -- that are
16 articulated.

17 There are other topics that are addressed by
18 the order. I just want to mention that there's detailed
19 information about the contracts between municipalities and
20 ESCOs, which municipalities can implement to CCA, and also
21 detailed information about customer eligibility, all which is
22 set forth in the order.

23 That concludes my remarks. And the Staff
24 team and I are available to answer any questions.

25 CHAIR ZIBELMAN: Thank you.

1 Monthly meeting - PSC Commission - 4-20-2016

2 So first of all in terms of the CCA, in
3 general, and the purpose of this order and its recommend --
4 in the recommended decision, it -- it is about framing how we
5 will do community aggregation in this state and really to
6 help us get going on -- on this -- on the process.

7 I think, as Scott indicated, there's much
8 work to be done. We -- it's not our expectation that we're
9 going to have communities filing petitions in the next week
10 or two. We have work to be done on the ESCO reset and
11 setting products. This is really to start the framing and to
12 -- and to really, I think, identify the seriousness by which
13 the Commission is looking at this opportunity.

14 And so for -- on the very positive side, I
15 think that, as Scott mentioned, that the work that we've seen
16 that has happened and the positive response around community
17 renewables, the reaction that NYSERDA got from its various
18 programs around microgrids and -- and the New York Prize
19 program, the interest that, frankly, the state has had and --
20 and the success of the many regional economic development
21 programs that the governor initiated have shown, time and
22 time again, that just like politics, a lot around energy is
23 local.

24 And if we're going to be getting where we
25 want to go around energy efficiency -- clean energy -- it's

1 Monthly meeting - PSC Commission - 4-20-2016
2 all about consumer engagements, particularly the mass market,
3 and that local communities -- local municipalities are really
4 best positioned to start integrating energy planning, and
5 thinking about energy and how they deliver product to -- to
6 their constituents as any -- as any entity to get things
7 going.

8 So while -- clean -- CCA, which started, I
9 believe initially it was in California and it was in
10 Illinois, was largely around aggregating supply. I think the
11 New York version is going to be much more about aggregating
12 demand and thinking about how communities can work together
13 to meet their mutual needs and mutual benefits around clean
14 energy and energy efficiency, as well as supply, to help
15 manage the bill and get where they want to go.

16 I think -- you know, several years ago, you
17 might have seen, and I certainly experienced, a lot of
18 universities started advertising that they had sustainability
19 programs. Now a lot of kids, when they were going in those
20 universities, wanted to know about, you know, what -- what
21 kind of commitment did they make to -- to reducing carbon.

22 Well these kids are now getting a little bit
23 older and they're moving into communities. And I, frankly,
24 think they're going to be asking the same thing of their
25 landlords, of their -- and their municipal elected, you know,

1 Monthly meeting - PSC Commission - 4-20-2016
2 what -- what's our commitment? Where's our commitment? How
3 can we work together?

4 And I think CCA provides, really, a great
5 value for local communities to really engage people, start
6 thinking about these things. And I think that's how we're
7 going to see real change occur in New York.

8 So I'm -- I'm as excited about this element
9 of what we're doing in REV as just about anything else we're
10 doing. But just, you know, our experience at the Commission
11 has been having a good idea and seeing that good idea get
12 executed in a good way, is -- you know, requires a lot of
13 nurturing.

14 And just like, I think Commissioner Burman
15 just said with respect to DSIPs, just saying we're going to
16 do it and then not watching it and -- and then, while we
17 don't want to micromanage it, we do need to not just say
18 okay, we've launched the order, the order's beautifully
19 written, now go off and prosper.

20 We need to be on it, and we need to be
21 watching it. We need to be making sure that things that we
22 want to achieve are being achieved, and that if things are
23 not happening as they -- we intend, we have the flexibility
24 to just sort of revert -- not reverse course, but modify and
25 pivot to get where we want to go.

1 Monthly meeting - PSC Commission - 4-20-2016

2 So the way this order's structured is really
3 to set forth the process that we want to use, the outcomes we
4 want to achieve, the types of elements that need to occur.
5 But at the same time, we're going to use the Westchester
6 pilot because I think we're -- we've already gotten a lot of
7 good stuff out of that. I think we're going to continue to
8 watch that. We even want that to be successful. I think
9 it's going to be very important.

10 As we've said with respect to the ESCO, we
11 want everything we want -- do to have a positive consumer
12 experience. We're going to try as hard as we can to get
13 there. Because one bad experience could make the next person
14 at the door, their job that much harder. So we have a job to
15 -- to really, you know, not just launch these orders, but
16 oversee that they -- we're doing everything to make them
17 successful for consumers.

18 So I -- I feel very good about this order. I
19 know we have work to do. But I think it's going to be very
20 important to get the Staff and NYSERDA working with the
21 communities, looking at what kind of outreach plans. I think
22 there's as -- as Scott said, the order also references the
23 fact that this is also another opportunity for utilities to
24 partner with communities and offer services that are very
25 consistent with our REV ideals of the new model for

1 Monthly meeting - PSC Commission - 4-20-2016
2 utilities.

3 So I think it's all there. I think there's
4 going to a lot -- be a lot -- a lot of work to get done. I
5 think the fact that we're bringing these things back to the
6 Commissioner are important because we have the responsibility
7 to make sure the execution goes as well as we hope and think
8 it can. And so I intend to vote for the order, but
9 definitely appreciate the work of Staff and their
10 thoughtfulness on how to get us to this point.

11 Thank you.

12 Any questions or further comments?
13 Commissioner Sayre, you want to lead off?

14 COMMISSIONER SAYRE: I am very help -- very
15 hopeful about this CCA mechanism. It's got the potential to
16 get communities and customers much more involved in energy
17 usage and prices and greenness and distributed energy
18 resources. And that's a very big piece of what we're going
19 to need in the long run for REV to work.

20 The CCA mechanism that's proposed in this
21 order has the protections that customers need to make sure
22 that they're going to be getting what they expect. The
23 municipalities will keep looking at the energy providers, and
24 we will keep looking at the plans and the process and the
25 experience.

1 Monthly meeting - PSC Commission - 4-20-2016

2 My advice to municipalities is, if you're
3 interested, talk to NYSERDA. Consider a consultant. Make
4 sure you've got some good lawyers on hand. Bargain hard.
5 And see if you can get some good savings and innovative plans
6 and green energy for your constituents. But above all, I
7 would urge municipalities to involve their citizens in --
8 from the very beginning, in all -- all of your discussions
9 and decisions.

10 My advice to citizens is if you get one of
11 these proposals in front of you, take a good, hard look at
12 it. If it makes sense, great. Give it a shot. But if it
13 doesn't, don't be afraid to opt out. There's no penalty.

14 I'm hoping that this market will work out
15 like the competitive power market, procurement market for
16 large customers, that has been going for 15 to 20 years now,
17 and has been a real success story. I'm hoping that the CCA
18 marketplace will be a success story, too. But I echo the
19 comments of Chair Zibelman and say however, we'll keep
20 watching.

21 CHAIR ZIBELMAN: Commissioner Acampora?

22 COMMISSIONER ACAMPORA: Okay. I'm going to
23 talk about some of the things that I think are really
24 important in this order. And I think the most important one
25 is the outreach and education. You know, there are always

1 Monthly meeting - PSC Commission - 4-20-2016
2 going to be a few stragglers who will say, well I never heard
3 about it. And so I think it's really important.

4 Normally, people like to do from bottom up.
5 I think this time it has to be from top down. And I think it
6 starts with us and NYSERDA. And I really think it's
7 important to make sure our elected officials at the state
8 level are educated in this. There was legislation that was
9 passed this year. It was vetoed by the governor because he
10 thought that the Public Service Commission could do a better
11 job. And so I think, you know, we need to start there. If
12 they don't know what's going on and what's in this order,
13 when the phone starts ringing, they're going to say well gee,
14 nobody even sat down and talked to us.

15 So I think possibly on a regional basis, it
16 might be important to meet with the state legislators before
17 they leave. This way they have the information that they can
18 also pass along, through their newsletters, to the
19 constituents are -- that are out there.

20 And then of course, to be available to the
21 county legislators and the local town government people. And
22 I don't know if there's villages involved, but there might
23 be, and so to all the village trustees. The leaders need to
24 be educated before they can deal with the public. And so
25 they need to have those answers.

1 Monthly meeting - PSC Commission - 4-20-2016

2 And I'll tell you one thing. Elected
3 officials do not like to be embarrassed. So I think it's
4 really important to make sure that the education process,
5 again, starts at the top and gets all the way down.

6 I think that what we've done in this order is
7 we've tried to stop some of the problems that we had
8 previously had with our ESCOs. And so that, you know, I
9 think this is well thought out and well done. The
10 protections for consumers are there. But there again, if the
11 consumers don't know what's going on, those protections are
12 all for naught. And of course the opt-out option is the most
13 important thing that people have to understand.

14 So I think we do have a lot of work ahead of
15 us in order to start this, and that our community choice
16 aggregation program, I think, will be one that others will be
17 looking at very seriously because it does cover so many
18 consumer protection problems that we hope that will not pop
19 up. But there again, we need to get out there and
20 communicate and make sure that nobody is saying oh they
21 issued the order as the chair said, but they didn't do any
22 follow-through. So that's what I would like to make sure
23 that that's done.

24 CHAIR ZIBELMAN: Commissioner Burman?

25 COMMISSIONER BURMAN: Thank you.

1 Monthly meeting - PSC Commission - 4-20-2016

2 So when I look at this, I do have a number of
3 drill-down questions that I think are important. As a
4 threshold matter, the -- the 6 other states that had
5 Community Choice Aggregation did so legislatively. And
6 depending on, you know, the state and the different program,
7 depending on where -- where they were in -- in their state,
8 there were some successes and some duds. And part of the,
9 you know, focus when the generic proceeding was opened was
10 looking at those different states and trying to pull out from
11 that the best practices.

12 After the generic proceeding was opened, we
13 had Sustainable Westchester pilot program, which really, you
14 know, is -- it's exciting. Right? It's exciting to see
15 people in their communities engaged, people talking about it.
16 I mean, who knew that, you know, energy was, like, a -- a fun
17 thing to talk about. Right?

18 And -- and there are challenges. You know,
19 when you go into those areas, you know, sometimes people know
20 what -- what people are talking about, and others they
21 haven't heard about it. And so there is that tension.

22 And so, my threshold issue is, since this
23 isn't legislatively done, it's very important that we, at the
24 Commission, take great steps to make sure that we don't run
25 before we walk, and to look at the different lessons that can

1 Monthly meeting - PSC Commission - 4-20-2016
2 be learned, but also to see what the right inflection point
3 is in when we take those steps and move from a pilot into a
4 statewide program.

5 The Sustainable Westchester program is just
6 getting off the ground. People are getting, in their
7 mailboxes, the opt-out notices. There has been a lot of
8 engagement at the town and village board meetings. But, you
9 know, like with other towns and villages, it doesn't mean --
10 you know, maybe you get a few people in -- in the audience,
11 maybe you don't. So that -- while it may be that the board
12 is, you know, fully versed in it, it doesn't mean that the
13 residents are.

14 And also, it also means there's going to be
15 some tension on what exactly the next steps are. So my
16 concern, when I look at this, is truly understanding what
17 we're doing in the pilot program and the lessons learned, and
18 the concern of moving too quickly into a statewide
19 application when we haven't done or asked for real analysis
20 from the pilot.

21 The pilot will actually be starting
22 officially May 1st. And the order that originally adopted
23 the pilot talked about the Sustainable Westchester coming
24 back, I think, a year and -- and a month afterwards, to give
25 a report. And when I look at it, my concern is that we have

1 Monthly meeting - PSC Commission - 4-20-2016
2 an opportunity -- or should have an opportunity to gain that
3 information now. You know, 30 days after it gets started,
4 after people start getting their bills, after there's --
5 there's more understanding of the proper notice or -- or the
6 lack of the notice, or ways to better fine tune that notice
7 is information that we have an obligation to look at, and
8 then look at how it applies.

9 I'm comfortable that there are belts and
10 suspenders in the statewide approach in this order of trying
11 to make sure that, before things get started, that
12 implementation plans are approved. But my fear is that it's
13 sort of going so far out there, without yet doing some
14 initial homework.

15 And you know, education outreach is
16 absolutely a hundred percent important. But at the end of
17 the day, it also needs to be looked at in terms of what does
18 that mean in terms of who bears the cost for that, whether
19 it's resources or -- or whether it's actual mailers and other
20 things.

21 So when we look to NYSERDA's role in the
22 community tool kit and the outreach with -- with the -- with
23 the municipalities, I think it's very important that it is a
24 fair and -- and accurate portrayal of, you know, the pros and
25 the cons and the different things to consider, different

1 Monthly meeting - PSC Commission - 4-20-2016
2 aspects of -- of model contracts that people should -- should
3 be looking at.

4 The order -- the draft order also speaks at
5 sometimes about Commission consideration and then, at other
6 times, Commission approval. And I was confused by if there
7 was a distinction between Commission consideration or
8 Commission approval. And if so, what is the distinction?

9 CHAIR ZIBELMAN: Do -- who do we have?

10 MR. WEINER: Yeah, I defer to my lawyer.

11 CHAIR ZIBELMAN: Okay. Mr. Kelly?

12 MR. KELLY: So in -- in this order, there is
13 no distinction between those 2 terms. I think the 3 areas
14 where that -- where one or both of those terms are used are
15 the Commission approval of the submissions by the
16 municipalities, the implementation plans and data protection
17 plans. That's one place. A second place is in the
18 submission by utilities of a stand -- of a draft standard
19 data protection agreement. And the third place is submission
20 by utilities of proposed tariffs for data costs.

21 And each of those situations, what's
22 expected, what's needed before anything happens is a further
23 Commission action, approving, modifying or rejecting those.
24 So it's -- those -- those 2 words don't have any distinction
25 in their impact in this case.

1 Monthly meeting - PSC Commission - 4-20-2016

2 COMMISSIONER BURMAN: Okay. Great. And then
3 the order doesn't speak of -- about any HEFPA protections.
4 Is that an oversight? Or was it intended to ensure that the
5 HEFPA protections still exist?

6 MR. KELLY: So all customers, whether they're
7 receiving service from utility or an ESCO, are always
8 protected by HEFPA. And that will be true for customers who
9 are enrolled with an ECSO under a CCA program. They'll
10 receive the exact same HEFPA protection.

11 CHAIR ZIBELMAN: Just to clarify, it's not an
12 omission. It's just a given. Right?

13 MR. KELLY: Yes.

14 COMMISSIONER BURMAN: Okay. Thank you.
15 That's helpful.

16 And then Ordering Clause 2, which talks about
17 the uniform business practices, as -- as I read it, I'm
18 concerned that we're saying that the uniform business
19 practice -- and I -- and I don't think that's the intent. So
20 I'm looking for clarification here, that the uniform business
21 practices is completely suspended because it doesn't
22 necessarily say to the extent that.

23 And -- and I know, maybe I'm being
24 hypersensitive, but I just want to clarify on the record here
25 that it -- it only is suspended to the extent that we're

1 Monthly meeting - PSC Commission - 4-20-2016
2 talking about specific provisions, especially as it relates
3 to the opt-out.

4 MR. KELLY: That -- that's right. They're
5 only suspended for the purposes of taking actions that are in
6 compliance with the programs authorized by this order and
7 further Commission action.

8 COMMISSIONER BURMAN: Okay. And Ordering
9 Clause 4 also speaks to what the utility can do. And -- and
10 -- and it -- it doesn't seem to suggest that there's any
11 Commission approval being necessary, and to go forward on
12 certain aspects before the tariff changes. So I just am
13 looking for clarification because I think that we need
14 Commission approval, especially if it's affecting the tariff
15 changes.

16 MR. KELLY: So Commission approval would be
17 required for any tariff changes. What -- what Ordering
18 Clause does speak to at the end is that if a municipality has
19 gotten an approved implementation plan -- a data protection
20 plan, if those have been approved by the Commission, but
21 there have not yet been tariff changes to set up a fee
22 structure, the municipality is permitted to negotiate a fee
23 structure with the utility and they wouldn't need Commission
24 approval for that fee structure if they and the utility agree
25 on it.

1 Monthly meeting - PSC Commission - 4-20-2016

2 COMMISSIONER BURMAN: Okay. Great. That's
3 helpful.

4 I think that also would be helpful in making
5 sure that that's clear in the community tool kit, as well, so
6 that it doesn't make people think that they're locked into
7 something, especially when it still will need Commission
8 approval on certain aspects.

9 What is the -- there are a number of
10 different petitions. MEGA is one of them that -- that is
11 outstanding in terms of seeking approval for -- to be a -- a
12 CCA administrator. So couple of threshold issues for me is
13 what is our jurisdiction over a CCA administrator? What is
14 the interplay with the community and the utilities and the
15 ESCOs? As well as what does that mean now for, you know, who
16 can become a Community Choice Aggregation administrator, and
17 -- and where, you know, our oversight would fall?

18 MR. WEINER: Okay. I'll take that one.

19 In terms of the order -- today's order,
20 assuming it is approved by the Commission, a course sets the
21 ground rules going forward. And as I mentioned, we have a
22 number of pending petitions so those ground rules would be
23 applicable. And I anticipate that Staff will be meeting with
24 the petitioners after this order is filed and talked about,
25 the best process forward for each of those particular

1 Monthly meeting - PSC Commission - 4-20-2016
2 situations.

3 As I also mentioned, there are other
4 interested communities or organizations that have not yet
5 filed petitions. So that will be part of our ongoing
6 outreach.

7 In terms of the administrator and the
8 Commission's relationship to the administrator. The
9 administrator stands in the same stead as a broker. And
10 where -- in other words, that we collectively, the
11 Commission, doesn't have direct jurisdiction over the broker.

12 Where we look to exercise our jurisdiction is
13 really in 2 areas. One is with ESCOs, which, of course, is
14 the subject of Commission attention in ongoing proceedings.
15 And the other is the municipality. And I think, in thinking
16 about a CCA, it's always important to remember that a CCA can
17 only come into existence with the express affirmative and
18 formal action of an elected governing body.

19 The elected governing body then has a number
20 of choices. It can serve as its own administrator. It can
21 hire an administrator. It can designate one of their
22 employees as administrator. Or as is in some models, they
23 can enter into an agreement with a third party, a community-
24 based organization, to serve as administrator. Those are a
25 series of questions that a municipality has to be thinking

1 Monthly meeting - PSC Commission - 4-20-2016
2 about.

3 And anticipating your question, yes, that
4 will be part of the tool kit that is available to a
5 municipality so they understand they're organizational
6 options, as well as their programmatic options.

7 CHAIR ZIBELMAN: Just -- but just to -- let
8 me add. And just to -- I want to clarify this point because
9 we don't necessarily regulate brokers, and there's one of the
10 issues that, you know, we always are concerned about is -- is
11 that to the extent that an ESCO or a city hire someone to
12 carry out their activities, they may have supervisory
13 capabilities over it, but we're going to hold them
14 accountable just like we would any other ESCO for our rules,
15 so that we don't want to set up these requirements and then
16 have them basically superseded by or contravened by someone
17 we have no jurisdiction over, and that we will, therefore,
18 maintain jurisdiction.

19 And perhaps as part of the tool kit, we
20 really ought to be looking at the contractual arrangements
21 between the ESCOs and the -- their agents to make sure that
22 there's a mechanism to ensure that the agents are going to
23 conform and there's a look-through somehow because I -- I do
24 get concerned that, you know, people -- we have agents who --
25 who may not do the types of things that we want to get done.

1 Monthly meeting - PSC Commission - 4-20-2016

2 And I think that that is a -- one of the reasons we want
3 NYSERDA and the Staff engaged and looking at these arrange --
4 contracts.

5 Similarly, with data privacy, consumer
6 privacy issues, these are all very important issues. And we
7 just -- we need to make sure everybody along the supply chain
8 is rowing in the same direction. So I'm looking at nodding
9 heads. We're going to be able to do that.

10 MS. HARRIMAN: Right. So I think it's
11 important to understand that the Commission, right now, deems
12 eligible ESCOs, right, to operate in the market. That kind
13 of construct isn't going to apply to the aggregators or the
14 administrators of the CCA program.

15 But Chair, you're absolutely right. The
16 activities in which that administrator is engaged with the
17 ESCO, with the customer, ultimately with the utility in
18 getting access to the pipes and wires, that is absolutely a
19 regulated activity. And so we will ensure that they are
20 compliant with the rules, regs, and orders of the Commission.

21 MR. WEINER: My counsel just reminded me of
22 another tool that we have, which is within the implementation
23 plan. We'll be receiving detailed information about a
24 proposed administrator for that particular municipality if
25 that option is selected.

1 Monthly meeting - PSC Commission - 4-20-2016

2 Thank you.

3 COMMISSIONER BURMAN: I think that's very
4 helpful.

5 And I just do want to point out that the
6 Attorney General -- I know when we had looked at the pilot
7 program, there was some question on whether or not the
8 Attorney General would say that we needed to have a municipal
9 ratification through a referendum. And my understanding,
10 though I have not seen it, is that the advisory opinion said
11 that that isn't necessary. There's a resolution process and
12 then there's a vote by the relevant board. But that it then
13 doesn't necessarily need a referendum, pursuant to the
14 Attorney General's advisory opinion.

15 I just want to clarify that because I haven't
16 seen anything out there in the public sphere that -- that --
17 that, you know, nails down that -- that issue.

18 MR. KELLY: So that was. It was issued as an
19 informal opinion because of the way it came to the Attorney
20 General. But that is what it says. And we do have access to
21 that and can provide it to you.

22 COMMISSIONER BURMAN: All right. So you're
23 saying I'm right?

24 MR. KELLY: Yes.

25 COMMISSIONER BURMAN: Okay. And then how

1 Monthly meeting - PSC Commission - 4-20-2016
2 will we -- and the other stakeholders, how will they track
3 complaints that may come in about, you know, the -- the
4 program? And I'm not talking necessarily about the ESCO
5 complaints, but just in general. You know, there's a lot of
6 different players here. There's Sustainable Westchester or
7 whatever CCA administrator, if there is one, as well as the
8 municipality, as well as the different, you know, state
9 officials, and -- and as well as our complaint process.

10 So I just want to make sure that at the end
11 of the day that we're truly looking at the different
12 opportunities for information, both positive and negative,
13 and that we're carefully tracking it so that when we get to
14 the analysis part of whatever -- whatever we're doing, that
15 we're -- where that's helpful for us.

16 CHAIR ZIBELMAN: Mike or Luann, who's --?

17 MR. KELLY: It's actually --.

18 CHAIR ZIBELMAN: Ted?

19 MR. KELLY: Luann and I are going to, I
20 think, share this question.

21 So one part of that is that CCA programs will
22 be required to file an annual report, as Sustainable
23 Westchester already is. Excuse me. And as part of that
24 annual report, they are required to provide information on
25 the number of complaints that they've received, or are -- are

1 Monthly meeting - PSC Commission - 4-20-2016
2 aware of -- that they, or their agents have received. And
3 they're also required, even before that, to make information
4 available to customers on who a specific contact person is,
5 who customers can call with complaints or concerns. So
6 that's one way that we'll get information. And then, Luann
7 will talk about how we'll track complaints internally, as
8 well.

9 MS. SCHERER: Yeah. As far as the complaints
10 coming in to us, we are tracking them both by the -- by the
11 ESCO and if -- if a customer -- it's -- it's -- in the
12 unlikely event a customer knows that they're complaining
13 about a specific CCA -- it's more likely they'll complain
14 about an ESCO -- we'll track that as well. I just want to
15 let you know that Sustainable Westchester sent out 114,000
16 letters, and we've had 2 calls on them. So --.

17 COMMISSIONER BURMAN: How many of those 14
18 (sic) came back as undeliverable?

19 MS. SCHERER: 114,000? I'm not sure, but I
20 can find out.

21 COMMISSIONER BURMAN: Okay. Great. Thank
22 you.

23 From -- when I look at this, there also seems
24 to be, in the Appendix D -- that makes this Community Choice
25 Aggregation program applicable to all customers, not just

1 Monthly meeting - PSC Commission - 4-20-2016
2 residential and small commercial, but to any and all
3 customers. And I just want to make sure that that's correct,
4 and how does that apply to the Sustainable Westchester pilots
5 that are ongoing -- that's ongoing?

6 MR. WEINER: The -- the order does, in fact,
7 provide that a Community Choice -- the opportunity to
8 participate in a Community Choice Aggregation program, is
9 available to all customers. The distinction comes into the
10 method of enrollment. Some might be through an opt-out
11 method. Some may be to an opt-in method. The order
12 distinguishes by customer class within each service
13 territory. And there may be some distinctions there.

14 So as a general statement, mass market
15 customers, which we generally describe as residential and
16 small commercial, are -- will be participating through an
17 opt-out enrollment mechanism. Others will be through an opt-
18 in. And that opt-in could either be because the nature of
19 their customer class gives them the opportunity to opt in, or
20 because they're already engaged in some other ESCO program,
21 they're eligible to opt-in, but that would be their choice.

22 In terms of Sustainable Westchester -- the
23 Sustainable Westchester enrollment program -- and number one,
24 without wanting to be over-technical, it's not before you
25 today. But -- but as a matter of information, it -- it sets

1 Monthly meeting - PSC Commission - 4-20-2016
2 out its requirements. And I don't know exactly who is
3 included in Sustainable Westchester. My head is turned --.

4 MR. KELLY: It is also the residential and
5 small commercial on an opt-out basis, similar to what's being
6 authorized in this order for opt-out treatment.

7 MR. WEINER: But -- but in terms of overall
8 enrollment, so that if there was a customer class other than
9 mass market in Sustainable Westchester that wanted to opt in,
10 they could always opt in.

11 MR. KELLY: I believe that's -- yes.

12 COMMISSIONER BURMAN: It's okay if you don't
13 know the answer. I'm only raising it just that I'm
14 clarifying.

15 MR. WEINER: They can always opt in.

16 COMMISSIONER BURMAN: And I know it -- my
17 understanding is that this order only addresses the statewide
18 program, and is not modifying the Sustainable Westchester
19 pilot.

20 So if there are changes based on this order,
21 they would have to -- and maybe I'm wrong, but they would
22 have to come and seek change to their existing pilot? Or
23 would this be able to be morphed into that?

24 MS. HARRIMAN: So I'm going to -- I'm going
25 to go ahead and take that --

1 Monthly meeting - PSC Commission - 4-20-2016

2 COMMISSIONER BURMAN: Okay.

3 MS. HARRIMAN: -- Commissioner.

4 The Commission issued an order approving the
5 Sustainable Westchester pilot program. That program is going
6 forward and it's at -- it's a stage of having sent the
7 letters out to customers having engaged in it, solicitation
8 under an RFP and selected at least for -- I believe
9 Westchester is part that is served by Con Edison, a vendor,
10 an ESCO.

11 Any changes that relate to this -- the
12 general statewide program for Community Choice Aggregation
13 would have to be viewed under the stage at which the
14 Westchester pilot is underway. So you couldn't go back and
15 make them restart the pilot program, to stop it, have them
16 file their implementation plan, get Commission approval, and
17 then restart from that point.

18 So yes, it -- it's -- it's potentially
19 impactful to Sustainable Westchester, but we have to look at
20 the point in time in which the pilot's at, and whether or not
21 it can be compliant with the statewide framework without
22 disrupting, again, the running of the pilot.

23 So I -- I want to -- it's prospective in
24 nature. It can't go back and modify the pilot, in -- in my
25 opinion.

1 Monthly meeting - PSC Commission - 4-20-2016

2 CHAIR ZIBELMAN: I think to Commissioner
3 Burman, you -- you two are in violent agreement.

4 MR. WEINER: Yeah.

5 CHAIR ZIBELMAN: If they want to do something
6 different, they'll need to come back in front of us.

7 MS. HARRIMAN: If Sustainable Westchester
8 wants to make a modification to their pilot, they have to
9 come back to the Commission. I thought your question was
10 does it -- is there anything in this order before you that
11 would require Sustainable Westchester to change their
12 program.

13 COMMISSIONER BURMAN: No.

14 MS. HARRIMAN: Okay.

15 COMMISSIONER BURMAN: I think it was about
16 what this does in terms of taking things that may be new into
17 the pilot program, which, some might say is a modification.
18 Others would say is not a modification. So --.

19 MR. WEINER: Let me make the process --.

20 COMMISSIONER BURMAN: I'm not looking to make
21 it difficult.

22 MR. WEINER: No -- no.

23 COMMISSIONER BURMAN: I'm just trying to make
24 sure that --.

25 MR. WEINER: It's a very appropriate

1 Monthly meeting - PSC Commission - 4-20-2016
2 question. In your framing it, I realize that I may not have
3 made something clear.

4 Sustainable Westchester is at a point in the
5 ideation to implementation arc that is further along than
6 this order authorizes. This order authorizes how does a
7 community move from an idea to getting all the various
8 approvals and initial enrollments. But because of the
9 requirement for Commission approval, which we've talked about
10 in certain of the plans, and because of the limitations on
11 product offerings -- in fact, Sustainable Westchester's
12 activities exceed the scope of activity addressed by the
13 framework order.

14 COMMISSIONER BURMAN: Okay. When I'm
15 processing it, I just am concerned that we also make sure
16 that Sustainable Westchester has some of the same
17 opportunities so that it's -- it's to the extent that we're
18 also having more oversight from the implementation plan
19 process.

20 You know, again. This is -- they're not
21 coming back in to us into 13 months after, so June, I think,
22 of 2017. That's a long time, and -- especially when you
23 start anything, and that's the nature of the pilot, there are
24 kinks and there are better ways of doing things.

25 So I'm just concerned, again, that we won't

1 Monthly meeting - PSC Commission - 4-20-2016
2 have, sort of, that opportunity to look at -- you know, when
3 I look at it, I look at, you know, what's some of the expert
4 analysis and financial analysis of the potentials,
5 advantages, and disadvantages from having implemented that.
6 What are the, you know, potential impacts on the towns and
7 the ratepayers, and the existing ESCOs who are in those
8 communities while the -- the, you know, the pilot is going
9 on? I mean, the -- the -- the more good choices, the better.
10 So I just want to make sure that some potentially unintended
11 consequences, we have an opportunity to address.

12 You know, and also looking at what's some of
13 the analysis in terms of what have we learned from the opt-
14 out process that can be done in a way, especially because
15 there will be new customers that are coming in and there may
16 be -- you know, we may look and say, you know, what out of
17 the 14,000 customers we've identified, you know, a mailing
18 issue or we've identified a problem with notice in a
19 particular area.

20 So I just want to make sure that there's some
21 way of, you know, us gathering that information cohesively
22 and making it work, you know, not only for the pilot, but for
23 what we're doing.

24 MR. WEINER: I -- I --.

25 CHAIR ZIBELMAN: Let me respond.

1 Monthly meeting - PSC Commission - 4-20-2016

2 MR. WEINER: Yeah.

3 CHAIR ZIBELMAN: So I think that -- 3 things.
4 One is -- is that you are raising very valid concerns that I
5 -- I believe we all share in, in that we -- what we don't
6 want is for Sustainable Westchester to be going merrily on
7 its way and there are problems and we're not addressing them.
8 So I think the expectation that you have, and I think all the
9 commissioners have that -- is that Staff will continue to
10 monitor the activities going on in Sustainable Westchester.
11 And if there are concerns, they will bring them to the
12 Commission's attention.

13 They'll -- and I believe that the folks who
14 are doing Sustainable Westchester are doing it because they
15 want to be successful and that they -- we're also expecting
16 them to bring to us areas where they think that they could --
17 things can get improved and receptivity, because, you know,
18 even the ESCOs, why go through all this if -- if people are
19 having a bad experience. So that, I think, we all want to
20 see that happen. So I agree with you on that perspective.

21 And to the extent, you know, we need to
22 formalize it, I would expect Staff to do periodic reviews and
23 come back to us and tell us what's going on.

24 If, in the process of developing the tool kit
25 or the information, we see opportunities to improve what's

1 Monthly meeting - PSC Commission - 4-20-2016
2 happening in Sustainable Westchester, I think that also we --
3 we maintain continuing jurisdiction over any matter. And if
4 the Commission wants to modify its -- one of its own orders
5 because it sees a need or an opportunity to improve the
6 situation, I think we -- we can and we should do that. And I
7 think we -- we will do that, too.

8 So we set these up as pilots for the very
9 reason as to allow for flexibility and for modification as
10 things evolve because these are learning experiences in and
11 of themselves. And we would be foolish if we said this is a
12 learning experience, but we're not going to learn from it.
13 So I think that's -- that was certainly our intent all along
14 that we set the rules and we would modify and require
15 modifications just to make sure it's successful.

16 So I don't think we need to do anything
17 formal in this order. I think we have -- doing -- doing my
18 own lawyer, which is a bad thing to be. But I think we have
19 continuing jurisdiction and we will continue to make
20 modifications as necessary or appropriate.

21 Is that correct --

22 MS. HARRIMAN: That is absolutely --

23 CHAIR ZIBELMAN: -- Counsel?

24 MS. HARRIMAN: -- correct. Well I want -- I
25 just want to make a -- a distinction here. So -- so that is

1 Monthly meeting - PSC Commission - 4-20-2016
2 absolutely correct. If it turns out that we need to do
3 another round of notices after the first billing cycle comes
4 back, the Commission can direct Sustainable Westchester to do
5 another round of notices. And then with the ability to opt
6 out at any time without penalty, customers can do that.

7 What won't change, necessarily, is the
8 contract between the municipality and the ESCO because once
9 that is in place, that's a contract. And disruption of that
10 contract has a legal hurdle we would have to deal with.

11 CHAIR ZIBELMAN: But we could seriously
12 suggest changes if we have concerns?

13 MS. HARRIMAN: You can be very persuasive.

14 CHAIR ZIBELMAN: I -- I -- I bet.

15 COMMISSIONER BURMAN: So, you know, there's a
16 number -- thank you. This is all very helpful in clarifying.
17 And I appreciate Chair Zibelman's understanding of -- you
18 know, my concern is to make the pilot that much better. I
19 mean it -- it may be, you know, great now. So it can even be
20 better.

21 So that's really all I'm trying to do is look
22 and say I know that May 1st is coming. I know that we have
23 these opt-out notices. I know, you know, my husband just
24 ripped up, by mistake, the check that was in the mail because
25 he thought it was, you know, something else. So at the end

1 Monthly meeting - PSC Commission - 4-20-2016
2 of the day, you know, I just want to make sure that we're
3 getting it right, and that we're taking the appropriate
4 points in the pilot, especially because the pilots are
5 intended to learn and be flexible.

6 But at the same time, it may be that we need
7 to look at them and -- and drill down, sooner rather than
8 wait until June, 2017. So I think that's great.

9 To the extent that we may be modifying any
10 orders or, you know, that obviously we would have to do with
11 the proper notice, et cetera. When I look to this, the --
12 the thing that makes me a no is because I really am concerned
13 that, you know, we -- we authorize -- though -- though I did
14 not. I -- I abstained from the generic proceeding, and I was
15 excused at the -- the -- the -- the Commission session where
16 we did the pilot.

17 So for me, it's also looking at it now and
18 saying, you know, we -- we have this ongoing pilot. It's
19 just starting. There's a number of different things, not
20 only with the benchmarks from that that we have to look at,
21 but also even in terms of looking and making sure in that --
22 the different contracts. We have a -- a contract with
23 Sustainable Westchester and the utilities Sustainable
24 Westchester and ESCOs, and Sustainable Westchester and
25 municipalities.

1 Monthly meeting - PSC Commission - 4-20-2016

2 And the -- the municipalities, those
3 contracts may be larger than the Community Choice
4 Aggregation. That's a great thing. Right? That's not
5 necessarily a negative at all. In fact, there are other sort
6 of ancillary opportunities and services there. But those
7 will impact and -- and help to give us feedback to the
8 success of the pilot.

9 So to the extent that, at the end of the day,
10 we learn that, you know, those contracts are -- are,
11 depending on which municipality and different pieces in there
12 -- may not have been great, or may have had some challenges
13 to it, that helps to feed information that we just don't have
14 at this point.

15 So we have an ongoing pilot that's just
16 getting off. We also have the ESCO reset order that is in --
17 in -- in the midst of litigation, as well as petitions for
18 re-hearing, that will inform us. And then we have the Clean
19 Energy Standard that also is addressing, you know, the role
20 of different entities, including ESCOs, that may or may not
21 affect us.

22 And then we have other proceedings, like the
23 low income proceeding, that will give us information on, you
24 know, potential necessary things that we need to do, as well
25 as the Long Island PSEG, which we don't regulate. But they

1 Monthly meeting - PSC Commission - 4-20-2016
2 have an ongoing ESCO proceeding that, you know, is now. This
3 does, you know, trail into that area. And then we have the
4 ongoing petitions that -- that are here or that may come, as
5 to the Sustainable -- as to similar programs or pilots that
6 they'd like to do.

7 So because of all that, my threshold issue
8 for me is this isn't the right time to launch into a
9 statewide program while we're still needing more information
10 that, for me, would give me more comfort in launching this
11 because of the huge implications, both positive and negative.

12 I -- I -- I am very supportive of Community
13 Choice Aggregation. I think, if done right, it can be a huge
14 success. But as we've seen in other states, not all of them
15 are successful. And -- and I would like to have New York's
16 statewide Community Choice Aggregation have a little bit more
17 time to be as successful as it can be. And the Sustainable
18 Westchester pilot is the perfect vehicle to help us with that
19 information.

20 So I'm a no. But I do think that all of this
21 is good and that the engagement that I hear is -- is going to
22 be there will continue.

23 CHAIR ZIBELMAN: Okay. So first of all, I'd
24 like to -- I like Commission Acampora's suggestion here. I
25 think that the idea of getting -- making sure, once we get

1 Monthly meeting - PSC Commission - 4-20-2016
2 this order out, we have a really good communication piece,
3 not just to working on the implementation plans, but making
4 sure communities are aware and local electeds are aware of
5 what we've done given the fact that there -- I know there's a
6 lot of interest in this. I think that would be helpful.

7 So we'll -- I'll ask Staff to -- to take that
8 on. I think that the fact is -- is that this is going to
9 take some time to develop. And this is why I think it's --
10 the timing is totally -- from my perspective is -- I know
11 we've talked about this. And I disagree. I think we have to
12 get going because it's not going to be an overnight process.
13 We need to just get it launched.

14 With that, I'm going to move to a vote.

15 All those in favor of the recommendation to
16 adopt the framework for Community Choice Aggregation as
17 described, please indicate by saying aye.

18 COMMISSIONER SAYRE: Aye.

19 COMMISSIONER ACAMPORA: Aye.

20 CHAIR ZIBELMAN: Opposed?

21 COMMISSIONER BURMAN: Opposed now.

22 CHAIR ZIBELMAN: Three, one and one -- three
23 eyes and one opposed. And therefore, the recommendations are
24 adopted.

25 Thank you very much.

1 Monthly meeting - PSC Commission - 4-20-2016

2 Thank you Staff for the briefing.

3 CHAIR ZIBELMAN: Okay. We move to the
4 consent agenda.

5 So do any of the Commissioners wish to recuse
6 from voting on any of the consent agenda items?

7 Okay. Any comments on the consent agenda?

8 COMMISSIONER BURMAN: I do have a few very
9 brief comments on Item Number 261.

10 I am comfortable with voting in favor of
11 this, though it doesn't affect my original vote on the
12 underlying orders. I see this as a clarification of the
13 underlying order. And while I stand by my original vote, I
14 think this is a positive clarification that -- that helps and
15 support that.

16 On Item 262, which is a petition for
17 exemption under -- it's NYSEG's Non-Rate Economic Development
18 Program, I'm supportive of the item, though I do want to see,
19 going forward, you know, more engagement on economic
20 development programs as a whole from the utilities, on a more
21 regular basis, so that when we look to this, especially as
22 we're looking at it from DSIPs and other things that we're
23 doing, we're clearly understanding what the funding streams
24 are that are out there and what the different aspects of
25 who's taking advantage of it and helping to have folks,

1 Monthly meeting - PSC Commission - 4-20-2016
2 especially the local community and the businesses that are
3 there, aware of it and engaged in economic development
4 opportunities so that that can be more holistically done.

5 And this does not, you know, prejudice us to
6 what we may or may not do in the pending NYSEG rate cases.
7 And the continued dialogue for me, with the utilities, Empire
8 State Development, and the -- the Department of Public
9 Service, and -- and the local communities is one that I think
10 is necessary. And to address any issues and opportunities, I
11 think the more that we can do that, to have positive
12 resolution, the better.

13 And then for -- sorry -- for Items 373 and
14 375, I'm going to be abstaining because these issues, while
15 they may, on their face, be fine to -- to vote in the
16 affirmative, especially as to the Central Hudson one, which
17 is dealing with fixing something that's positive for the --
18 the farming community, my sort of overriding concern is
19 looking to holistically address net metering and other
20 interconnection issues. And so I just want to be consistent
21 with some of my vote before, but just also -- and I know that
22 we're going to be looking at them. So this isn't a
23 criticism, but rather it's just to make sure that we are
24 moving forward on those.

25 And then on Item 461, which is Beekman Water

1 Monthly meeting - PSC Commission - 4-20-2016
2 Company and the Town of East Fishkill, I -- I do concur in
3 that. And I do want to state, though, that we do have an
4 ongoing proceeding -- generic proceeding on their water
5 acquisition incentive mechanism. And while the current
6 acquisition incentive mechanism is geared towards looking at
7 our jurisdictional entities, I think it is important that we
8 incorporate how this may affect non-jurisdictional entities
9 and work for more of -- for more of a state-wide process on
10 water and different acquisitions and infrastructure.

11 And you know, the bottom line for me is that,
12 you know, this is good. It helps this item on making sure
13 that we have reliable and safe water and -- and working
14 through some of those challenges. And I look forward to
15 looking more holistically on the generic proceeding.

16 And that's it. So thank you.

17 CHAIR ZIBELMAN: Let me move to a vote then.

18 All those in favor of the recommendations on
19 this consent agenda, taking note of Commissioner Burman's
20 comments with respect to the abstentions and -- please
21 indicate by saying aye.

22 COMMISSIONER SAYRE: Aye.

23 COMMISSIONER ACAMPORA: Aye.

24 COMMISSIONER BURMAN: Aye.

25 CHAIR ZIBELMAN: Opposed?

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Monthly meeting - PSC Commission - 4-20-2016

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

Secretary Burgess, are there any other items in front of us today?

SECRETARY BURGESS: There are no -- no other items today.

The next Commission meeting is May 19th, at 10:30.

CHAIR ZIBELMAN: Okay. Happy Earth Week, everybody. See you next month.

(The meeting concluded at 12:43 p.m.)

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Monthly meeting - PSC Commission - 4-20-2016

STATE OF NEW YORK

I, Maria Schips, 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 75, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 26th day of April, 2016.

Maria Schips, Reporter

A	
ability 7:25 30:19 67:5	addresses 60:17
able 7:11 10:3,9 14:12 15:20 36:19 55:9 60:23	addressing 65:7 69:19
absolutely 48:16 55:15,18 66:22 67:2	adds 17:8
abstained 68:14	administrative 19:18
abstaining 73:14	administrator 52:12,13,16 53:7 53:8,9,20,21,22,24 55:16,24 57:7
abstentions 74:20	administrators 55:14
acampora 1:14 17:2,4 28:24 29:8 43:21,22 70:24 71:19 74:23	adopt 71:16
access 3:18 8:15 30:21 35:14 55:18 56:20	adopted 29:4 47:22 71:24 75:3
accommodate 5:5 12:3 14:14 22:19	adoption 33:4
accompanied 8:4	advance 3:22 13:10
accompanying 31:24	advanced 7:8,22
accountable 54:14	advancements 10:11
accurate 48:24	advantage 72:25
accurately 18:6 34:23	advantages 64:5
achieve 30:13,17 40:22 41:4	adversarial 14:19
achieved 40:22	advertising 39:18
achievement 16:24 31:12	advice 36:5 43:2,10
achieving 9:3 31:7	advisory 56:10,14
acknowledge 11:6 29:20	affect 69:21 72:11 74:8
acknowledges 33:16	affirmative 33:18 53:17 73:16
acquisition 74:5,6	afraid 16:12 43:13
acquisitions 74:10	agency 1:10
act 19:18	agenda 2:9,11,14 23:11 26:15 72:4,6,7 74:19
acting 35:23	agents 54:21,22,24 58:2
action 18:25 19:3,6,7,8,16,17 20:8,14,18,19 21:2 30:2,2,11 30:11,16 34:3 49:23 51:7 53:18	aggregating 39:10,11
actions 51:5	aggregation 29:13,25 30:6 32:22 38:5 45:16 46:5 52:16 58:25 59:8 61:12 69:4 70:13,16 71:16
active 6:13 10:21 36:2	aggregators 55:13
actively 20:4	ago 39:16
activities 10:16 12:6 22:17,25 54:12 55:16 63:12 65:10	agree 51:24 65:20
activity 35:24 55:19 63:12	agreement 36:5 49:19 53:23 62:3
actual 22:18 37:6 48:19	ahead 12:4 19:11 45:14 60:25
adapt 10:10	albany 1:11
add 17:10 22:13 54:8	algorithms 7:8
addepalli 2:18 11:2	alignment 10:17
additionally 6:3	allow 4:2,5 5:11,11 22:2 30:22 66:9
address 8:12,17 27:21 64:11 73:10,19	allowing 10:5
addressed 7:16 8:20 32:9 33:12 37:17 63:12	allows 11:18 15:23,24
	ami 8:3,3,9 15:15
	amount 5:4 6:22 25:8
	amounts 3:12 7:12
	analysis 8:5,6 47:19 57:14 64:4 64:4,13

ancillary 69:6
annual 57:22,24
answer 37:24 60:13
answers 44:25
anticipate 12:7 13:16 52:23
anticipating 54:3
anxiety 25:6
anymore 23:23
anytime 19:17 20:8,25
apart 26:17
appendix 58:24
applicable 52:23 58:25
application 47:19
applications 25:3
applied 10:2
applies 48:8
apply 55:13 59:4
appreciate 16:5,22 27:7 42:9
 67:17
appreciation 11:13
approach 10:15 11:21 48:10
approaches 9:25
appropriate 62:25 66:20 68:3
approval 19:16 27:2 31:17 33:11
 34:19,20 36:18 49:6,8,15
 51:11,14,16,24 52:8,11 61:16
 63:9
approvals 28:5 63:8
approve 20:21,22 27:9
approved 6:4 37:13 48:12 51:19
 51:20 52:20
approves 33:15
approving 27:13 37:5 49:23 61:4
april 1:9 76:10
arc 63:5
architecture 11:10
area 64:19 70:3
areas 4:19 5:6 8:7 10:6 46:19
 49:13 53:13 65:16
arrange 55:3
arrangements 54:20
articulate 10:14 33:4 36:19
articulated 37:16
asked 21:21,22 47:19
asking 18:8 39:24
aspects 28:2,3,5 49:2 51:12
 52:8 72:24
assignment 25:15
assist 31:7

associated 36:9
assuming 10:21 52:20
attention 21:8 53:14 65:12
attorney 56:6,8,14,19
audience 47:10
audrey 1:13
authorization 33:5
authorize 8:14 68:13
authorized 51:6 60:6
authorizes 63:6,6
availability 31:5
available 2:18 3:22 4:11,13
 5:17 15:5,14,16 29:16 30:8
 37:24 44:20 54:4 58:4 59:9
aware 58:2 71:4,4 73:3
awe 17:5
aye 28:22,23,24 71:17,18,19
 74:21,22,23,24
eyes 71:23

B

back 19:15 20:20 22:12 23:23
 24:3 26:14,25 28:4 42:5 47:24
 58:18 61:14,24 62:6,9 63:21
 65:23 67:4
background 3:2
bad 41:13 65:19 66:18
bargain 43:4
barring 27:22
base 9:19
based 53:24 60:20
baseline 11:22
basically 54:16
basis 19:25 30:23 44:15 60:5
 72:21
bca 23:2
bears 48:18
beautifully 40:18
becoming 26:13
beekman 73:25
beginning 24:21 43:8
begun 8:22
behalf 35:23
behave 13:13
behavior 22:24 23:13
beliefs 20:13
believe 39:9 60:11 61:8 65:5,13
belts 48:9
benchmarks 68:20
beneficial 4:19 22:10

benefit 8:5,5 32:10	calling 36:4
benefits 4:22 5:11 7:21 8:9 27:7 30:8,21 39:13	calls 58:16
berra 12:12	capabilities 7:9,10 54:13
best 31:11 39:4 46:11 52:25	capability 5:15,19 13:2
bet 67:14	capacity 5:3,3,6,10,16,22 12:24 22:9 25:9
better 13:14 44:10 48:6 63:24 64:9 67:18,20 73:12	capital 4:16,17,18,24,25 20:23
beyond 7:3	caption 76:5
biannual 20:11,15 21:10	carbon 2:6 39:21
big 14:7 26:6 42:18	care 24:18
bill 7:25 39:15	carefully 57:13
billing 35:11 67:3	carry 54:12
bills 30:20 48:4	case 3:23 20:18 23:13 49:25
bit 39:22 70:16	cases 73:6
blessing 20:23	catalyst 30:18
blush 27:3	cause 25:6 76:4
board 47:8,11 56:12	causes 25:7
body 35:19 53:18,19	cca 30:18,25 31:13,20 32:13 33:5,10,11,21,25 35:15,20 36:6,7,10 37:20 38:2 39:8 40:4 42:15,20 43:17 50:9 52:12,13 53:16,16 55:14 57:7 57:21 58:13
bolts 16:19	ccas 33:6
bottom 44:4 74:11	central 73:16
brain 23:4	certain 28:2 51:12 52:8 63:10
breadth 20:19	certainly 21:23 35:5 36:5 39:17 66:13
breathing 20:2	certify 76:3
brief 72:9	cetera 68:11
briefing 72:2	chain 55:7
briefly 33:13	chair 1:13 2:3,10,13,21 10:24 16:20 17:2,7,22 18:6 19:9 22:9,13 24:2,7 28:16 29:2,18 37:25 43:19,21 45:21,24 49:9 49:11 50:11 54:7 55:15 57:16 57:18 62:2,5 64:25 65:3 66:23 67:11,14,17 70:23 71:20,22 72:3 74:17,25 75:10
bring 3:13 65:11,16	challenges 46:18 69:12 74:14
bringing 42:5	change 12:3 17:16,16 40:7 60:22 62:11 67:7
broker 53:9,11	changes 2:9,11 10:10 51:12,15 51:17,21 60:20 61:11 67:12
brokers 54:9	charges 8:19
brooklyn 13:17	check 67:24
brought 20:20	checkin 26:20,21
budgets 20:23,24	chief 2:16
building 1:10	choice 29:13,25 30:5 32:22 34:8 45:15 46:5 52:16 58:24 59:7,8
burgess 2:9,10 75:4,6	
burman 1:14 2:7 17:21,24 21:11 22:15 23:25 24:4,9 28:25 40:14 45:24,25 50:2,14 51:8 52:2 56:3,22,25 58:17,21 60:12,16 61:2 62:3,13,15,20 62:23 63:14 67:15 71:21 72:8 74:19,24	
business 8:4,9 10:5 50:17,18,20	
businesses 73:2	
C	
c 1:13	
california 39:9	
call 58:5	

<p>59:21 61:12 69:3 70:13,16 71:16 choices 53:20 64:9 christina 29:14 circuits 5:16,20 citizens 43:7,10 city 54:11 clarification 50:20 51:13 72:12 72:14 clarify 50:11,24 54:8 56:15 clarifying 60:14 67:16 class 59:12,19 60:8 clause 50:16 51:9,18 clean 2:5 21:16 22:3 30:16 38:25 39:8,13 69:18 clear 52:5 63:3 clearly 72:23 code 21:17 cohesively 64:21 collaborate 6:21 collaboration 6:13 31:9 collaboratives 31:11 collective 30:2,2,11 31:8 collectively 53:10 come 14:15 17:12,15 21:18 26:25 27:6 28:4 53:17 57:3 60:22 62:6,9 65:23 70:4 comes 21:25 59:9 67:3 comfort 70:10 comfortable 28:13 36:21 48:9 72:10 coming 19:15 47:23 58:10 63:21 64:15 67:22 commence 2:8 commenced 2:2 comment 9:6 19:21 21:2,6 commenting 21:22 comments 11:11 16:8 17:3 20:9 21:8,16 27:13 28:17,17 29:7 32:8 42:12 43:19 72:7,9 74:20 commercial 59:2,16 60:5 commission 1:1,4,6 2:1 3:1,7 4:1 5:1 6:1,4 7:1 8:1,24 9:1 10:1,20 11:1 12:1,25 13:1 14:1 15:1 16:1 17:1 18:1,25 19:1,3,6,7,8,16,17,23 20:1,8 20:12,17,20,21,25 21:1 22:1 23:1,15 24:1 25:1 26:1 27:1,2 27:16 28:1 29:1 30:1 31:1,4 31:18 32:1,5,18 33:1,3 34:1</p>	<p>34:20,21 35:1 36:1,17,20 37:1 37:4,5,13 38:1,13 39:1 40:1 40:10 41:1 42:1 43:1 44:1,10 45:1 46:1,24 47:1 48:1 49:1,5 49:6,7,8,15,23 50:1 51:1,7,11 51:14,16,20,23 52:1,7,20 53:1 53:8,11,14 54:1 55:1,11,20 56:1 57:1 58:1 59:1 60:1 61:1 61:4,16 62:1,9 63:1,9 64:1 65:1,12 66:1,4 67:1,4 68:1,15 69:1 70:1,24 71:1 72:1 73:1 74:1 75:1,8 76:1 commissioner 2:7 16:9 17:2,4,13 17:21,24 21:11 22:15 23:25 24:4,9 28:23,24,25 29:7 40:14 42:6,13,14 43:21,22 45:24,25 50:2,14 51:8 52:2 56:3,22,25 58:17,21 60:12,16 61:2,3 62:2 62:13,15,20,23 63:14 67:15 71:18,19,21 72:8 74:19,22,23 74:24 commissioners 1:12 2:11,21 23:8 29:19 65:9 72:5 commissions 12:25 commitment 2:5 31:4 32:18 39:21 40:2,2 commodity 25:25 common 5:14 9:25 communicate 45:20 communication 7:10 31:3,16 71:2 communications 36:25 communities 31:7,10 38:9 39:3 39:12,23 40:5 41:21,24 42:16 46:15 53:4 64:8 71:4 73:9 community 29:13,25 30:2,5,11,14 30:16,18 31:4 32:22 33:9 34:10,15 36:19 38:5,16 45:15 46:5 48:22 52:5,14,16 53:23 58:24 59:7,8 61:12 63:7 69:3 70:12,16 71:16 73:2,18 communitybased 33:2 36:8 communitywide 30:23 company 74:2 competing 16:10 competition 30:22 competitive 43:15 complain 58:13 complaining 58:12 complaint 57:9</p>
---	---

complaints 57:3, 5, 25 58:5, 7, 9	contents 4:6
completely 50:21	context 3:23
complexities 16:23	continue 7:3 13:2 41:7 65:9 66:19 70:22
compliance 35:21 51:6	continued 73:7
compliant 55:20 61:21	continues 10:11
complicated 16:10 17:14	continuing 66:3, 19
complications 16:23	continuous 32:19
comply 19:18	continuously 17:5
component 5:2 17:8	contract 35:7 67:8, 9, 10 68:22
con 61:9	contracts 37:19 49:2 55:4 68:22 69:3, 10
concern 12:14 47:16, 18, 25 67:18 73:18	contractual 54:20
concerned 50:18 54:10, 24 63:15 63:25 68:12	contravened 54:16
concerning 20:17	control 3:25 7:10 30:9 32:12
concerns 58:5 65:4, 11 67:12	convert 11:16
concluded 75:12	converting 13:7
concludes 10:22 37:23	copies 36:25
conclusion 10:13	correct 59:3 66:21, 24 67:2
concur 28:25 74:2	cost 3:20 8:5, 5 14:17 25:25 36:9 48:18
concurrence 28:8	costs 27:6 36:10 49:20
concurrently 21:4, 5	couldn 61:14
conducive 19:22	counsel 55:21 66:23
conduct 21:18	country 17:17, 17
conferences 32:9	county 44:21
conform 54:23	couple 21:7 33:13 34:2 52:12
confused 49:6	course 31:6 40:24 44:20 45:12 52:20 53:13
connected 21:19	cover 45:17
cons 48:25	crawlwalkrun 11:21
consecutively 21:4	critical 3:5 5:2, 23 27:17 33:21
consent 33:18 72:4, 6, 7 74:19	criticism 73:23
consequences 64:11	current 3:24 8:3, 25 9:21 37:10 74:5
consider 43:3 48:25	currently 4:16 37:9
consideration 19:23 33:4 49:5, 7	customer 7:14, 25 8:7, 10, 11, 13 8:14, 15, 19 19:13 34:8, 16 37:21 55:17 58:11, 12 59:12, 19 60:8
considered 36:23	customers 7:22 15:6, 11 30:7 34:9 35:9 42:16, 21 43:16 50:6 50:8 58:4, 5, 25 59:3, 9, 15 61:7 64:15, 17 67:6
consistency 10:5	cyber 7:15
consistent 8:5 26:25 37:10 41:25 73:20	cycle 35:11 67:3
consisting 76:6	
constituents 39:6 43:6 44:19	
constraints 11:23	
construct 3:24 55:13	
consultant 43:3	
consumer 33:24 39:2 41:11 45:18 55:5	
consumers 13:13, 24 30:22 41:17 45:10, 11	
contact 58:4	
contains 3:2	
	D
	d 10:22 21:16 22:5, 11 58:24 70:6, 23

<p>dangling 23:22 data 3:19,25 4:7,10,11 6:22 7:12,14,14,23 8:11,13,15,15 8:17,19,20 9:19 15:5 31:16 32:10 34:19 35:14,14 37:4,6 37:11,12,14 49:16,19,20 51:19 55:5 date 8:21 19:19 32:21 day 25:16 48:17 57:11 68:2 69:9 76:10 days 19:19 35:3 48:3 deal 11:8 12:9 25:6 44:24 67:10 dealing 73:17 december 31:23 decision 38:4 decisions 9:2 10:6 43:9 deems 55:11 deep 16:21 defer 49:10 definitely 42:9 definition 5:14 deliberative 11:25 deliver 30:16 39:5 delivery 4:21 demand 15:11 39:12 demands 25:25 demonstration 8:23,25 13:17 demonstrations 30:15 department 19:20 73:8 depending 24:21 46:6,7 69:11 deployment 4:19 8:3 10:10 30:21 der 3:12,18 4:14,19,21 5:4,7,11 5:13,17,24,25 6:2,5 7:5,20 9:23 10:10 22:3,10 30:3,17,21 31:11,19 36:11,24 describe 9:19 36:22 59:15 described 3:7 28:22 71:17 description 35:6 design 5:12 7:24 designate 53:21 despite 2:5 detail 36:20 detailed 4:16 8:4 31:16 36:7 37:18,21 55:23 details 35:17 determination 22:6 determine 6:22 31:11 determined 8:21 22:7 determining 5:15</p>	<p>develop 3:11 5:14,16 7:8 10:14 15:13 71:9 developed 7:19 9:22 12:8 14:3 developers 10:3 developing 3:16 11:25 31:7 65:24 development 6:10 7:6 22:18 31:15 36:3 38:20 72:17,20 73:3,8 dialogue 26:9,22 73:7 diane 1:14 didn 12:15 26:20 45:21 different 14:9 18:2 26:4 46:6 46:10,25 48:25,25 52:10 57:6 57:8,11 62:6 68:19,22 69:11 69:20 72:24 74:10 differentiated 4:9 differently 14:16 difficult 62:21 direct 28:21 53:11 67:4 direction 55:8 disadvantages 64:5 disagree 71:11 discuss 8:25 discussing 2:23 discussion 17:23 29:12 discussions 3:3 24:24 43:8 disposition 20:20 disrupting 61:22 disruption 67:9 distinction 19:5 49:7,8,13,24 59:9 66:25 distinctions 59:13 distinguishes 59:12 distributed 2:15,25 3:9,12 5:21 10:19 11:18 13:14,18 30:15 42:17 distribution 2:17 3:21,25 4:10 5:4,7,15 7:19 9:22 10:2,11 11:16 12:2,15,23 13:3,7,19 22:19 document 9:7 11:11,14 12:9,10 25:18 documents 26:10 doesn 12:4 19:3 43:13 47:9,12 50:3,21 51:10 52:6 53:11 56:13 72:11 doing 18:10,21 25:2 28:3 30:5 30:25 33:5 40:9,10 41:16 47:17 48:13 57:14 63:24 64:23</p>
--	---

65:14,14 66:17,17 72:23
don 12:12 23:18,18,23,23 26:7
 40:17 43:13 44:12,22 45:11
 46:24 47:11 49:24 50:19 54:9
 54:15 60:2,12 65:5 66:16
 69:13,25
door 11:3 41:14
doubt 20:9
dps 31:6
draft 2:23 3:2 5:13 18:12 21:24
 27:3 32:18 33:15 49:4,18
drafter 26:9
drill 68:7
drilldown 46:3
dsip 3:25 4:6,17 6:12,15,20 7:2
 7:17 8:2,12,17,24 9:5,5,8,16
 9:24 10:8,13,16 11:6,10 14:5
 18:15,18 19:2,2,5,15 20:8,9
 20:14 22:2 28:21
dsips 2:16,25 3:3,5,8,14,17
 4:22 5:2 6:7,14,23 9:7,15,18
 9:20 10:19 21:14,14,24 22:8
 22:12 40:15 72:22
dsp 3:9 7:6 9:3,3 10:21
duds 46:8
due 18:16,17,19

E

early 14:23
earth 2:6 33:3 75:10
easier 10:6
east 74:2
echo 29:7 43:18
economic 15:10 38:20 72:17,19
 73:3
economical 5:8
ecso 50:9
edison 61:9
educated 44:8,24
education 30:22 31:3 34:6,13,15
 35:17 43:25 45:4 48:15
effective 3:20 4:3 30:12,16
effectively 5:12 7:11 11:19
efficiencies 3:13
efficiency 4:5 30:4 31:12,19
 36:24 38:25 39:14
efficient 13:20 14:22
efficiently 11:19
efforts 5:24 6:8 17:19
either 59:18

elected 39:25 44:7 45:2 53:18
 53:19
electeds 71:4
electric 2:16 3:13 5:4
electricity 30:3
element 40:8
elements 20:22 23:11 33:14,25
 41:4
eligibility 37:21
eligible 55:12 59:21
embarrassed 45:3
embracing 25:17
emerging 5:20
emoticons 10:25 11:4
empire 1:10 73:7
employ 8:13
employees 53:22
empowerment 30:19
empowers 30:9
enable 3:11 7:23 8:13,14 10:20
 22:3
enables 29:25
enactment 34:4
encourage 4:4
energy 2:5 3:12 7:13 9:4 13:14
 21:16 22:4 30:4,9,17,20 31:12
 31:19 36:23,23 38:22,25,25
 39:4,5,14,14 42:16,17,23 43:6
 46:16 69:19
energyefficiency 36:11
engage 20:4 35:16 40:5
engaged 14:25 25:4 46:15 55:3
 55:16 59:20 61:7 73:3
engagement 3:16 6:13,16,19,24
 7:2 8:10 9:13 14:9,23 16:3
 18:14 19:3,13,25 20:7 26:9
 27:14,17,21 31:4,22 35:13
 36:2 47:8 70:21 72:19
engagements 39:2
enhance 7:24
enrolled 50:9
enrollment 33:16,19,21,23 35:11
 59:10,17,23 60:8
enrollments 63:8
ensure 50:4 54:22 55:19
ensuring 35:20
entailing 19:7
enter 53:23
entire 23:10

entities 20:5 69:20 74:7,8
entity 39:6
entry 10:6
envelope 35:2
environmental 8:8
envision 21:9
envisioned 19:8
esco 32:11 33:12 35:7 38:10
 41:10 50:7 54:11,14 55:17
 57:4 58:11,14 59:20 61:10
 67:8 69:16 70:2
escos 8:16 37:10,20 45:8 52:15
 53:13 54:21 55:12 64:7 65:18
 68:24 69:20
especially 19:14 25:24 26:3
 51:2,14 52:7 63:22 64:14 68:4
 72:21 73:2,16
essential 7:4 33:14
establish 3:9 28:21 29:24 33:10
established 10:9
establishes 29:22
establishing 10:19 30:25
establishment 6:2 33:20
et 68:11
evaluate 10:20
event 58:12
everybody 16:16 17:19 23:6 24:3
 55:7 75:11
evolution 7:5
evolve 10:12 13:2 66:10
exact 50:10
exactly 47:15 60:2
examples 34:3
exceed 63:12
exchange 8:15,18
excited 40:8
exciting 46:14,14
exclusive 35:5 36:18
excuse 57:23
excused 68:15
executed 40:12
execution 42:7
exemption 72:17
exercise 53:12
exist 50:5
existence 53:17
existing 60:22 64:7
expansion 25:11
expect 14:11 15:19 42:22 65:22

expectation 38:8 65:8
expectations 36:21
expected 6:21,24 7:2 49:22
expecting 65:15
expeditious 5:8
expenditures 4:25
expenses 30:10
expensive 16:12
experience 20:4 32:16,16,22
 33:19 40:10 41:12,13 42:25
 65:19 66:12
experienced 39:17
experiences 66:10
expert 64:3
expertise 16:14,16
explanation 35:7
express 53:17
expressed 34:10,14 37:15
expression 32:25
expressly 33:15 37:6,11
extensive 31:21
extensively 29:21
extent 24:15 25:13 26:24,25
 27:5,12 36:22 50:22,25 54:11
 63:17 65:21 68:9 69:9
extremely 15:22

F

f 26:6
face 73:15
facilitate 5:25 6:5 18:9 22:10
 30:20
facilitating 5:24
fact 11:6,14 27:8,18 33:20
 41:23 42:5 59:6 63:11 69:5
 71:5,8
factor 25:25
fair 48:24
fall 52:17
far 48:13 58:9
farming 73:18
fat 26:6
favor 28:20 71:15 72:10 74:18
fear 48:12
february 32:12
fee 35:12 51:21,22,24
feed 22:12 69:13
feedback 69:7
feel 23:2 41:18
fell 26:17

fellow 23:8
field 4:2
file 4:17 9:12,14 21:8 57:22
 61:16
filed 19:22 36:17 37:3 52:24
 53:5
filing 6:14 9:16,24 10:2,8
 18:15,18 19:2,2,5,6,15 20:8,9
 25:23 38:9
filings 4:6 6:7,12,15 7:2,3 8:2
 8:24 9:8,11 10:16 18:13 20:10
 20:18,19 21:18 26:10 27:20
 28:21 32:24
final 22:6 34:20
finally 8:22
financial 64:4
find 58:20
fine 48:6 73:15
first 2:14 3:17 7:3 9:10,11
 11:5,22 17:24 18:13,15 19:3
 19:21 26:9,12 27:3 31:2 33:15
 38:2 67:3 70:23
fishkill 74:2
fit 21:15,20 23:11,16,17,22,23
 25:8,9
fits 22:4 25:21 27:19
fitting 21:14
fix 17:21
fixing 73:17
flashing 21:8
flexibility 40:23 66:9
flexible 25:17 68:5
floor 1:10
flow 4:4
focus 3:4 4:7 27:24,25 46:9
focuses 26:23
folks 65:13 72:25
follow 29:24
following 35:11
followthrough 45:22
foolish 66:11
footprint 4:20
forecasting 7:7
foregoing 76:3,6
foreseeable 4:21
formal 53:18 66:17
formalize 65:22
format 6:22
formation 36:10

forms 21:3 36:5
forth 2:24 33:14 35:18 37:22
 41:3
forward 11:24 15:24 23:6 24:19
 28:14 32:21,23 51:11 52:21,25
 61:6 72:19 73:24 74:14
foundation 17:9 35:15
four 26:17
framework 8:6 18:4,10 29:13,23
 33:8,16 61:21 63:13 71:16
framing 38:4,11 63:2
frankly 14:4 15:10 38:19 39:23
freelancing 23:19
frequently 23:16
front 11:7 16:18 43:11 62:6
 75:5
fully 47:12
fun 46:16
functionalities 7:6
functions 3:10 9:3
funded 4:25
funding 72:23
further 18:25 28:16,17 42:12
 49:22 51:7 63:5
furthermore 5:18
future 7:3 12:25 19:8 22:12
 32:12

G

gain 48:2
gaps 24:12 27:20
gathering 64:21
geared 74:6
gee 44:13
general 32:10 38:3 56:6,8,14,20
 57:5 59:14 61:12
generally 59:15
generation 30:15
generic 46:9,12 68:14 74:4,15
getting 11:3,20 14:20,24 15:16
 16:4 19:22 22:18 38:24 39:22
 42:22 47:6,6 48:4 55:18 63:7
 68:3 69:16 70:25
give 43:12 47:24 69:7,23 70:10
given 19:14 20:18 22:25 35:23
 50:12 71:5
gives 59:19
giving 17:25 25:15
go 15:5 19:11,21 24:16 25:11
 38:25 39:15 40:19,25 46:19

51:11 60:25 61:14,24 65:18
goals 3:6 9:3 22:4 30:13,17
 31:8,12 36:19
goes 16:21 24:12 34:17 42:7
going 2:8 11:20,21 12:16,17,19
 12:22,24 13:6,9,13,16,18 14:4
 14:5 15:8,11 16:16 17:12,16
 18:4 19:9 20:2 22:17 23:7,16
 23:17 25:10 26:6,7,15 27:16
 28:4,6,14,18,19 32:21 36:18
 37:2 38:6,9,24 39:7,11,19,24
 40:7,15 41:5,7,9,12,19 42:4
 42:18,22 43:16,22 44:2,12,13
 45:11 47:14 48:13 52:21 54:13
 54:22 55:9,13 57:19 60:24,24
 61:5 64:8 65:6,10,23 66:12
 70:21 71:8,12,12,14 72:19
 73:14,22
good 2:3,10,21 12:13 14:25
 15:22 18:8 22:16 25:2 29:19
 40:11,11,12 41:7,18 43:4,5,11
 64:9 70:21 71:2 74:12
gotten 41:6 51:19
governing 35:19 53:18,19
government 44:21
governor 38:21 44:9
granular 4:9,10 7:13,22 15:6
great 10:25 11:3,8 12:9 23:25
 24:4 25:4,6 26:15 40:4 43:12
 46:24 50:2 52:2 58:21 67:19
 68:8 69:4,12
greater 5:13 7:24 30:9
greatest 5:11
greatly 27:8
green 43:6
greenness 42:17
gregg 1:13
grid 3:13 5:13 10:11 12:23
ground 47:6 52:21,22
group 6:3 11:9,13
groups 16:11,15
guidance 2:15 11:10 18:14 19:4
 27:2,13 28:21 32:13 33:8 36:7
 36:14

H

hand 34:22 43:4
happen 65:20
happened 26:18,19 38:16
happening 40:23 66:2

happens 12:3 49:22
happy 10:22 16:24 18:21 75:10
hard 17:11 29:16 41:12 43:4,11
harder 41:14
hardware 13:4
harriman 19:11 55:10 60:24 61:3
 62:7,14 66:22,24 67:13
haven 46:21 47:19 56:15
head 60:3
heads 55:9
hear 70:21
heard 44:2 46:21
hearing 28:18 29:2 34:5 75:2
 76:8
hefpa 50:3,5,8,10
held 32:9
help 4:18 6:5 12:18 13:20 15:9
 15:12 18:3,9 22:10 23:21
 30:12 38:6 39:14 42:14 69:7
 70:18
helped 11:10
helpful 21:12 23:5 24:6 50:15
 52:3,4 56:4 57:15 67:16 71:6
helping 14:4,21 16:22 72:25
helps 69:13 72:14 74:12
hereof 76:5
hereto 76:5
hereunto 76:9
high 7:20 9:23
highlight 34:12
highlights 2:23
hire 53:21 54:11
history 33:17
hold 28:11 54:13
holistic 31:18
holistically 73:4,19 74:15
homework 25:15 48:14
hope 42:7 45:18
hopeful 42:15
hoping 14:10 43:14,17
hosting 5:3,3,6,10,15,16,19,22
 12:23 22:9
hudson 73:16
huge 2:5 25:15,20 27:5 70:11,13
hundred 48:16
hurdle 67:10
husband 67:23
hypersensitive 50:24

I

<p> idea 40:11,11 63:7 70:25 ideals 41:25 ideas 22:2 ideation 63:5 identified 7:16 37:9 64:17,18 identifies 24:12 identify 3:19 4:18 5:18 7:17 9:20 14:12 38:12 identifying 25:19 illinois 39:10 impact 25:23 49:25 69:7 impactive 61:19 impacts 8:8 26:3 64:6 impart 20:7 imparting 20:12 impending 4:20 implement 8:23 37:20 implementation 2:15,25 31:16 34:19 36:16 37:14 48:12 49:16 51:19 55:22 61:16 63:5,18 71:3 implemented 64:5 implications 27:6 35:8 36:6 70:11 importance 16:3 33:17 important 3:17 12:20 14:8 15:3 15:18 16:3 27:3 32:6 36:13 41:9,20 42:6 43:24,24 44:3,7 44:16 45:4,13 46:3,23 48:16 48:23 53:16 55:6,11 74:7 importantly 32:17 imposition 35:11 improve 7:7,23 65:25 66:5 improved 7:18 10:17 65:17 improvement 32:19 improvements 4:5 6:9 improving 4:4 incentive 74:5,6 incentives 10:18 inception 34:2 include 4:9,17 8:9 included 31:24 60:3 including 5:20 6:2,10 8:4 10:16 16:3 27:4,14 31:6 69:20 inclusion 36:23 inclusive 35:5 income 69:23 incorporate 21:25 32:21 74:8 incorporates 31:2 33:24 </p>	<p> increase 7:9 25:3 30:21 increased 7:12,12 increases 10:10 increasing 3:11 5:19 incremental 16:11 indicate 5:6 28:22 71:17 74:21 indicated 38:7 indicating 20:23 individual 9:14 30:23 industry 3:13 inflection 47:2 inform 6:14,25 13:19 69:18 informal 56:19 information 3:15,18,19,21,25 4:4,8,12,23 5:3,6,9,10,22 6:18,23 10:4 15:14,16,18 16:4 21:25 22:3 34:13,15 35:2,5,6 36:9,14 37:9,19,21 44:17 48:3 48:7 55:23 57:12,24 58:3,6 59:25 64:21 65:25 69:13,23 70:9,19 informed 32:15 informing 9:2 14:10 34:16 infrastructure 4:21 25:21 74:10 inherent 33:25 34:13 initial 6:25 8:2 9:15,18,20 10:18 18:15,16 19:2,5,15 20:10,14 21:10,14 27:20 48:14 63:8 initially 39:9 initiate 35:24 initiated 31:23 38:21 initiatives 30:13 31:5 innovation 4:5 innovative 43:5 innovators 14:15 input 27:9,10 insanity 23:4 24:8 instrument 24:14 integral 31:13,20 integrate 11:18 13:3 31:11 36:11 integrated 10:15 11:17 integrating 13:15 39:4 integration 3:11 7:5,12 intend 16:6 40:23 42:8 intended 9:24 50:4 68:5 intent 50:19 66:13 interact 10:4 </p>
--	--

interconnected 5:7
interconnection 5:23,25 6:3,5,6
 6:9,11 24:24 25:3,20 73:20
interest 32:25 38:19 71:6
interested 33:9 36:15 43:3 53:4
interesting 12:22
interests 16:10 35:21
interfere 34:7
intermediate 22:8
internally 58:7
interplay 52:14
interrelated 22:21
invest 4:24
investment 4:16,17 10:15
investments 4:14 5:24
involve 43:7
involved 42:16 44:22
involving 14:18
island 69:25
isn 35:5 46:23 55:13 56:11 70:8
 73:22
issuance 32:2
issue 12:23,25 46:22 56:17
 64:18 70:7
issued 8:6 45:21 56:18 61:4
issues 7:14 8:18 24:25 25:12,24
 32:10 52:12 54:10 55:6,6
 73:10,14,20
item 2:14,14 16:19 29:12,12,16
 72:9,16,18 73:25 74:12
items 2:13 72:6 73:13 75:4,7

J

january 8:6
job 12:21 15:22 41:14,14 44:11
joint 9:15
journey 13:6
jumpstart 27:22
june 9:15 18:17 19:15,22 63:21
 68:8
jurisdiction 52:13 53:11,12
 54:17,18 66:3,19
jurisdictional 74:7
jurisdictions 33:19

K

keep 13:21 24:23 42:23,24 43:19
kelly 29:15 49:11,12 50:6,13
 51:4,16 56:18,24 57:17,19
 60:4,11

key 3:14 6:12 26:23
kids 39:19,22
kim 19:9
kind 16:17 24:12 25:7,14 35:4
 39:21 41:21 55:12
kinks 63:24
kit 36:4 48:22 52:5 54:4,19
 65:24
kitchen 27:4
knew 46:16
know 11:5,17 12:7,16,18 14:23
 15:9 19:17 21:17 22:25 23:2
 23:13,20,21 24:10,20,25 25:7
 25:14,17 26:6,9,11,12,15,16
 26:16,24 27:3,12 28:2,8 31:23
 39:16,20,20,25 40:10,12 41:15
 41:19 43:25 44:11,12,22 45:8
 45:11 46:6,9,14,16,18,19,19
 47:9,10,12 48:3,15,24 50:23
 52:15,17 54:10,24 56:6,17
 57:3,5,8 58:15 60:2,13,16
 63:20 64:2,3,6,8,12,16,16,17
 64:21,22 65:17,21 67:15,18,19
 67:22,22,23,23,25 68:2,10,13
 68:18 69:10,19,24 70:2,3 71:5
 71:10 72:19 73:5,21 74:11,12
knows 58:12

L

l 1:14
lack 48:6
laid 14:8
landlords 39:25
large 43:16
largely 13:8 39:10
larger 69:3
lastly 15:2 31:18
launch 32:4 41:15 70:8
launched 40:18 71:13
launching 70:10
lawyer 49:10 66:18
lawyers 43:4
lays 23:10
lead 14:4 30:19 42:13
leaders 44:23
learn 66:12 68:5 69:10
learned 24:16 32:20 47:2,17
 64:13
learning 66:10,12
learnings 13:15 32:6

leave 44:17	lower 14:16 25:25
led 6:19	luann 29:14 57:16,19 58:6
legal 67:10	
legislation 44:8	M
legislatively 46:5,23	m 1:9 2:2 14:10 16:5,12,24 17:5
legislators 44:16,21	17:5 23:7 28:8,12,18 40:8,8
lessons 24:16 32:20 46:25 47:17	43:14,17,22 48:9 50:17,20,23
letter 34:18,21	55:8 56:23 57:4 58:19 60:13
letterhead 34:25	60:13,21,24,24 62:20,23 63:14
letters 34:16,22,24 58:16 61:7	63:25 67:21 70:20 71:14 72:18
level 4:2 6:22 9:19 37:8 44:8	73:14 75:12
levels 5:13 7:20 9:23	mail 67:24
lights 13:21	mailboxes 47:7
limitations 9:21 63:10	mailers 48:19
limited 36:5	mailing 64:17
line 74:11	main 22:2
litigation 69:17	maintain 54:18 66:3
little 11:2 14:9,16 39:22 70:16	major 3:5 6:20
living 20:2	making 10:6 13:22 16:17 18:22
lmpd 23:2	22:19 40:21 52:4 64:22 68:21
local 31:8,10 34:4 38:23 39:3,3	70:25 71:3 74:12
40:5 44:21 71:4 73:2,9	manage 7:11,25 30:20 39:15
location 4:11	managing 15:11
locational 4:9	manner 4:18 5:8 10:4
locationally 15:7	maps 5:16 22:10
locations 4:19 22:10	maria 76:3,13
locked 52:6	market 3:20 4:3 11:25 12:3
logical 35:22 37:12	15:17 22:24 23:12 31:22 33:9
long 29:15 42:19 63:22 69:25	39:2 43:14,15,15 55:12 59:14
look 14:15 18:12,24 21:13 24:10	60:9
24:11 26:5,14 27:24 43:11	marketplace 43:18
46:2,25 47:16,25 48:7,8,21	markets 11:20 13:5 22:18
53:12 58:23 61:19 64:2,3,3,16	mass 33:21 39:2 59:14 60:9
67:21 68:7,11,20 72:21 74:14	master 24:11,11
looked 11:9 23:3 26:19 48:17	material 5:5
56:6	matter 25:16 46:4 59:25 66:3
looking 18:3,13 21:17 22:8	matters 3:5
24:19,21 26:2 28:14 38:13	mdpt 11:9
41:21 42:23,24 45:17 46:10	mean 13:9 17:6 20:17 22:2,17
49:3 50:20 51:13 54:20 55:3,8	26:3 46:16 47:9,12 48:18
57:11 62:20 64:12 68:17,21	52:15 64:9 67:19
72:22 73:19,22 74:6,15	meaningful 3:20 31:3
looks 12:13 18:8	means 5:19 15:15 47:14
lookthrough 54:23	mechanism 4:2 15:7 42:15,20
lot 3:2 14:2,3 16:13 22:17	54:22 59:17 74:5,6
24:25,25 38:22 39:17,19 40:12	mechanisms 8:18 10:17
41:6 42:4,4,4 45:14 47:7 57:5	meet 13:23 14:22 22:3 39:13
71:6	44:16
low 69:23	meeting 1:1,6 2:1,2 3:1 4:1 5:1
	6:1 7:1 8:1 9:1 10:1 11:1

12:1 13:1 14:1 15:1 16:1 17:1	month 6:4 47:24 75:11
18:1 19:1 20:1 21:1 22:1 23:1	monthly 1:1 2:1 3:1 4:1 5:1 6:1
24:1 25:1 26:1 27:1 28:1 29:1	7:1 8:1 9:1 10:1 11:1 12:1
30:1 31:1 32:1 33:1 34:1 35:1	13:1 14:1 15:1 16:1 17:1 18:1
36:1 37:1 38:1 39:1 40:1 41:1	19:1 20:1 21:1 22:1 23:1 24:1
42:1 43:1 44:1 45:1 46:1 47:1	25:1 26:1 27:1 28:1 29:1 30:1
48:1 49:1 50:1 51:1 52:1,23	31:1 32:1 33:1 34:1 35:1 36:1
53:1 54:1 55:1 56:1 57:1 58:1	37:1 38:1 39:1 40:1 41:1 42:1
59:1 60:1 61:1 62:1 63:1 64:1	43:1 44:1 45:1 46:1 47:1 48:1
65:1 66:1 67:1 68:1 69:1 70:1	49:1 50:1 51:1 52:1 53:1 54:1
71:1 72:1 73:1 74:1 75:1,8,12	55:1 56:1 57:1 58:1 59:1 60:1
76:1	61:1 62:1 63:1 64:1 65:1 66:1
meetings 47:8	67:1 68:1 69:1 70:1 71:1 72:1
mega 52:10	73:1 74:1 75:1 76:1
memo 2:7	months 34:14 63:21
mention 37:18	monumental 17:7
mentioned 2:22 22:9 34:13 36:17	morning 2:3,10,12,21,22 26:16
38:15 52:21 53:3	29:19,22
merrily 65:6	morphed 60:23
met 36:21	morphing 20:3
metering 7:22 73:19	move 11:24 28:19 32:23 47:3
method 59:10,11,11	63:7 71:14 72:3 74:17
methodologies 4:7 7:7	moving 39:23 47:18 73:24
methodology 5:14	multiple 34:12
metrics 8:7	multiyear 9:6
microgrids 28:3,3,4 38:18	municipal 34:3,25 35:19 36:4
micromanage 40:17	39:25 56:8
micromanaging 25:14	municipalities 29:23 32:25 33:8
midst 69:17	34:25 35:16 36:15 37:19,20
mike 2:17 57:16	39:3 42:23 43:2,7 48:23 49:16
milestone 16:25	68:25 69:2
mind 24:5,23 25:20 26:12	municipality 35:23 36:8,22
minds 17:15	51:18,22 53:15,25 54:5 55:24
mistake 67:24	57:8 67:8 69:11
mittchell 2:16,20 21:23	mutual 39:13,13
mitigate 36:10	
mix 16:10	N
model 41:25 49:2	nails 56:17
modeling 7:9	name 76:10
models 53:22	nature 22:25 59:18 61:24 63:23
modernize 12:23	naught 45:12
modification 62:8,17,18 66:9	near 8:25
modifications 66:15,20	neatly 27:19
modify 20:21 40:24 61:24 66:4	necessarily 12:4 27:25 50:22
66:14	54:9 56:13 57:4 67:7 69:5
modifying 49:23 60:18 68:9	necessary 3:16 4:23 13:4,4,5
moment 26:13 33:25	27:18 51:11 56:11 66:20 69:24
monitor 10:20 65:10	73:10
monitoring 7:10	need 3:11,18 4:24 7:7,8,9,11,15
	8:13 11:6,22 12:6 14:3,21

15:5 16:20 21:24 22:16 24:13 24:17 25:19,25 29:24 40:17,20 40:20,21 41:4 42:19,21 44:11 44:23,25 45:19 51:13,23 52:7 55:7 56:13 62:6 65:21 66:5,16 67:2 68:6 69:24 71:13 needed 49:22 56:8 needing 70:9 needless 33:2 needs 3:21,22 5:10 13:23 14:22 15:6 21:2 39:13 48:17 negative 57:12 69:5 70:11 negotiate 51:22 negotiations 16:11 neon 21:8 net 73:19 never 20:11 26:19 44:2 new 1:3,11 5:25 8:8 14:4 17:16 25:5 30:12,14,14 38:18 39:11 40:7 41:25 62:16 64:15 70:15 76:2 newsletters 44:18 nice 12:21 nodding 55:8 non 30:6 nonaspects 25:22 nonjurisdictional 74:8 nonrate 72:17 nonrev 25:22 normally 44:4 note 2:4 10:25 11:13 18:20 74:19 notes 33:18 notice 21:5,7 34:5,9 48:5,6,6 64:18 68:11 notices 47:7 67:3,5,23 november 9:17 18:19 number 5:24 16:14 18:2 46:2 52:9,22 53:19 57:25 59:23 67:16 68:19 72:9 numerous 32:25 nurturing 40:13 nuts 16:19 nyseg 72:17 73:6 nyserda 31:6,10 36:2,3,13 38:17 41:20 43:3 44:6 48:21 55:3	obtain 10:4 obviously 68:10 occur 11:22 40:7 41:4 ocd 26:13 offer 4:12 7:21 41:24 offered 32:13 33:11 offerings 31:13 63:11 official 34:25 35:2 officially 47:22 officials 44:7 45:3 57:9 offset 4:24 offtherecord 17:23 oftentimes 19:19 21:3,6 oh 45:20 okay 2:13 21:11 29:2 40:18 43:22 49:11 50:2,14 51:8 52:2 52:18 56:25 58:21 60:12 61:2 62:14 63:14 70:23 72:3,7 75:10 older 39:23 ombudsman 6:2 omission 50:12 once 67:8 70:25 oneway 13:8 ongoing 6:8 8:20 32:19 33:12 53:5,14 59:5,5 68:18 69:15 70:2,4 74:4 online 6:10 open 6:16 opened 46:9,12 operate 5:12 7:19 9:22 55:12 operating 13:12 35:20 operation 8:8 9:20 34:2 operational 4:22 operations 4:8 6:18 9:21 10:15 operators 13:21 opine 20:13 opinion 56:10,14,19 61:25 opportune 26:21 opportunities 3:20 57:12 63:17 65:25 69:6 73:4,10 opportunity 17:25 20:6 26:8 27:9 30:7 35:3 38:13 41:23 48:2,2 59:7,19 64:2,11 66:5 opposed 71:20,21,23 74:25 opposition 29:3 75:2 opt 35:4,9 43:13 59:17,19 60:9 60:10,15 64:13 67:5 optimal 4:13
O	
objectives 3:6 9:4 31:19 obligation 48:7	

<p>optin 59:11, 18, 21 opting 35:8 option 45:12 55:25 options 54:6, 6 optout 33:16, 19, 21, 23 34:7, 9, 11 34:16, 18, 21, 21, 24 45:12 47:7 51:3 59:10, 17 60:5, 6 67:23 order 2:23 3:2, 8, 13, 19 5:13 8:6 8:24 11:7, 15 12:5, 20 14:8 15:3, 4, 21 16:18, 23 17:8, 19 18:9, 12, 25 21:24 27:3 28:9 29:22 30:24 31:15, 21, 23 32:2 32:5, 7, 11, 11, 15, 18 33:4, 8, 15 33:15, 16, 24 35:16, 18 36:2 37:18, 22 38:3 40:18, 18 41:2 41:18, 22 42:8, 21 43:24 44:12 45:6, 15, 21 47:22 48:10 49:4, 4 49:12 50:3 51:6 52:19, 19, 24 59:6, 11 60:6, 17, 20 61:4 62:10 63:6, 6, 13 66:17 69:16 71:2 72:13 ordering 50:16 51:8, 17 orders 41:15 55:20 66:4 68:10 72:12 ordinance 34:5 organization 18:21 30:18 53:24 organizational 54:5 organizations 33:2, 10 36:8, 15 53:4 organize 33:10 36:6 organized 4:18 26:13 organizing 33:6 36:7 oriented 23:12, 12, 13 original 72:11, 13 originally 47:22 ought 54:20 outcomes 9:25 41:3 outline 24:11 outreach 34:6 35:13, 17 36:20 37:6 41:21 43:25 48:15, 22 53:6 outside 17:17 28:6 outstanding 52:11 overall 21:13 60:7 overnight 11:22 71:12 overriding 73:18 oversee 41:16 oversight 50:4 52:17 63:18 overttechnical 59:24</p>	<p style="text-align: center;">P</p> <hr/> <p>p 75:12 page 18:23 76:5 pages 76:6 palmero 29:14 paper 11:12 23:5 31:24 part 14:6 15:13, 18 16:19 18:22 24:14 25:5 27:19 28:7, 7 31:13 31:20 33:25 36:11, 24 37:12 46:8 53:5 54:4, 19 57:14, 21, 23 61:9 participants 4:3 31:22 33:9, 22 35:21 participate 16:13, 14 59:8 participating 59:16 participation 8:7 participles 23:22 particular 25:23 32:15 52:25 55:24 64:19 particularly 6:25 39:2 parties 4:3, 23 6:16 10:3 14:14 16:6, 12 17:11 23:15 partner 14:17 41:24 partnering 14:25 partners 14:20, 20 36:14 parts 35:14 party 53:23 pass 44:18 passed 44:9 path 12:12 15:24 pathway 24:19 patricia 1:14 pay 21:8 penalty 43:13 67:6 pending 32:24 52:22 73:6 penetration 7:20 9:23 people 12:17 14:25 25:4, 8 29:20 40:5 44:4, 21 45:13 46:15, 15 46:19, 20 47:6, 10 48:4 49:2 52:6 54:24 65:18 perceiving 14:21 percent 48:16 perfect 70:18 period 9:8 19:21 21:6 periodic 65:22 permitted 51:22 person 41:13 58:4 personally 37:8 perspective 26:20 65:20 71:10</p>
---	--

persuasive 67:13	points 68:4
pertinent 3:19	policy 27:5
petition 32:3 72:16	politics 38:22
petitioners 52:24	pop 45:18
petitions 21:19 38:9 52:10,22 53:5 69:17 70:4	port 6:8
phenomenal 29:8	portal 6:11
phone 44:13	portrayal 48:24
physical 7:15 22:22	position 12:2
physically 23:12	positioned 39:4
picture 23:4	positive 27:25 38:14,16 41:11 57:12 70:11 72:14 73:11,17
piece 14:7 15:2 27:23 29:8 42:18 71:2	possible 15:15
pieces 69:11	possibly 44:15
pilot 32:4,17 41:6 46:13 47:3 47:17,20,21,23 56:6 60:19,22 61:5,14,15,20,22,24 62:8,17 63:23 64:8,22 67:18 68:4,16 68:18 69:8,15 70:18	potential 7:14 8:17,19 42:15 64:6 69:24
pilots 59:4 66:8 68:4 70:5	potentially 61:18 64:10
pipes 55:18	potentials 64:4
pivot 40:25	potholes 24:13
place 12:18 28:12 49:17,17,19 67:9 76:4	power 43:15
plan 8:4,10 9:6,12 12:12,15,17 18:7,7,14,16 19:14 24:11 28:10,11,13 31:20 36:12,16,20 37:3,4 51:19,20 55:23 61:16 63:18	practice 37:11 50:19
planned 8:3	practices 9:20 46:11 50:17,21
planning 4:8 6:18 9:19 10:15 12:8,10 18:17 25:10 31:18 36:25 39:4	predicate 33:20
plans 2:16,25 4:16,17,18 8:3,9 9:7 15:14 19:22,25 20:7 31:7 31:14,17 34:19 35:17 37:14 41:21 42:24 43:5 48:12 49:16 49:17 63:10 71:3	prejudice 73:5
platform 3:9,10 10:19 11:18	preparedness 10:21
platforms 12:7	present 32:24
players 57:6	presentation 3:4 10:22
playing 4:2	presenting 2:17 29:14
plaza 1:10	pretty 16:12
please 2:19 28:22 29:17 71:17 74:20	previously 45:8
pleased 16:5	price 10:17
pocketbooks 15:12	prices 42:17
point 22:16 30:13 33:7 35:25 42:10 47:2 54:8 56:5 61:17,20 63:4 69:14	pricing 5:10 10:17 22:18,23 23:13
	primarily 4:7
	principle 3:17
	principles 3:14
	prior 6:14 34:15
	privacy 7:15 55:5,6
	prize 30:14 38:18
	probably 23:9 26:13
	problem 11:2 64:18
	problems 14:16 45:7,18 65:7
	procedural 19:25
	procedure 19:18
	proceed 33:3
	proceeding 31:22 33:12 46:9,12 68:14 69:23 70:2 74:4,4,15
	proceedings 8:20 21:15,19,25 53:14 69:22 76:7

<p>process 4:13 5:23 6:9,16,19,25 9:5,13 11:16 15:22 16:9,12,13 16:17,17 21:9,15 24:16 25:14 26:22 27:21 34:11 36:7 37:12 38:6 41:3 42:24 45:4 52:25 56:11 57:9 62:19 63:19 64:14 65:24 71:12 74:9 processes 7:18 10:9 14:5,12 15:13 processing 63:15 procure 30:2 procurement 43:15 product 11:7 39:5 63:11 products 30:3 32:13 33:11 38:11 professionalism 29:9 program 29:25,25 30:6,18 32:5 32:14 34:16,23 35:2,4,6,15 37:15 38:19 45:16 46:6,13 47:4,5,17 50:9 55:14 56:7 57:4 58:25 59:8,20,23 60:18 61:5,5,12,15 62:12,17 70:9 72:18 programmatic 54:6 programs 8:8 29:13 30:15 32:22 33:5 36:3 38:18,21 39:19 51:6 57:21 70:5 72:20 prohibits 37:11 projects 4:24 8:23 9:2,2 13:17 13:18 promote 6:17 proper 5:10 7:6 48:5 68:11 properties 22:23,23 proposal 18:14 19:4 27:14 proposals 8:3 43:11 proposed 6:9 42:20 49:20 55:24 proposing 3:23 pros 48:24 prospective 61:23 prosper 40:19 protected 35:22 50:8 protection 31:16 33:24 34:19 35:14 37:4,8,14 45:18 49:16 49:19 50:10 51:19 protections 42:21 45:10,11 50:3 50:5 protocol 15:16 protocols 5:19 9:25 proud 17:20 provide 3:20 4:15,22,23 5:11 6:17 7:24 9:19,25 15:20 30:6</p>	<p>32:12 56:21 57:24 59:7 provided 6:23 8:19 32:6 34:9 37:9 providers 3:18 5:17 15:9 42:23 provides 29:23 32:19 33:8,21 34:11 35:16 36:2 40:4 providing 3:15 35:2 provision 8:13 provisions 51:2 psc 1:1 2:1 3:1 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 pseg 69:25 public 1:4,6 9:6 21:2 34:5,6 35:13,13 37:2 44:10,24 56:16 73:8 publication 19:20 published 24:3 pull 28:7 46:10 purpose 3:4 38:3 purposes 51:5 pursuant 56:13 push 28:7 put 21:2 23:5,10 puts 15:25 putting 23:19 27:13</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quality 4:4 queens 13:17 question 17:4 18:3 19:4 20:16 22:16 54:3 56:7 57:20 62:9 63:2 questions 2:18 10:23 16:8 17:3 18:2,9,11 27:6 28:16,17 29:16 31:25 37:24 42:12 46:3 53:25 quickly 12:3 15:14 47:18 quote 12:11 18:7 20:25</p> <hr/> <p style="text-align: center;">R</p> <hr/>
--	---

<p> raise 22:15 raising 60:13 65:4 raj 2:18 23:9 rarely 30:8 rate 3:23 23:13 73:6 ratebased 4:25 ratepayer 4:25 ratepayers 64:7 ratification 56:9 reaction 38:17 read 24:5 50:17 readily 3:22 4:13 real 15:8 16:4 40:7 43:17 47:19 realize 63:2 really 11:7,16,17 12:15,16,20 13:7,12,18,19,20 14:8,14 16:15 17:12,16,18,19,19 18:3 18:8 19:4 21:21 23:10 24:5,21 25:13,16 26:5,15,19 27:22 28:12 38:5,11,12 39:3 40:4,5 41:2,15 43:23 44:3,6 45:4 46:13 53:13 54:20 67:21 68:12 71:2 realtime 7:23 15:5 reason 66:9 reasons 55:2 receive 30:7 50:10 received 32:3,8 57:25 58:2 receiving 50:7 55:23 receptivity 65:17 recognition 28:6 recognitions 32:20 recognize 10:9 22:5 recognizes 21:24 33:17 recognizing 4:10 11:20 recommend 15:4 23:7 38:3 recommendation 28:20 71:15 recommendations 29:3 71:23 74:18 75:3 recommended 38:4 record 2:4 50:24 76:7 recuse 72:5 reducing 39:21 reduction 2:6 references 41:22 referendum 56:9,13 reflect 34:23 reflected 32:6,11 33:24 reflects 29:8 31:21 32:18 </p>	<p> regard 30:17 regarding 32:13 regardless 10:4 regional 38:20 44:15 register 21:5 regs 55:20 regular 2:14 9:6 72:21 regulate 54:9 69:25 regulated 55:19 regulatory 28:5 rehearing 21:20 69:18 reject 20:21 rejecting 49:23 relate 61:11 related 3:3 4:7 5:9 7:14 8:7 9:3 30:3 32:9 relates 2:15 29:12 51:2 relations 6:17 relationship 53:8 relevant 27:10 56:12 reliability 4:22 reliable 74:13 reliably 5:5,12 7:19 9:22 rely 13:23 remarks 37:23 remember 26:12,14 53:16 reminded 55:21 renewable 36:23 renewables 38:17 report 6:8 8:2 47:25 57:22,24 reported 76:4 reporter 76:13 represents 12:5 requested 37:6,13 require 9:18 36:19 62:11 66:14 required 4:15 6:8 8:2,14,23 9:8 9:11,12,14,16 34:3 36:17 37:9 51:17 57:22,24 58:3 requirement 7:5 20:24 31:3 34:4 34:14,14 35:15,22 63:9 requirements 2:24 3:3 6:5 29:24 30:25 33:6,14 34:6 37:15 54:15 60:2 requires 5:13 31:15 37:8 40:12 requiring 15:13 requisite 20:5 reset 32:11 33:12 38:10 69:16 resident 35:4 residential 30:7 59:2,15 60:4 </p>
---	--

<p>residents 30:6,9 34:9 35:21,24 47:13</p> <p>resolution 34:4 56:11 73:12</p> <p>resources 3:12 5:21 7:13 11:18 13:3,14,18,23 15:9 22:20 31:5 36:11,24 42:18 48:19</p> <p>respect 8:11 20:7,16 22:5 40:15 41:10 74:20</p> <p>respond 64:25</p> <p>response 11:11 31:25 38:16</p> <p>responsibility 42:6</p> <p>responsible 35:20</p> <p>restart 61:15,17</p> <p>result 12:9</p> <p>retail 30:21</p> <p>return 35:10</p> <p>rev 3:6 15:5 16:9,20,25 17:8 23:10 30:13,17 31:12,19 40:9 41:25 42:19</p> <p>revenue 20:24</p> <p>reverse 40:24</p> <p>revert 40:24</p> <p>review 31:17 32:16</p> <p>reviews 65:22</p> <p>rfp 61:8</p> <p>right 12:6,18 21:23 24:9 25:4,8 26:7,18 28:13 29:21 46:14,17 47:2 50:12 51:4 55:10,11,12 55:15 56:22,23 68:3 69:4 70:8 70:13</p> <p>rights 34:10</p> <p>ringing 44:13</p> <p>ripped 67:24</p> <p>road 12:13 18:7 24:13,17 28:10</p> <p>roadmap 3:8 23:14 28:11</p> <p>robust 6:24 35:17</p> <p>role 10:21 48:21 69:19</p> <p>room 25:8</p> <p>round 9:10 67:3,5</p> <p>rowing 55:8</p> <p>rules 33:6 52:21,22 54:14 55:20 66:14</p> <p>run 42:19 46:24</p> <p>running 21:6 61:22</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>s 2:11,16 3:7 7:25 10:21 11:25 12:14 13:9,12 14:4 15:3,8,9 15:17 16:15,16,17,18,22 17:16 18:2 19:22 20:6,10 21:7,7,12</p>	<p>21:19 22:25 23:2,25 24:4,5,17 24:25 25:3,16 26:13 27:2,10 27:15,18,21,22 28:6 32:16,18 34:3,13 35:15,23,23 36:2,17 36:18 37:18 38:7,8,25 40:2,2 40:6,18 41:2,9,19,22 42:3,3 42:15,18,20 43:13 44:3,6,12 44:12,22 45:3,11,22,23 46:14 46:14,23 47:14 48:4,5,12,19 48:19,21,23 49:17,21,22,24 50:11,12,15,19 51:4,10,14 52:2,5,19 53:8,16 54:9,22,23 55:10 56:3,11,12,14 57:5,6,15 57:16,17 58:6,11,11,13 59:3,5 59:24 60:5,11,12 61:6,6,18,18 61:20,23 62:25 63:11,17,17,22 63:23 64:3,12,20 65:12,23,25 66:13,15 67:9,15,17,21 68:8 68:17,18,19 69:4,4,15 70:15 70:24 71:5,9,12 72:17,17,25 73:17,23 74:16,19</p> <p>safe 74:13</p> <p>safeguards 34:12</p> <p>sagacity 29:9</p> <p>sale 37:11</p> <p>sat 44:14</p> <p>savings 43:5</p> <p>sayer 17:13</p> <p>saying 15:19 28:22 37:7 40:15 45:20 50:18 56:23 68:18 71:17 74:21</p> <p>sayre 1:13 16:9 28:23 42:13,14 71:18 74:22</p> <p>says 56:20</p> <p>scale 15:25 16:2</p> <p>scherer 29:15 58:9,19</p> <p>schips 76:3,13</p> <p>scope 63:12</p> <p>scott 23:9 29:13,17 38:7,15 41:22</p> <p>second 9:14 17:22 18:15 20:16 49:17</p> <p>secondly 19:24</p> <p>secretary 2:9,10 21:7 75:4,6</p> <p>security 7:14</p> <p>see 12:17 16:18 18:12 23:4,6,6 23:8 24:14 25:17 28:9 40:7 43:5 46:14 47:2 65:20,25 72:12,18 75:11</p>
---	--

<p> seeing 40:11 seek 60:22 seeking 52:11 seen 25:2 38:15 39:17 56:10,16 70:14 sees 66:5 selected 35:7 55:25 61:8 sense 23:8 43:12 sent 34:18,24 58:15 61:6 series 31:24 37:12 53:25 seriously 45:17 67:11 seriousness 38:12 serve 10:13,18 53:20,24 served 61:9 service 1:4,6 35:10 44:10 50:7 59:12 73:9 services 30:3 41:24 69:6 session 2:8 20:20 68:15 set 3:10 18:3 33:5,14 35:18 37:22 41:3 51:21 54:15 66:8 66:14 sets 2:24 11:16 15:24 30:24 52:20 59:25 setting 15:22 38:11 share 17:15 24:7 57:20 65:5 sharing 3:18 7:13 short 19:14 shortly 32:2 shot 43:12 shoulders 29:20 show 15:11,23 shown 30:12 38:21 shy 20:11 sic 58:18 side 18:20 28:13 38:14 sign 21:8 significant 24:24 25:2 significantly 7:11 33:23 34:7 35:9 silo 27:10 similar 60:5 70:5 similarly 55:5 simply 14:10 20:19 sink 27:4 situation 66:6 situations 49:21 53:2 sleep 26:17 small 30:6 59:2,16 60:5 smart 27:15 </p>	<p> smarter 11:24 smooth 24:19 software 13:4 solarize 30:14 solicitation 61:7 solutions 3:21 15:10 solve 14:16 sooner 68:7 sorry 73:13 sort 18:3,8,22 20:23 23:3 24:11 25:22 26:11 40:24 48:13 64:2 69:5 73:18 source 36:14 speak 17:25 19:3 50:3 51:18 speaks 18:25 49:4 51:9 specific 3:3 4:8 8:18 9:3 30:24 37:3 51:2 58:4,13 specifically 9:7 19:13,16 35:25 sphere 56:16 staff 11:12 16:6,8,22 17:6,11 20:4,12 23:9 29:6,9 31:6,10 31:22,24 32:16 36:13 37:23 41:20 42:9 52:23 55:3 65:9,22 71:7 72:2 stage 61:6,13 stakeholder 3:15 6:13,16,17,19 6:24 7:2 9:13,13 14:9,11 16:3 18:14 27:14,17,21 31:25 stakeholders 6:14,21 14:19 16:11 20:3,11 21:22 26:4 27:11 57:2 stand 29:20 49:18 72:13 standard 6:4 21:16 36:5 49:18 69:19 stands 53:9 start 2:4 11:6 17:13 25:10 26:8 38:11 39:4 40:5 44:11 45:15 48:4 63:23 started 11:8 14:24 17:9 39:8,18 48:3,11 starting 47:21 68:19 starts 44:6,13 45:5 state 1:3,10 2:6 9:4 10:7 15:19 19:18,20 21:5 38:5,19 44:7,16 46:6,7 57:8 73:8 74:3 76:2 stated 76:5 statement 59:14 states 46:4,10 70:14 statewide 31:8 47:4,18 48:10 60:17 61:12,21 70:9,16 74:9 </p>
--	---

static 24:15
status 6:10
stead 53:9
step 10:18
steps 22:9 37:12 46:24 47:3,15
stop 45:7 61:15
storage 5:21
story 43:17,18
stragglers 44:2
streamlined 5:23
streams 72:23
strong 17:9,19 31:4
structure 51:22,23,24
structured 41:2
stuff 23:16 41:7
subject 3:5 9:6 31:17 53:14
submission 49:18,19
submissions 49:15
submit 19:20 26:5
subscribed 76:9
subsequently 32:4
substantive 19:24
success 3:6 38:20 43:17,18 69:8
 70:14
successes 46:8
successful 7:5 17:8 33:20 41:8
 41:17 65:15 66:15 70:15,17
suggest 51:10 67:12
suggestion 70:24
summarize 33:13 37:7
summarizing 12:21
superseded 54:16
supervisory 54:12
supplement 9:16 20:10
supplemental 6:25 9:24 10:2,8
 18:18 19:2,6 20:14 21:10,14
supply 39:10,14 55:7
support 16:24 17:18 20:24 72:15
supporting 4:13 33:17
supportive 70:12 72:18
sure 13:22 18:22 22:19 24:18
 25:18 31:18 34:22 40:21 42:7
 42:21 43:4 44:7 45:4,20,22
 46:24 48:11 52:5 54:21 55:7
 57:10 58:19 59:3 62:24 63:15
 64:10,20 66:15 68:2,21 70:25
 71:4 73:23 74:12
surprised 17:5
suspended 50:21,25 51:5

suspenders 48:10
sustainability 39:18
sustainable 32:3,4,17,20 46:13
 47:5,23 57:6,22 58:15 59:4,22
 59:23 60:3,9,18 61:5,19 62:7
 62:11 63:4,11,16 65:6,10,14
 66:2 67:4 68:23,23,24 70:5,17
system 2:15,25 3:9,19,21,23,25
 4:5,8,10 5:4,5,7,9,15 7:8,13
 7:19,23,24 8:8 9:19,22 10:19
 13:3,8,8,9,12,13,19 14:14
 15:6 22:11,23,24
systems 2:17 7:18 12:15,17
 22:19

T

t 12:4,12,15,16 15:17 19:3
 23:18,18,23,23 26:7,20 35:5
 40:17 43:13,13 44:12,22 45:11
 45:21 46:21,23,24 47:9,11,12
 47:19 49:24 50:3,19,21 51:10
 51:23 52:6 53:11 54:9,15
 55:13 56:11,13,15 60:2,12
 61:14,24 63:25 65:5 66:16
 67:7 69:13,25 70:8 72:11
 73:22
table 18:4
take 10:23 16:13 19:9,11,17
 22:7 23:20,24 24:18 30:9
 43:11 46:24 47:3 52:18 60:25
 71:7,9
takes 19:19 20:25
talk 13:11 19:7 43:3,23 46:17
 58:7
talked 18:6 44:14 47:23 52:24
 63:9 71:11
talking 46:15,20 51:2 57:4
talks 50:16
tammy 2:16,19 10:24 12:21 29:5
tariff 10:17 51:12,14,17,21
tariffs 49:20
task 26:7
tasked 26:12 36:3
team 37:24
technical 6:3 32:9
technologies 5:20 8:12 13:10
 14:3
technology 10:10 11:9,20
ted 29:15 57:18
tell 45:2 65:23

template 10:14 23:10	thirty 26:17
tenet 6:12	thorough 8:9
tension 46:21 47:15	thought 11:15 44:10 45:9 62:9 67:25
term 8:25	thoughtfulness 42:10
termination 34:10 35:12	thoughts 26:11
terms 13:4 14:24 18:4 23:21 35:7 38:2 48:17,18 49:13,14 52:11,19 53:7 59:22 60:7 62:16 64:13 68:21	three 1:10 71:22,22
territory 59:13	threshold 18:11 46:4,22 52:12 70:7
text 34:20	throttle 34:22
thank 2:20 10:24 17:18,24 21:11 29:4,5,6,10,18 37:25 42:11 45:25 50:14 56:2 58:21 67:16 71:25 72:2 74:16	thumb 16:2
thanks 17:10	time 4:9,11 13:22,22 16:14,15 19:14 20:21 22:7 23:20 24:17 26:14,21 38:21,22 41:5 44:5 61:20 63:22 67:6 68:6 70:8,17 71:9 76:4
theme 31:9	timebased 15:7
themes 31:2,2	timeline 9:12
thing 39:24 45:2,13 46:17 66:18 68:12 69:4	timely 3:18 33:3
things 12:19,22 14:10 16:2 20:2 24:17,23 25:2,19,22 26:2,8,25 27:7 36:4 39:6 40:6,21,22 42:5 43:23 48:11,20,25 54:25 62:16 63:24 65:3,17 66:10 68:19 69:24 72:22	times 49:6
think 11:10,14,24 12:5,8,10,11 12:19,21 13:2,6,10,15,25 14:8 14:13,23 15:2,18,21 16:2 17:7 17:12,17 18:6,16 19:24 20:2 21:17 22:4,15,16,24 23:14,15 23:19,20,21,25 24:4 25:7,16 26:7,24 27:14,15 32:17 38:7 38:12,15 39:10,16,24 40:4,6 40:14 41:6,7,8,19,21 42:3,3,5 42:7 43:23,24 44:3,5,5,6,11 44:15 45:3,6,9,14,16 46:3 47:24 48:23 49:13 50:19 51:13 52:4,6 53:15 55:2,10 56:3 57:20 62:2,15 63:21 65:3,8,8 65:16,19 66:2,6,7,13,16,17,18 68:8 70:13,20,25 71:6,8,9,11 72:14 73:9,11 74:7	timing 71:10
thinking 11:19 12:6 13:7,25 14:24 15:15 39:5,12 40:6 53:15,25	tina 25:11
third 4:3,23 6:15 9:15 10:3 14:14 18:18 35:10 49:19 53:23	today 3:4 11:7,17,24 12:11 13:8 15:23 16:18 18:13 30:24 31:21 52:19 59:25 75:5,7
thirdparty 7:13 8:15	tool 7:21 30:12 36:4 48:22 52:5 54:4,19 55:22 65:24
	tools 3:10,16 7:4,6,18 8:12 9:21,25 13:11,11
	top 44:5 45:5
	topics 6:20 37:17
	totally 35:5 71:10
	touch 3:15
	touched 12:24
	touches 12:20
	town 44:21 47:8 74:2
	towns 47:9 64:6
	track 3:7 8:24 11:8 57:2 58:7 58:14
	tracking 57:13 58:10
	trail 70:3
	transactional 13:9
	transcription 76:6
	transmission 25:21
	treatment 60:6
	tried 45:7
	trip 24:20,21
	tripup 18:2
	true 50:8 76:7

truly 13:8 47:16 57:11
trustees 44:23
try 41:12
trying 25:18 27:15,22 46:10
 48:10 62:23 67:21
tune 48:6
turnaround 19:14
turned 60:3
turning 7:4 9:5 29:11
turns 67:2
two 26:11 38:10 62:3
types 6:22 12:6 22:20 41:4
 54:25
typewritten 76:6

U

ultimately 35:20 55:17
undeliverable 58:18
underlying 10:5 72:12,13
underscoring 35:3
understand 11:23 16:22 45:13
 54:5 55:11
understanding 13:12 14:2,19,20
 18:9 47:16 48:5 56:9 60:17
 67:17 72:23
underway 5:25 61:14
uniform 2:7 50:17,18,20
unintended 64:10
uniqueness 20:18
universities 39:18,20
update 24:18
updated 6:4 9:8
updates 9:7 22:12
upgrade 4:21
upgrades 3:23 5:6 25:21
upside 28:11
urge 43:7
usage 30:10,20 42:17
use 5:20 6:24 13:13,18 41:3,5
useful 6:15 15:17 23:14
utilities 3:8,10,22,24 4:12,15
 4:16,20 5:12,14,18 6:7,13,20
 6:21,24 7:7,17,22,23,25 8:12
 8:14,16,22,25 9:10,12,16,18
 10:3,14 12:2 14:12,21,23
 15:13,19,23,24 20:3 21:21
 25:15 26:5 28:21 31:6,10
 37:10 41:23 42:2 49:18,20
 52:14 68:23 72:20 73:7
utility 2:24 4:8,25 5:5 6:17,18

7:18 8:11 9:7,14,15,21 10:5
 10:18,21 11:17 13:20 35:10
 50:7 51:9,23,24 55:17

V

valid 22:16 65:4
value 15:8 21:16 22:5,7,11 27:8
 40:5
various 23:11 38:17 63:7
vehicle 30:16 70:18
vendor 61:9
versed 47:12
version 39:11
vet 6:20
vetoed 44:9
vetting 22:6
viewed 61:13
village 44:23 47:8
villages 44:22 47:9
violent 62:3
visibility 7:24
vision 14:13
vote 16:7 18:13 28:19 42:8
 56:12 71:14 72:11,13 73:15,21
 74:17
voting 72:6,10

W

wait 27:16 68:8
walk 46:25
want 11:5,13 14:17 15:4,25
 22:20 29:20 33:7,13 34:12
 35:25 37:7,18 38:25 39:15
 40:17,22,25 41:3,4,8,11,11
 42:13 50:24 54:8,15,25 55:2
 56:5,15 57:10 58:14 59:3
 61:23 62:5 64:10,20 65:6,15
 65:19 66:24,25 68:2 72:18
 73:20 74:3
wanted 2:4 39:20 60:9
wanting 25:4 59:24
wants 62:8 66:4
watch 41:8
watching 40:16,21 43:20
water 73:25 74:4,10,13
way 6:15 11:25 13:25 14:4,22
 15:11 16:25 40:12 41:2 44:17
 45:5 56:19 58:6 64:14,21 65:7
ways 36:10,10 48:6 63:24
wednesday 1:9

weeds 16:21	york 1:3,11 5:25 14:4 17:16
week 2:7 33:3 38:9 75:10	25:5 30:12,14,14 38:18 39:11
weighted 27:25	40:7 70:15 76:2
weiner 29:11,14,18 49:10 52:18	
55:21 59:6 60:7,15 62:4,19,22	Z
62:25 64:24 65:2	zibelman 1:13 2:3,13 10:24
went 26:17	16:20 17:2 18:6 19:9 22:13
westchester 32:3,4,17,21 41:5	24:2,7 28:16 29:2 37:25 43:19
46:13 47:5,23 57:6,23 58:15	43:21 45:24 49:9,11 50:11
59:4,22,23 60:3,9,18 61:5,9	54:7 57:16,18 62:2,5 64:25
61:14,19 62:7,11 63:4,11,16	65:3 66:23 67:11,14,17 70:23
65:6,10,14 66:2 67:4 68:23,24	71:20,22 72:3 74:17,25 75:10
68:24 70:18	0
whereof 76:9	00 1:9 2:2
white 31:24	000 58:15,19 64:17
wider 30:20	
wires 55:18	1
wisdom 20:7,12	1 3:7 8:24 11:8 76:5,6
wise 29:11	10 75:9
wish 72:5	100 25:9
witness 76:9	105 25:9
woke 26:16	11 1:9 2:2
won 63:25 67:7	114 58:15,19
wonder 23:16	12 75:12
wonderful 17:15	13 63:21
worden 2:17	14 58:17 64:17
words 49:24 53:10	15 43:16
work 11:8 12:10 13:19 16:6,17	18th 21:17
16:20,22 17:6,11 25:18 26:4	19th 1:10 75:8
29:8 38:8,10,15 39:12 40:3	1st 9:17 18:19 47:22 67:22
41:19 42:4,9,19 43:14 45:14	
64:22 74:9	2
worked 29:15	2 2:13 9:9 21:3 32:8 34:14
working 6:3 11:9,13 15:24 16:11	49:13,24 50:16 53:13 58:16
16:15 23:9 29:21 41:20 71:3	20 1:9 43:16
74:13	201 29:12
works 11:13 23:6	2014 31:23
wouldn 12:16 51:23	2016 1:9 9:11 18:17,19 76:10
writing 26:14	2017 63:22 68:8
written 32:8 40:19	261 72:9
wrong 28:12 60:21	262 72:16
	26th 76:10
X	
x 1:14	3
	3 1:10 9:11 18:12 32:24 49:13
Y	65:3
yeah 19:11 49:10 58:9 62:4 65:2	30 35:3 48:3 75:9
year 32:12 44:9 47:24	301 2:14
years 9:9 39:16 43:16	30th 9:15 18:17 19:15,22
yogi 12:11	

373 73:13

375 73:14

4

4 51:9

4202016 1:1 2:1 3:1 4:1 5:1 6:1

7:1 8:1 9:1 10:1 11:1 12:1

13:1 14:1 15:1 16:1 17:1 18:1

19:1 20:1 21:1 22:1 23:1 24:1

25:1 26:1 27:1 28:1 29:1 30:1

31:1 32:1 33:1 34:1 35:1 36:1

37:1 38:1 39:1 40:1 41:1 42:1

43:1 44:1 45:1 46:1 47:1 48:1

49:1 50:1 51:1 52:1 53:1 54:1

55:1 56:1 57:1 58:1 59:1 60:1

61:1 62:1 63:1 64:1 65:1 66:1

67:1 68:1 69:1 70:1 71:1 72:1

73:1 74:1 75:1 76:1

43 75:12

45day 19:21 21:6

461 73:25

5

5 31:2

5th 9:12 18:16

5year 4:17 9:8 20:22

6

6 46:4

60 19:19

7

75 76:7

8

9
