

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, January 8, 2015
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS

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

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

4 CHAIR ZIBELMAN: Good morning,
5 everyone. Happy New Year. Hope everyone had a
6 healthy, happy time with their -- with their
7 family, and welcome -- welcome back.

8 We are going to call the
9 Commission to order.

10 And Secretary Burgess, do you
11 have any changes to the agenda today?

12 SECRETARY BURGESS: Good morning.
13 There are several changes to the agenda this
14 morning. The following two items are over. Item
15 201, Case 12-M-0476, the Proceeding to Assess the
16 Residential and Small Non-residential Retail Energy
17 Markets, the petitions for rehearing and
18 clarification is over.

19 Item 374, which is Case
20 13-E-0030, which is the Con Edison Storm Hardening
21 and Resiliency Collaborative, the phase two report
22 is also over.

23 Two items have been pulled from
24 the agenda. One case from item 161, which is the
25 Enforcement Proceedings for Alleged Violations of

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2 16 N.Y.C.R.R. Part 753, the Protection of
3 Underground Facilities. One case is 14-G-0536, the
4 Caster Drilling Enterprises National Fuel Gas
5 Distribution Corporation. All other cases remain
6 on for that item.

7 And two cases have been pulled
8 from Item 661, which is the Renewals of Cable
9 Television Franchises. One is 14-V-0444, which is
10 Charter Communications, the Town of Austerlitz,
11 Columbia County. And the second is 14-V-0445, the
12 Cablevision of Rockland Ramapo, Village of Tuxedo
13 Park, Orange County. All other items remain on for
14 that section.

15 Moved to the regular agenda is
16 Item 373, Case 14-E-0422, the Clarification of
17 Process for Utilities to Seek Relief from Net --
18 Net Metering Caps is being moved to the regular
19 agenda and has been renumbered Item 301.

20 And finally, there's a correction
21 to Item 202, Case 14-M-0565. The title should read
22 In the Matter of the Examination of Programs to
23 Address Energy Affordability for Low-Income Utility
24 Customers.

25 And that's all the changes to the

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2 agenda.

3 CHAIR ZIBELMAN: Okay. Thank
4 you.

5 Before -- before we begin the
6 meeting, I want to note we have a special guest
7 with us today, Max Burman, who is Commissioner
8 Burman's son. And the nice thing is -- is that
9 he's asked his mother to behave herself so that she
10 doesn't embarrass him. So we'll embarrass him for
11 her.

12 And also want to note that I'm
13 really pleased to recognize that Tom Congdon, who
14 has now officially joined our -- as -- as a senior
15 member of our staff. And among other things, Tom
16 will be helping us with REV and other initiatives
17 and more to come on that. But welcome, Tom.

18 So with that, let's -- let's
19 begin. The first item we're talking about on the
20 regular agenda is Item 202. And that again is our
21 Examination of Programs to Address Energy
22 Affordability for Low-income Utility Customers. I
23 just want to -- before you begin, Michael's going
24 to be presenting this. Michael Corso, and Marty
25 Insogna are going to be talking about this item

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2 today.

3 But just -- just to lay the -- a
4 little bit of ground work, at the end of last year
5 I -- I asked Michael, who is now acting director of
6 the consumer services, and his team to really start
7 looking at where we are with regard to low-income
8 consumers. There's obviously, especially now, cold
9 day, prices are up, you know, there's always a
10 concern that this Commission has around the effect
11 on electricity and energy prices on, particularly,
12 low-income consumers.

13 And as has been brought to our
14 attention by several of the low-income advocates
15 over the course of last year, we're seeing a -- a
16 disturbing trend upwards concerning both arrearages
17 and disconnects. And that I wanted to make sure
18 that before this new winter and new year is upon us
19 that we actually start looking at this issue and
20 start to think about what can -- what are we doing,
21 are we doing the best things we can be doing, et
22 cetera, et cetera.

23 So before even beginning that, I
24 asked staff to sort of take a look at the -- the
25 whole nature of the issue and to come up with some

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2 recommendations on what we might want to proceed.
3 So I wanted to note before we begin my
4 appreciation, I think I handed this to them
5 probably several days before the beginning of the
6 Christmas holidays, but really asked them to sort
7 of let's get going on it.

8 So thank you to Michael and to
9 Marty and my fellow commissioners because this was
10 something we did rather rapidly in looking at it.
11 But I think it's the right thing to do.

12 So I'll let you, Michael,
13 introduce our thoughts on -- or your staff's
14 thoughts on how we should proceed.

15 MR. CORSO: Thank you, Chair
16 Zibelman and Commissioners. Good morning.

17 Item 202 is a recommendation from
18 staff to institute a proceeding to examine the
19 energy affordability programs which affect
20 low-income customers across the utilities in New
21 York. We think it's an important proceeding in
22 light of the things that you just teed up, Chair
23 Zibelman, and in light of some of the trends and
24 issues that we've observed.

25 First I want to note that we

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2 believe our research is accurate, that in 1988 the
3 first energy low-income program was born. But
4 actually, two utilities did it in the same year,
5 and we're not sure which one was first. But it's
6 immaterial, except to say that in Brooklyn Union
7 Gas, the On Track Program was created. And in
8 Niagara Mohawk, the Low-Income Customer Assistance
9 Program, LICAP, was started over twenty-five years
10 ago.

11 If we used that as an indicator,
12 we might have, twenty years later, been able to
13 predict that those two companies would merge. With
14 that in mind, the utility programs had a lot of
15 controversy on -- for low-income programs back in
16 the day and a number of debates and discussions
17 occurred. But what was learned that the programs
18 had value and the cases produced small, but
19 effective, we think, low-income programs that grew
20 over time. And each utility who came in for rates
21 post that time all eventually formed rate -- I'm
22 sorry -- low-income programs.

23 The programs have been around for
24 more than twenty years, and they've evolved
25 similarly in the kinds of things that the programs

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2 afford such as discounts, arrears forgiveness,
3 energy education, and the ability to have waivers
4 for reconnect charges when a customer is
5 disconnected.

6 The import of this item is to
7 help us review these programs through the efforts
8 of the advice we received from consumer advocacy
9 organizations such as UIU, AARP, PULP, Consumers
10 Union, NYPIRG, and I know I'm leaving somebody out,
11 which I don't want to do -- and the Energy --
12 Association of Energy Affordability and the City of
13 New York, who have participated with us in some
14 meetings over the last couple of months to
15 determine some of the issues they care about and
16 have brought to our attention over the years.

17 And now we focus those to allow
18 us to focus this proceeding so that we can assist
19 in making consistent programs across the state
20 because they're not just yet. And the benefit of
21 that will be to be consistent with State and
22 Commission policy and, in addition, perhaps not
23 have such litigation on all these issues in every
24 rate case before the Commission.

25 The hope is that will expedite

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2 good treatment of -- better treatment of these
3 programs, help -- hopefully affecting these
4 customers in a positive way, and, in addition, have
5 resources more available for the consumer advocate
6 organizations and staff and the rest of the parties
7 and not litigating these issues so much in the rate
8 cases but to have a standard approach to affect
9 those programs going forward.

10 We recognize there are a number
11 of rate proceedings coming into New York soon, and
12 we expect that this case will help us provide
13 guidance to those cases to help perhaps limit the
14 need to litigate.

15 A trend that the Chair asked us
16 to look at, and I wanted to report with regard to
17 arrears is that in 2012 there were nine hundred and
18 twenty-two thousand customers, six hundred and
19 forty million dollars in arrears. In 2013, that
20 number grew to nine hundred and eighty thousand
21 customers and six hundred and eighty million
22 dollars.

23 And in 2013 -- I'm sorry -- '14,
24 we had one point one million customers, more than
25 seven hundred and fifty-six million dollars in

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2 arrears. That trend is up. We recognize that as
3 something we need to recognize and figure out best
4 ways to address.

5 So the examination of these
6 programs we expect will help us look at best
7 practices, determine best approaches to assure that
8 the effectiveness of these programs are strong and
9 helping customers and also helping reduce cost for
10 utilities to continue keeping customers on the
11 system and connected to their essential energy
12 service.

13 MR. INSOGNA: What we've been
14 talking about this morning, and -- and Chair
15 Zibelman and -- and Michael both touched on this in
16 their comments, is maintaining access to essential
17 utility services for the state's most vulnerable
18 customers. And there are actually three different
19 kinds of strategies that the Commission has at its
20 disposal.

21 One is a set of very strong
22 consumer protections against termination of
23 service, which is found in -- in HEFPA and the
24 Commission's rules. Those consumer protections
25 are -- are important for all customers, but they're

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2 especially important for low-income customers that
3 are vulnerable to termination. We have programs
4 that create opportunities for low-income households
5 to benefit from the cost savings offered by energy
6 efficiency and distributed energy resource
7 programs. And then we have direct financial
8 assistance programs.

9 So just to provide some context
10 what this case will be looking at is the third
11 type, that third category of program. All three
12 are important, but this proceeding will focus on
13 the latter.

14 There are various different
15 utility rate affordability programs today. They
16 provide a wide range of different benefits.
17 Michael touched on some of those. Over time, since
18 1988 when those first programs were put into place,
19 some of those early cases -- there was a lot of
20 discussion, a lot of argument about whether
21 utilities should implement this type of program at
22 all.

23 And I think over time that,
24 through individual rate cases, that has been
25 answered in the -- in the affirmative. So all the

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2 utilities today have these programs. Really the
3 question today is how do we achieve the goal that
4 these programs are trying to meet most effectively
5 and at minimum cost?

6 The main goal with this
7 proceeding will be a thorough examination of these
8 programs, identify the best practices, the
9 opportunities that we might have to standardize
10 these programs to reflect those best practices, to
11 ensure that they maintain consistency with the
12 Commission's policies and objectives going forward,
13 and, ideally, to develop the criteria that we would
14 use to evaluate their effectiveness to ensure that
15 they maintain service for low-income households
16 while efficiently using limited ratepayer funds.

17 Another goal will be to ease the
18 administrative burden. As Michael mentioned, a
19 majority of the utilities will have rate cases
20 pending before the Commission in 2015. And if we
21 had a more consistent approach to providing these
22 programs, we could reduce the time spent by the
23 Commission, the staff, and all the parties
24 litigate -- litigating these issues in each and
25 every rate case.

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2 MR. CORSO: I just want to, in
3 closing, just comment that that point that Marty
4 just made, the administrative ease that we may be
5 able to create by creating consistency and uniform
6 programs, will also help the consumer advocacy
7 organizations assist us in designing important
8 thinking about how to serve these particular
9 customers in light of REV and clean energy, so that
10 we can assure ourselves that we're addressing all
11 the sectors to the best of our ability and not to
12 leave out, by any stretch, the low-income
13 community.

14 With that, that completes our
15 presentation and we are available to answer any
16 questions.

17 CHAIR ZIBELMAN: Sure. So
18 what -- thank you. Thank you very much.

19 I -- I think that the -- for me,
20 the -- the key here is -- is that the fact that we
21 do have a responsibility to make certain that
22 electric prices are just and reasonable. And we
23 recognize that the burden on low income would mean
24 that while, in some instances, a particular rate
25 for a higher-income individual may appear

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2 reasonable for lower-income people, it could be
3 unreasonable because of other expenses, other costs
4 at income levels, and that the Commission has had a
5 history of looking at these issues and making sure
6 that we have practices in place that address
7 affordability for all income strata and then tries
8 to do some -- and adjust in reasonable way.

9 I think that the idea, as we've
10 explored in other areas such as the usage of score
11 cards for emergency and for safety and the uses of
12 best practice transfer and other aspects of our
13 business, makes it clear that when we shine a light
14 on an issue and we take a look at how we're doing
15 and how we're measuring effectiveness -- excuse
16 me -- it gives us an opportunity to see, you know,
17 are we doing everything in the right way that we
18 want to do and are we achieving what we want to do
19 out of a program.

20 I think the other issue that,
21 Michael, you brought up is important to me is that
22 we have a number of rate cases -- sorry, it's a
23 residual cold -- that we are expecting over the
24 course of the year, and anything we can do to
25 provide guidance and if we could do this in an

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2 expedited fashion, I'm hoping we can. And I am
3 appreciative of the fact that the staff has been
4 working with members of the community who are most
5 interested in these issues.

6 And this is one area, the
7 standardization, that they thought would be of --
8 of great help. So I think it is worthwhile for us
9 to explore it and see what we can do in that
10 regard. I -- I -- we're -- like in any proceeding,
11 we're open-minded. We're starting with this, with
12 an idea of let's see what -- how well we're doing.
13 Let's see how much better we can do. And then
14 let's move forward in a straight -- in a -- as
15 expeditious fashion as we can.

16 So, you know, I'm hopeful that
17 people will get engaged. This is not going to
18 be -- I think we want to be very focused about
19 this. This is not necessarily -- this is not to
20 duplicate other efforts. Obviously, in the REV
21 docket and the Clean Energy docket, in -- in the
22 examination that we're doing in the multiple
23 interveners proceeding, we're looking at similar
24 type issues around.

25 But those issues are largely

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2 focused on how do we reduce the costs of energy.
3 How do we make it more efficient? How do we
4 deliver energy efficiency services better? This is
5 very, very focused on the -- the discounts on
6 rates, the arrearages issues, the other programs we
7 put in place to make sure that people can continue
8 to -- to have service.

9 So -- and I look forward to,
10 frankly, a good dialogue with the various parties
11 and a good -- set of recommendations from staff on
12 how best the Commission can proceed. So with that,
13 I would intend to vote this forward. Any other
14 comments?

15 COMMISSIONER ACAMPORA: Michael
16 and Marty, you've covered all the bases. We've
17 always prided ourselves in making sure that
18 affordability and access and making sure people are
19 helped when they need help. And I think it's not a
20 bad idea to go back and sharpen our pencils. We've
21 always learned that we sometimes don't get
22 everything exactly right because times change and
23 things change.

24 So I think this is a perfect
25 time, with the REV proceeding going on, to really

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2 update and look at, which I think are the two most
3 important words that you used was, standardization
4 and also consistency.

5 So I thank you and look forward
6 to working along with you to make sure, again, New
7 York leads the way, as we have in the past, to make
8 sure our residential and low-income customers get
9 the best bang for their buck. So appreciate your
10 efforts on all of this and look forward to what we
11 do as we go along. Thank you.

12 MR. CORSO: Thank you.

13 MR. INSOGNA: Thank you.

14 CHAIR ZIBELMAN: Commissioner

15 Burman?

16 COMMISSIONER BURMAN: Thank you.

17 I do think it is good that in the
18 anniversary of the polar vortex we're talking about
19 energy affordability. I do have a couple of
20 questions that will help formulate my thoughts
21 fuller.

22 Marty, you talked about the three
23 buckets, and you also talked about the main goal
24 for this proceeding. Could you just clarify and
25 maybe restate what you said on those three buckets

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2 and the main goal?

3 MR. INSOGNA: Sure.

4 COMMISSIONER BURMAN: And it's
5 okay if you have to look at your notes.

6 MR. INSOGNA: No; that's quite
7 all right. The -- I -- I talked about the -- the
8 main goal being to try to maintain service for
9 vulnerable households. In -- in developing
10 low-income programs over the last couple of -- of
11 decades, we've learned a lot about what works and
12 what doesn't work. And I think this is a great
13 opportunity to -- to focus on those -- those
14 lessons learned.

15 I did want to make an effort to
16 try and -- and focus our -- our efforts in this
17 proceeding on the rate discount programs to try to
18 separate those and sort of tease out those issues
19 to say really energy efficiency and distributed
20 energy resources, consumers protections, these
21 are -- are critical policies for the -- for the
22 Commission, but they're not really the focus of
23 this proceeding.

24 We really need to focus on the
25 rate discount piece and -- and making sure that the

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2 rate discount programs that we have in place
3 function the way that we intend them to.

4 COMMISSIONER BURMAN: Okay. And
5 how does doing that, outside of the rate case,
6 help?

7 MR. INSOGNA: Well, I think
8 the -- as Commissioner Acampora mentioned, you
9 know, one thing that we have difficulty achieving
10 within the rate case context is -- is
11 standardization, is consistency. All these
12 programs differ in the types of services that are
13 offered. To some extent, they differ also in their
14 eligibility requirements, in their scope, by which
15 I mean the -- the number of different types of
16 interventions or benefits that are offered.

17 And so we really think this is
18 a -- an opportunity to take a -- a closer look at
19 that and say, you know, what works,
20 what has worked, what has perhaps not worked as
21 well, and what combinations of interventions or
22 benefits might be the most effective. So those
23 are -- those are difficult questions to answer
24 within the context of an individual utility rate
25 case where, in most cases, we're looking at what

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2 the utility has done in the past and -- and what
3 they might do going forward in the future.

4 COMMISSIONER BURMAN: And by
5 looking at it in the rate case, how would that be
6 helpful? You're saying not being helpful in the
7 rate case. But has it been harmful when we've
8 looked at it?

9 MR. INSOGNA: Well, the -- the --
10 the difficulty in the -- in the rate case context
11 is achieving consistency. I -- I could certainly
12 think of characteristics that might be easier to
13 address in a rate case context. I think --.

14 COMMISSIONER BURMAN: Such as?

15 MR. INSOGNA: Well, I think to
16 some extent, each utility service territory does
17 have certain differences in terms of the -- the --
18 the customer population that it serves. How many
19 of its low-income customers are heating customers,
20 for example, as opposed to non-heating customers?
21 How many are eligible for or apply for and receive
22 HEAP benefits that are paid to the utility?

23 So there are individual
24 differences that -- you know, that we shouldn't
25 forget about. But the -- there is an opportunity

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2 for greater consistency. We've -- we've always
3 looked at them within individual utility rate
4 cases, so I think the individual utility context
5 have been well addressed. What we haven't
6 addressed so well, perhaps, is the consistency and
7 the standardization.

8 MR. CORSO: Yeah, and I'd like to
9 just add the obvious, which is the best practices
10 benefit, which is we can learn from each of those
11 utility programs where the best approaches are and,
12 hopefully, have those transform into a standard
13 approach at each utility.

14 COMMISSIONER BURMAN: So are you
15 saying that you haven't taken from one rate case to
16 another some of the lessons learned in an overall
17 capacity and applied it, and then looked at it if
18 it might be applicable in that particular rate
19 case?

20 MR. CORSO: No. Of course, we
21 have done that, but we have not examined it in a
22 holistic way, and we haven't done that with the
23 parties directly in a more generic way. And I
24 think the benefit of that is to get the inclusion
25 and the thinking of the consumer advocates who

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2 spend their -- their life energy on helping to
3 determine the best programs along with the
4 utilities who have a lot of stake in this, because
5 the utilities over time have developed a real
6 understanding of how beneficial these programs are
7 to their customers, and how keeping those customers
8 on the system is a -- is a lower-cost way of
9 effectuating how the system works best.

10 So we're just thinking this
11 approach will be better in developing best
12 practices outside of the rate case so we're not
13 bogged down with the specific rate case issues.

14 COMMISSIONER BURMAN: Thank you.
15 So -- and -- and I do have some more questions.
16 When I look at this, my initial reaction is are we
17 actually going to be addressing the -- this in a
18 better way by moving this to a generic proceeding
19 and now coming up with some alleged standardization
20 and best practices, and has there been a problem
21 that, over these past twenty-five years, we have
22 not addressed?

23 And if so, what are those
24 specific problems that have caused us to do harm to
25 low-income customers? Because this is the first

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2 that I'm hearing about it through this proceeding.

3 CHAIR ZIBELMAN: Well, let me --
4 let me answer that question. I think that the --
5 the evidence that we're seeing that -- and that's
6 what I'm concerned about. We're seeing increases
7 in disconnect. We're seeing increases in
8 arrearages. We have a recognition across the state
9 that questions of affordability in general are a
10 problem.

11 We want New York to be one of the
12 best states when it turns to the value of the
13 energy dollar. There's a certain manner of things
14 that we can do, and we're going to do everything we
15 can do in this state to drive efficiency of the
16 system, to drive down the cost of energy, to make
17 sure that the markets for energy are both
18 economically and environmentally sustainable.

19 But I think we would be naive to
20 think that you can create markets and solutions for
21 the broad populace and not take care of the effects
22 of low income in an efficient way.

23 Every time I've seen, in my -- in
24 my political or my -- or in my business life, the
25 ability to shine a light on a problem and focus on

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2 it and say -- and step back and do an evaluation
3 saying, are we being as effective as we can be, are
4 we doing the right thing, are we looking out beyond
5 our own borders and seeing what other people are
6 doing and making sure that for New Yorkers we can
7 look at ourselves in the mirror and say, hey, we're
8 doing our jobs, we're taking some leadership, we're
9 shining a light on a problem or evaluating it.

10 I don't know, and I don't know if
11 we could say that we've always done as well as we
12 can do. We thought we did. But the purpose of
13 proceedings and the purpose, I think, for this
14 Commission and certainly from -- from my
15 perspective what this agency should be about is
16 identifying what we might see as some of the
17 Achilles heels in the service that we deliver, and
18 making sure we're doing the best thing.

19 So I don't think it's a fair
20 question to say, well, have we been bad in the
21 past. I think what we have is indices of problems
22 that may be emerging and an opportunity to step
23 back and look at it. We also have a request where
24 the people who are involved in this, day in and day
25 out, serving this population, say make it a little

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2 easier for us, if we can have a consistent
3 approach, maybe then we could be more successful.

4 So I think it's worth the
5 inquiry. It's what we're here to do, and I -- you
6 know, and so in my mind I don't think we need to
7 spend a lot of time debating should we ask
8 ourselves the question. The issue is we need to
9 ask the question and we need to find the right
10 types of answers.

11 If we decide, ultimately, that
12 what we're doing is perfectly fine, then all we've
13 done is spent some time. But maybe then we've at
14 least resolved that we have taken a look at this
15 particular population and made sure that we're
16 delivering the right types of services that we want
17 to deliver to them.

18 So that's -- to me, I don't think
19 we should make it any broader than that or even a
20 suggestion that what we've done in the past is
21 wrong. It just is an opportunity to do, like
22 everything else we always do, is try to find a way
23 to make it better.

24 COMMISSIONER BURMAN: Thank you.

25 So I think the question is is it

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2 fair for me to ask why are we starting this generic
3 proceeding. And when I drill down, I take very
4 seriously, as all my fellow commissioners do, the
5 regulatory role that we have. And I also take very
6 seriously that starting a generic proceeding can be
7 comprehensive and it can also be cumbersome.

8 And there are many, many
9 different things -- we follow many proceedings and
10 we're in the mix of it. But there are also many,
11 many proceedings that people cannot follow.

12 You mentioned, Michael, that the
13 reason this was brought forward was because of
14 several meetings that staff had with the low-income
15 advocates. Okay. I haven't had any meetings. I
16 haven't seen anything to indicate, through the
17 filings, that there's been a request for a generic
18 proceeding.

19 I understand that we're trying to
20 address someone's request for a generic proceeding.
21 So my question is, when I look through this, is
22 undertaking a proceeding is -- should be looked at
23 and evaluated on what are the pros and cons, and
24 what are we ultimately trying to do, and looking at
25 what other proceedings are out there that may also

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2 be relevant to this.

3 I know we have a footnote in the
4 order that references the -- the REV proceeding, as
5 well as, I believe, the ESCO proceeding. And that
6 those will continue. So what I need to understand
7 is what are we taking on by this generic
8 proceeding?

9 Now I do believe that higher new
10 costs in New York State are a key impediment to the
11 state's economic growth. My focus has been and
12 does remain on looking at ways to ease the high
13 energy bills on our families and our businesses
14 that they -- they shoulder. We must truly ensure
15 we're proper stewards of ratepayer funds and that
16 there is proper oversight and accountability.

17 When I look at this, I want to
18 make sure that we are properly putting in place
19 what we have started, not just at this Commission
20 but in general in New York, and create an
21 environment that is attracting new investment, is
22 maintaining a diverse fuel -- fuel supply, looking
23 at ways to ensure appropriate transmission upgrades
24 if necessary, increase long-term planning, greater
25 coordination between electric and gas industries,

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2 appropriate price signals for pipeline
3 infrastructure, need for flexible generation and
4 long-term planning as renewables are built out,
5 while avoiding harmful or ill-conceived policies,
6 however well intentioned.

7 In doing so, I do believe that we
8 will show New Yorkers a good and safe place to live
9 and do business as we create and sustain jobs and
10 help ensure more affordable and reliable
11 electricity for all.

12 I am very, very supportive of
13 making sure that we do what we need to for the
14 customers, low income as well as others. So what
15 I'm trying to gather is, when we look at the rate
16 cases, what are the things in the rate cases that
17 we're saying, you know what? It's time to do a
18 time out and look to see what we can move away from
19 the rate case to give some guidance.

20 I understand staff is saying that
21 it's low income. I'm open to that. What I'm
22 trying to understand is what are the pros and cons
23 for having statewide best practices that, you know,
24 is being done outside of the rate case.

25 Now I found, just from Googling

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2 last night, a 2006 study that was done by APPRISE,
3 Inc. dot org. I have no idea if this is valid or
4 not, but I did look, and it did give me some
5 understanding of the pros and cons for doing a
6 statewide versus a utility service territory-wide
7 program, and talked about doing this on a national
8 level.

9 So, obviously, these are issues
10 that when we look at that we do need to discuss.
11 There are pros and cons, and it goes through a
12 whole list of them. So what have we been doing in
13 New York on the rate cases and maybe we need to
14 identify the specifics of that?

15 So what I'm trying to pull out
16 and -- from you is, obviously, you heard from folks
17 and you listened. But what was the analysis and
18 the research that made you say, okay, this is going
19 to help in an administrative burden? Explain that
20 to me.

21 MS. HARRIMAN: So, Commissioner
22 Burman, if I may respond to your questions. Having
23 both been litigation counsel for the Department, as
24 well as an administrative law judge, and
25 participating in numerous rate cases, I can give

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2 you responses with respect to the pros and cons.

3 The pros of taking this issue
4 outside of the context of a rate case is many, one
5 of which is the resources that go into litigating
6 and developing this issues in the context of a rate
7 case. Rate cases are really creatures of statute.
8 They are very specific. The timeframes, the
9 structure of gathering information of interacting
10 with parties, of meeting deadlines for the
11 submission of both initial and reply testimony, as
12 well as the participation in litigation.

13 Sometimes it is difficult to
14 litigate -- truly litigate in an evidentiary
15 capacity a policy issue such as a low-income
16 discount program. This has been an issue that has
17 never really traditionally fit within what I would
18 call a true litigation context. But we put it
19 there because it has a revenue requirement effect.

20 And so one of the pros in pulling
21 this out and trying to report back, which I think
22 the timeframe is in like a ninety-day manner, is to
23 take a break from the rigorous pace and the
24 strictures of a rate case and evaluate an issue
25 that is truly policy although rate impactive. So I

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2 think that is a pro. And having lived it firsthand
3 in many capacities, I can personally attest to that
4 without having been in any of the meetings with the
5 advocates.

6 The second is that we have
7 advocacy groups who have to deal with -- let's say
8 right now you have Central Hudson that's filed.
9 Orange and Rockland is in before the Commission.
10 Con Edison is expected to file in January. NYSEG
11 and RG&E are expected to file thereafter. You will
12 have five overlapping rate cases where you have
13 advocacy groups who have maybe one individual who
14 has to cover each of those rate cases. And
15 evidenced by the appendix to the order before you,
16 they're all different programs.

17 So to not only understand the
18 mechanics of the program, to get in depth as to the
19 pushes and pulls in a rate case for five different
20 rate cases and to be one individual, I'm sure Mr.
21 Norlander would love to have a standardization of
22 approach in his representation of PULP because we
23 often hear from advocates like PULP that it's very
24 difficult for them to chase rate case after rate
25 case and try to be an effective low-income

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2 advocate.

3 Con is that we have a lot of work
4 on our plate for everybody in the department.
5 There's an ambitious agenda before the Commission.
6 But I think that the pros significantly outweigh
7 the cons.

8 And to your other point about,
9 well, why aren't we doing this for other rate case
10 elements, I -- I hope, as general counsel who has a
11 team of attorneys that have to litigate rate cases
12 after rate cases, that we are able to come back in
13 the future and give you other elements that should
14 have the same kind of review, whether it's the
15 business incentive rate.

16 But here's one where really it
17 looks like a policy. It walks like a policy, but
18 it has rate implications. Let's take the shot at
19 getting a good look at this outside of the
20 strictures of a rate case. Let's see if we can
21 develop best practices so, as a judge, I don't have
22 to ask over and over of staff, well, why did we do
23 it this way here but not this way over in this
24 case.

25 And -- and let's try to be

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2 mindful of the stewardship. I -- I concur with you
3 completely. The stewardship of ratepayer funds is
4 critical, and I think that the best way to -- to
5 respond and to be responsive to that stewardship is
6 to do this, to take it outside of the strictures of
7 a rate case. And so --.

8 CHAIR ZIBELMAN: Let me -- let me
9 just add on that, and then I'm going to call for a
10 vote. I think -- the reason I want to do this is
11 that as an evidence of leadership is the role of
12 the Commission to set policy and guidelines. It's
13 hard to do that in an individual rate case because
14 you have multiple issues. And many times these are
15 presented to us as complex settlements, where if we
16 were to change one element, it would change other
17 elements.

18 This gives us an opportunity, as
19 a Commission, to show leadership and guidance and
20 provide guidance both to the parties and the staff.
21 So as far as I'm concerned, as chair of the
22 Commission and as head of the D.P.S., this is a
23 good use of staff time.

24 That's certainly within my
25 discretion, and so I'm going to call a vote. I'm

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2 going to call for --.

3 COMMISSIONER BURMAN: Before you
4 call for a vote, I'd like to ask for your continued
5 allowing me to question, because I am trying to
6 facilitate my understanding before I vote on this
7 item. So it would be helpful to me to be able to
8 pull out exactly what we're doing.

9 And it's -- without all of that
10 information, I'm not able to make a determination
11 on my vote, and I would ask that you allow me to
12 the opportunity to question staff and to also delve
13 down into some of my concerns.

14 CHAIR ZIBELMAN: Commissioner
15 Burman, if your concern is whether this is a use of
16 staff time, that is within my discretion. If you
17 are --.

18 COMMISSIONER BURMAN: So you
19 believe that my being able to make a decision on my
20 vote with all of the facts and information, it's
21 not appropriate for me to ask questions at an open
22 forum?

23 CHAIR ZIBELMAN: I -- what I
24 believe is that if your questions are about what is
25 the scope of the proceeding and you want to know --

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2 understand what the scope of the proceeding is,
3 that's fine. If you're --.

4 COMMISSIONER BURMAN: Okay. Then
5 I'll stick to that. So -- so let me just clarify.
6 What is exactly my realm that I'm allowed to
7 continue in? I'm allowed to ask on scope of the
8 proceeding?

9 CHAIR ZIBELMAN: I'm saying that
10 if your concern is and the information you want to
11 get is about the scope of the proceeding, I think
12 that is certainly fine. If your concerns are about
13 the use of staff time, I'm going to tell you that
14 that's certainly within my discretion. And it has
15 been my election that it is a good use of staff
16 time, which is why I intend to move this forward.
17 Because I think it will, in the long run, create
18 more economies of staff's time than it will create
19 diseconomies. So that -- so if you have --

20 COMMISSIONER BURMAN: Okay.

21 CHAIR ZIBELMAN: -- other
22 concerns about the scope --

23 COMMISSIONER BURMAN: I think all
24 of --.

25 CHAIR ZIBELMAN: -- feel free to

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2 ask questions.

3 COMMISSIONER BURMAN: This is
4 wonderful. Thank you.

5 I think that all of my questions
6 have related to the scope of the proceeding. Staff
7 stated that the reason that we were doing this was
8 for administrative ease. So part of that, to me,
9 is delving into what is the administrative ease.

10 I also am questioning, there's a
11 footnote in here that talks about that there are
12 other proceedings that will continue on the
13 low-income aspects. So my focus is, and again, I
14 stated from the beginning, I think this is a
15 perfect time to be looking at these issues. I'm
16 very supportive of addressing high energy costs and
17 looking at the ways we can ease the burdens on
18 consumers.

19 So one of the things I'm really
20 trying to drill down is -- is the scope of this
21 proceeding as it relates to low income, outside of
22 the rate case, and as it relates to the Clean
23 Energy Fund, as it relates to REV, as it relates to
24 all these other things that deal with policies and
25 ratepayer funds.

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2 So I'm just trying to understand
3 exactly what we're doing in this proceeding that's
4 different from the others. And then I want to look
5 at what are we doing in those other proceedings
6 that the scope is appropriate or not, as it relates
7 to low income, because we're starting this or
8 potentially starting this generic proceeding.

9 MS. HARRIMAN: I think that Mr.
10 Insogna laid out the three programs or the three
11 issues that touch upon low-income customers, the
12 protections afforded under statute and regulation,
13 and the second being the efficiency programs.
14 And -- and in that -- in that realm, number two,
15 the Clean Energy Fund, REV, and the ESCO dockets
16 have looked at a component of low-income issues.

17 Those are separate and distinct
18 from Item Three, which is before you, and that is
19 examining the rate discount programs that have
20 components of both discount on customer bills, as
21 well as arrear forgiveness and grants, let's just
22 say, or waivers of reconnection fees. Those are
23 really policy driven, but also there is a revenue
24 requirement associated with them, which is why they
25 find themselves often in rate cases.

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2 And it's the latter, that third
3 action, that is the subject of this very focused
4 proceeding. The footnote was intended to, you
5 know, be a signal to the communities that this
6 focus in this discreet proceeding does not mean
7 that the focus has been eliminated or shifted in
8 the other cases. And that was important for us to
9 let the stakeholders and the advocates know that in
10 this case we're looking at the discount programs,
11 we're looking at uniformity, as well as ensuring
12 that we're efficiently using ratepayer funds, and
13 we're trying to meet the goal of the programs.

14 But meeting the goal of the
15 program as far as avoiding terminations of reducing
16 arrearages doesn't just end with the discount
17 program. It's those other cases, the Clean Energy
18 Fund. It's the efficiency programs. Those all
19 should help meet the goal of the Commission in
20 seeing arrearages be reduced and terminations be
21 decreased, which benefits all of the ratepayers,
22 not to mention the company.

23 So while they're related, we are
24 trying to focus on the discreet question of what is
25 inappropriate? What is the best practice for a

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2 discount program? And that's the focus of the
3 matter before you.

4 COMMISSIONER BURMAN: When I look
5 at this, I'm trying to understand in the context of
6 REV. And with REV, there is track one and track
7 two. And track one deals with some of the policy
8 issues, and track two gets into sort of what I
9 would call the more meat and potatoes with the
10 actual rate impacts and how this gets applied.

11 How come this low-income aspect,
12 which is also was subject at the REV technical
13 conference? The representative from U.I.A. stated
14 that they were very interested in low-income aspect
15 in REV and how dealing with some of the regulatory
16 reforms would impact the low impact programs and
17 utilities are also interested because changing some
18 of the regulatory structure is going to impact a
19 number of their different programs, including
20 low-income. So why doesn't that fit there?

21 CHAIR ZIBELMAN: From -- this
22 is -- I think it's a good question, and I think
23 this is -- and I think that that is why we're
24 looking at this proceeding. In the context of REV,
25 what we're -- if I think about this, there's the

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2 issue of what creates the cost and the burden on
3 electricity in general. And then, secondarily, can
4 people afford it?

5 And the first issue is what REV
6 and the -- and Clean Energy Fund are looking at.
7 Is this really focusing on driving costs down in
8 the system, making the system more efficient,
9 making us looking at other resources that could
10 drive down price, and getting the price to a level
11 of efficiency that we can reflect the fact that
12 we're optimizing technology usage and every type of
13 tool that we can to drive down costs?

14 But there's a certain recognition
15 that I think we would be naive not to make that,
16 even as we do that, and even if we're perfect at
17 it, there may be consumers who continue to be
18 burdened and not be able to afford electricity.
19 And we need to look at programs such as discounts
20 and such as dealing with disconnects to make sure
21 that there's also a consistent application.

22 So I don't see this as -- I see
23 this as highly complementary and that in -- we will
24 continue in both REV and the Clean Energy docket to
25 look at how we deliver services around energy

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2 efficiency use of distributed energy, et cetera.

3 In REV, in particular, I know that there is a
4 concern of mine is -- is that REV is about creating
5 markets, and that there may be aspects of this
6 market that really doesn't develop.

7 And we need to take a look at if
8 there are particular entities who people will not
9 want to sell services to, because they have credit
10 issues, how do we make certain that -- that we
11 don't create a dislocation such as a divide in
12 energy efficiency between -- between people who are
13 moderate income or low income and people who have
14 higher incomes. These are all issues that I expect
15 REV to deal with.

16 In this docket, though, because
17 REV won't deal with it, is the very specific issue
18 that we have -- we deal with in rate cases, which
19 is the level of discounts, how we deal with
20 arrearages, how we deal with disconnects.

21 I think that I understand that
22 there's always a concern about starting a new
23 docket, but -- but if we didn't do that, I think we
24 would find ourselves, at the end of this year and
25 at the end of REV, saying, well, we dealt with

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2 seventy percent of the issue, we have thirty
3 percent we have left to deal with. We might as
4 well deal with it now.

5 I think it's a good year because
6 we are looking at multiple rate cases. And again,
7 I'm looking at this from the perspective is -- is
8 that rather than the Commission just receiving what
9 the parties agree to is the right accommodation, we
10 really ought to be showing some leadership in this
11 area and identifying what we would like the policy
12 to be. And that's why you have generic
13 proceedings.

14 So, Commissioner Burman, we have
15 other things on our docket --

16 COMMISSIONER BURMAN: I
17 understand, but --.

18 CHAIR ZIBELMAN: -- and I would
19 like to move to a vote.

20 COMMISSIONER BURMAN: Thank you.
21 Before you do, though, I do have -- I think this is
22 a significant issue and it's a significant next
23 step. So I do want to drill down a little bit on
24 this because I do want to fully understand because
25 when -- when I'm listening to the answers, it's

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2 helping me conceptualize exactly what we're going
3 to do, which I think is what people are also
4 looking for, which is some guidance.

5 And this is part of building that
6 record so that people can understand what the
7 expectations are from the commissioners in moving
8 forward, rather than just, you know, voting on
9 something that doesn't give any context to it. I
10 think it is helpful, before we do that, to look to
11 this discussion. And I -- you know, other
12 commissioners can feel free. I don't want to hog
13 the mic myself, but other commissioners can feel
14 free to weigh in on their expectations, as well.

15 When I -- when I'm looking at
16 this, I am very concerned. I very much want to
17 address, and I applaud Chairman Zibelman's
18 leadership on trying to tackle different issues
19 and, you know, the REV proceeding is -- is a great
20 one to look at doing that. And I do think it's
21 very important, and I -- I'm all in, in going and
22 doing a drill down on issues. Not just low-income,
23 but on other issues.

24 So part of what I want to be able
25 to do is to understand the timeframe and also how

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2 this is all going to be rolled out. So as we're
3 doing this, there seems to be an indication that we
4 will be making some or potentially making some
5 recommendations sooner rather than later, because
6 there will be rate cases coming in for the majority
7 of the utilities in 2015.

8 But then how does that
9 interrelate with the REV proceeding, as well, so
10 that, for example, is there going to be some
11 complementary input from relevant stakeholders in
12 the REV process so that they -- it's not in a silo
13 that these decisions are being made?

14 Because part of it is, for me, is
15 to making sure that we're working together in a
16 cohesive and comprehensive way so that taking
17 whatever drill down is being done and work product
18 is being done on one proceeding is not now having
19 to be duplicated or not utilized in the fashion,
20 and looking at somehow having seamlessness between
21 them so that people don't have to then say, well, I
22 wasn't in that proceeding so I have no idea what
23 any of this means. Or they forget about this,
24 because this is a huge thing that's going on.
25 There's this wonderful potential demonstration

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2 project on low income and energy efficiency.

3 So I'm just trying to figure out,
4 you know, how they -- they fit together.

5 MS. HARRIMAN: So -- go ahead,
6 Marty.

7 MR. INSOGNA: Okay. Thanks.

8 Commissioner Burman, I -- I think
9 Chair Zibelman expressed this very well in -- in my
10 view, that in the REV proceeding we're looking at
11 potential for new technologies and new products and
12 services that will drive down the cost of energy
13 for everyone, including low-income households.

14 In the energy efficiency realm,
15 which energy efficiency programs essentially
16 designed to do the same thing to -- to make the
17 cost of -- of heating and lighting our homes less
18 expensive than they might otherwise be, there would
19 still be a substantial portion of the utility
20 customer base that will find those bills to be
21 unaffordable, and they will need additional
22 financial assistance.

23 So even if the REV efforts are
24 wildly successful, even beyond what we -- we expect
25 or hope for, there will still be customers who

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2 can't afford their bills and will need financial
3 assistance. Those are the programs that we're
4 looking at here.

5 CHAIR ZIBELMAN: I -- let me --
6 and let me just add to this. I mean let's -- let's
7 be realistic, too. We're -- we're beginning REV.
8 We're going to be making investments. We're going
9 to be changing the industry, but it's not going to
10 happen overnight. And so, in the meantime, we need
11 to make sure that in -- in setting the rates and
12 what we charge people, we're doing the right thing.
13 And so it's -- it's -- you know, it's essential,
14 again, that we look at the arrearages and the
15 trends that we're seeing and making sure that
16 we're -- we're being effective in these programs.

17 It's -- it's -- and at the same
18 time, look at the root causes. And if those root
19 causes are because we are not getting the best
20 value for the energy dollar, we look for ways to
21 drive that down. And that's what REV and the Clean
22 Energy Program are about. But it is a timing
23 issue.

24 Commissioner Burman, I am -- I am
25 going to take a vote.

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2 COMMISSIONER BURMAN: Thank you.

3 Thank you. And I'll -- I'll -- my vote will be
4 split, so I'll have to explain my vote.

5 CHAIR ZIBELMAN: Okay.

6 COMMISSIONER ACAMPORA: Can I say
7 one more thing?

8 CHAIR ZIBELMAN: Yes,
9 Commissioner Acampora?

10 COMMISSIONER ACAMPORA: I'd just
11 like to say, again, my favorite word over these
12 past many years has been flexibility. And we have
13 a unique situation at this Commission where we have
14 two other commissioners who have served as chair.
15 And knowing that, I have full confidence when the
16 chair makes a decision to bring something forward
17 that it should be respected.

18 It can be questioned and that
19 gives you time during the process of a proceeding
20 to get involved and to look at areas that are
21 important to you and to bring that to the attention
22 of the chair, to make sure that in the end, when
23 the matter comes before us to vote, that all your
24 concerns are really addressed.

25 So I feel, again, flexibility,

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2 addressing something that's been important to the
3 State of New York as far as making sure our
4 low-income people are being taken care of and we're
5 doing it in the best efficient way.

6 We all have a concern to make
7 sure that the monies that are spent are spent
8 wisely and efficiently. And I think that, again,
9 we're sharpening the pencil again and we're going
10 back to look at this to make sure that we're doing
11 it right and that there is a standardization that
12 does make it easy for those consumer advocates, who
13 are very important to us, who are, again, the boots
14 on the ground that let us know what are the
15 problems, and how can they also better serve those
16 people who are in need.

17 So I -- I'm going to vote in
18 favor of this.

19 CHAIR ZIBELMAN: Commissioner
20 Sayre, Commissioner Brown, anything?

21 COMMISSIONER SAYRE: I can
22 promise that I'm less than a minute.

23 CHAIR ZIBELMAN: Okay.

24 COMMISSIONER SAYRE: I -- I think
25 what we have -- I think what we have in front of us

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2 is relatively simple. It's an accident of history
3 as a result of multiple separate rate cases, rather
4 than careful analysis that the programs differ as
5 much as they do from utility to utility.

6 There may be good reasons for
7 those differences, demographics, specific services
8 that are taken by low-income customers, or rate
9 levels, but we need to make careful and conscious
10 decisions and choices whether the plan should keep
11 differing.

12 At the same time, we need to
13 look, and we've already started to look at other
14 states that have tried different plans, and see if
15 there is some best practices that we can adopt.
16 Those are two fairly simple things that I think
17 this proceeding is designed to accomplish. That's
18 what I look for it to accomplish, and I will be
19 voting in favor of it.

20 CHAIR ZIBELMAN: Commissioner
21 Brown?

22 COMMISSIONER BROWN: You know,
23 it's the nature of what we do here that we have
24 many multi-faceted cases going at the same time.
25 It will always be true. We really have to do deal

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2 with them somewhat in a matrix. Never smoothly can
3 you say, well, this -- this issue is going to be
4 dealt in this proceeding at this time, and it will
5 not affect any other proceeding.

6 Everything affects each other.

7 That's the job, not an enviable one at times of the
8 chair and the staff to try to put these pieces
9 together and make sure that we don't differ, we
10 don't treat things inconsistently between cases. A
11 very good vehicle to try to focus that is -- tends
12 to be these generic proceedings which take a hard
13 look at a specific issue.

14 We will not decide in this case
15 every low-income case, every low-income decision,
16 every low-income input in this case. It's got to
17 happen in a variety of places. But if we can do
18 more consistency, examine best practices, and try
19 to maximize what we get out of these programs, it
20 will be well worth the effort.

21 So, I don't -- I -- certainly I
22 have many questions that Commissioner Burman has at
23 this point. What's this proceeding going to do?
24 How is it going to do it?

25 But really I think you have to

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2 get it going and -- and -- and look at in a
3 relationship of this with REV. Look at the inner
4 relationship of this with energy efficiency
5 programs. Look at the inner relationship between
6 this and rate cases that will be coming our way.
7 And good questions, but we don't need all the
8 answers today to start the proceedings.

9 So I support the starting so that
10 we can get the answers.

11 CHAIR ZIBELMAN: Thank you.

12 COMMISSIONER BURMAN: Well, do
13 you want me to answer before I vote, because I have
14 to explain my vote, so I am comfortable either way?

15 CHAIR ZIBELMAN: Let's take the
16 vote and then you can explain it.

17 So all those in favor of the
18 recommendation to institute a proceeding and
19 solicit comments concerning energy affordability
20 programs for low-income individuals, as described,
21 please indicate by saying aye.

22 COMMISSIONER BROWN: Aye.

23 COMMISSIONER SAYRE: Aye.

24 COMMISSIONER ACAMPORA: Aye.

25 CHAIR ZIBELMAN: Opposed?

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2 COMMISSIONER BURMAN: I am very
3 much in support of looking at issues and how to
4 ease administrative and regulatory burdens. I'm
5 very much in support of addressing energy
6 affordability, not only for the low income but for
7 the businesses and other community members that are
8 facing high energy costs.

9 I understand that not every
10 proceeding is going to address every issue. I do
11 look holistically at what we are doing. And I have
12 consistently asked, both internally and externally,
13 where are we going, where have we been, what's the
14 benefit, how can we improve things, how can we make
15 things better?

16 I'm very much respectful. I'm
17 very much in -- in agreement with the chair that it
18 is very important that we look carefully at the
19 issues, especially as costs to the ratepayers, and
20 helping to make sure that people do not go without
21 heat, and that they have the proper energy that
22 they need.

23 So when I look at this, I am
24 concerned that we have started too many generic
25 proceedings, too many small proceedings, too many

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2 big proceedings. And I'm trying to make sure that
3 we all keep in mind how everything fits together.

4 So I don't ask these questions in
5 a public forum to be disrespectful. I don't ask
6 these questions in a public forum to seem to be
7 indicating that I am not in agreement. What I do
8 feel comfortable with is that, in my role as a
9 commissioner, I must make sure that I understand
10 exactly what we're doing and I must, before I vote,
11 make sure that I have carefully weighed all of the
12 issues.

13 And that when I cast my vote, I
14 don't expect the other commissioners to always
15 agree with me. I'm comfortable if they don't.
16 Frankly, I'm good with mixing it up and making sure
17 we get the best product. I'm also comfortable if
18 people say you're full of it and tell me why I'm
19 wrong, because I want to understand. I want to
20 make sure that we do what's right. And I can only
21 do that if I drill down.

22 Now some people may think that
23 that means that I'm long-winded. Yes, I am
24 long-winded. Some people may think that that means
25 that I'm looking to be difficult. No. I am

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2 difficult, but I'm not looking to be difficult.

3 I'm looking to make sure that we
4 all understand what it is that we have on our
5 plate, and how we're going to achieve it. I am
6 lucky enough not to be the chair who has to deal
7 with the headaches of having to figure out how to
8 take all of these resources, the limited that we
9 do, and to -- and to make sure that we do the work
10 product that we need.

11 However, as a commissioner, I am
12 concerned with the -- the amount of finite
13 resources that we have internally and looking to
14 make sure that we are taking on what we can
15 achieve, and that we do have closure on those
16 proceedings, and that the goals that we set can be
17 done in a timely but in a very substantial way that
18 we actually give the good that we need to New York.

19 So when I look at this, I am
20 dissenting in that I don't think that this is
21 necessary at this time for a generic proceeding.
22 However, what I would say is -- and there's also I
23 have concurrence on some things. What I would say
24 is it's because we have not fully done our
25 homework. We have not done an evaluation of the

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2 current low-income programs. We have not done a
3 specific drill down, and looking at what are the
4 number of customers.

5 Now there were statistics given,
6 but those were not the be-all and end-all. There's
7 many, many things that we need to factor in. And
8 so part of this is also laying the ground work for
9 what I do hope, before we go and have the
10 collaborative with the stakeholders, we also -- we
11 can't just say tell us what you think, if we have
12 not done our own homework on the current programs
13 that we have agreed in rate cases are acceptable --
14 are better than acceptable.

15 We need to do an evaluation of
16 the monies that we have expended, who has it been
17 given to, in what service territories, how many
18 customers are out there. When we talk about the
19 increase in arrears, is that just for low-income
20 customers? I don't think so. When we talk about
21 some of these things, it really needs to be a drill
22 down and to understand what it is, and to look at
23 the pros and cons. And, again, I go back to that
24 2006 report that was started where they were
25 looking at, on a national level, the pros and cons,

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2 statewide, some standardization, looking at doing
3 it in a rate case.

4 And so for me, you know, one of
5 the things is I know in the Con Ed collaborative
6 and the Con Ed rate case, instead of saying let's
7 start a generic proceeding on storm hardening
8 resiliency, they said let's do a takeaway, let's
9 have a working group and have a collaborative
10 looking at these issues. They did it. They came
11 back to the rate case. Everybody was in agreement.
12 Everybody worked with it. And I think it came up
13 with a very good structure.

14 And then the next step was taking
15 that as an example and looking at how to apply it,
16 and it's still going on, how to apply it in other
17 utilities. But there was a framework, so it wasn't
18 just tell us what you think. It was a real working
19 group. It was a real drill down, not in a silo,
20 not just with a few meetings with some people, but
21 really out there in the public for everybody to be
22 involved in and to actually get the bang for the
23 buck.

24 So I dissent in this generic
25 proceeding, but I concur if we're going to do it,

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2 then we have to be all in. Unless I can convince
3 everyone else to say no to the generic proceeding,
4 which I don't think is possible, I would say I
5 concur, but I would -- from the perspective that,
6 assuming this goes forward, that there really is a
7 need to undertake a real review of ratepayer funds
8 of low-income energy programs.

9 And we need to look at it to
10 furnish guidance on our regulatory framework needed
11 to support these programs and to see if there's any
12 effective standardized practices with respect to
13 the program design and implementation, and to make
14 sure that we have the resources that we need but
15 that others have it.

16 We can't ask everybody to do
17 everything if we're not able to look carefully and
18 see how we can do this. So that's sort of my focus
19 here is it's going to be a lot of work. I am all
20 in, in doing that. But I want to make sure that
21 this is not just a starting it and it's really not
22 going to be done in a comprehensive way.

23 So I'm comfortable. I would say
24 thank you for the courtesy extended to me in
25 talking more than I think people wanted to listen

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2 to, but I appreciate the opportunity. And I do
3 thank all of my fellow commissioners and the staff.

4 CHAIR ZIBELMAN: So I record this
5 as a four-one vote with a concurrence. I'm not
6 sure how to do that, but I'll -- sure people will
7 figure it out.

8 But let me just say this, just
9 from the -- for the record. I don't think that
10 anyone ever intended to have this as a proceeding
11 with a limited number of constituents.

12 The idea here was to actually
13 have a focused drill down of all the relevant
14 parties, looking at a specific set of issues
15 outside of a rate case context, with the idea of
16 bringing it back to the Commission with a full
17 record, so that the Commission, to the extent it
18 elects to do so, can provide guidance that would
19 be, in the end, helpful in future rate cases.

20 So to any sense that this wasn't
21 going to be a full-on look, should -- I want to
22 disabuse everybody of that. But I don't think any
23 of the other commissioners thought that would be
24 the case since it's not the practice of this
25 Commission to do it that way.

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2 So thank you and let's move on to
3 the next item. Item -- second item is 301. So
4 talking about lessons learned.

5 Mr. Van Ryn, you did such a great
6 job, before the holiday, explaining a very complex
7 set of issues, that we decided to bring you back
8 for an encore.

9 MR. VAN RYN: Well, the same ones
10 are back again.

11 Good morning, everyone.

12 At its last session, the
13 Commission addressed interpretations of net
14 metering law and policy where uncertainties had
15 existed. Including among the uncertainties
16 resolved were means for determining compliance with
17 a two megawatt limit on the size of a net metered
18 facility under Public Service Law Section 66-J.

19 The Commission also addressed a
20 rate design in effect at remote net metering
21 locations. Under that rate design, remote net
22 metered customers have been permitted to convert
23 the volumetric charges at non-demand locations into
24 monetary credits. In comparison, a non-demand
25 customer installing net metering on site and in --

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2 a non-demand meter installing net metering on site,
3 instead of at a remote site, can accumulate only
4 volumetric credits and cannot convert to monetary
5 credits.

6 In addition, customers net
7 metering on site at an existing demand meter are
8 credited at comparatively lower volumetric rates
9 because of the demand charges. The result is
10 uneconomic arbitrage as customers pursue remote net
11 metering where they can convert comparatively large
12 volumetric credits into monetary credits, instead
13 of onsite net metering where they can't convert or
14 are credited at lower volumetric rates.

15 As a result, electric utilities
16 were directed to file tariffs that substitute
17 volumetric crediting for monetary crediting at
18 non-demand remote net metered locations. This will
19 place remote and onsite locations on an equal
20 footing and prevent the uneconomic arbitrage.

21 The Commission also decided,
22 however, that it would grandfather developers that
23 have pursued installation of renewable facilities
24 in good faith from the resolution of these legal
25 and policy issues. A grandfathering avoids

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2 disruption of the state's goals for encouraging
3 renewable energy. As a result, participants in
4 NYSERDA and New York City competitive renewable
5 solicitations were not required to comply with the
6 interpretations for implementing the two mega --
7 two-megawatt requirement as long as they had
8 proceeded with the development of their facilities
9 in good faith.

10 And developers were also
11 grandfathered from the substitution of monetary
12 credits for volumetric rates. And that
13 grandfathering has raised considerable number of
14 issues among stakeholders.

15 All right. The grandfathering
16 for those stakeholders was extended to participants
17 in the -- in the NYSERDA and New York City
18 renewable solicitations to existing remote net
19 metered facilities and to customers that entered
20 into interconnection agreements for remote net
21 metering that had been queued by the utilities as
22 of December 11, 2014. And that date was selected
23 because it was the date of the Commission's
24 session.

25 In conversations with renewable

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2 stakeholders, following the issuance of the
3 Commission's order, staff ascertained that further
4 elaboration on the grandfathering provisions would
5 assist in avoiding the disruption of renewable
6 project proposals, and that the clarifications
7 could be made within the framework of the existing
8 order.

9 Therefore, staff recommends that
10 the Commission find grandfathering, because of
11 successful participation in the NYSERDA or New York
12 City solicitations, includes grandfathering for all
13 actions permitted by a solicitation, that
14 grandfathering because of status in a utility
15 interconnection queue be determined upon the time a
16 preliminary interconnection application was
17 submitted to the utility, and that the operational
18 separation required for qualification as a
19 two-megawatt project is that the project is run
20 independently.

21 Some renewable stakeholders were
22 concerned that to retain grandfathering they would
23 be denied the flexibility that was otherwise
24 accorded to them in the NYSERDA and New York City
25 solicitations. The order should be clarified to

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2 provide that the policies and practices that
3 NYSERDA and New York City have established for
4 their solicitations will be respected, and that
5 participation -- and participants in those
6 solicitations will retain grandfathering so long as
7 they follow those policies and practices.

8 Stakeholders also inquired into
9 the method that would be used to establish that a
10 position in a utility queue had been obtained as of
11 the December 11, 2014 cutoff date. The prior order
12 can be clarified to establish that a developer must
13 have submitted a preliminary interconnection
14 application to the utility as of that date to be in
15 the queue.

16 As to the requirements
17 established for compliance with the two-megawatt
18 statutory provision, stakeholders questioned how
19 they could show that they could meet the
20 requirement that a project be operationally
21 separate. It should be clarified that that showing
22 can be made by demonstrating that the project can
23 start up, shut down, and run independently from any
24 other project.

25 In addition, stakeholders have

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2 raised the grandfathering of participants in
3 another NYSERDA solicitation known as PON 2112, in
4 addition to the competitive solicitations already
5 grandfathered. Since, unlike those other
6 solicitations, PON 212 is not -- 2112 is not a
7 competitive solicitation, because it provides for
8 ongoing cash incentives, supporting installation of
9 solar PV systems of twenty-five kilowatts or less
10 for residential customers, and two hundred
11 kilowatts or less for nonresidential customers. So
12 therefore it raises issues that were not really
13 addressed in the original order.

14 However, grandfathering in the
15 participants in PON 2112 could be considered in
16 these proceedings subsequent to this clarification.
17 And it should also be noted that the participants
18 in that PON can qualify for grandfathering through
19 the utility queueing process, as well.

20 Petitions for rehearing of the
21 Commission's prior order are due on December 14th,
22 2015. And notice under the State Administrative
23 Procedure Act has been set up so the Commission can
24 act quickly on any petitions that are received to
25 the extent necessary to promote achievement of the

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2 State's renewable goals.

3 I'm ready to answer any
4 questions.

5 MS. HARRIMAN: Just one
6 clarification. Petitions for a hearing are due
7 January.

8 MR. VAN RYN: January.

9 MS. HARRIMAN: I think you said
10 December.

11 MR. VAN RYN: Oh, excuse me.
12 Yeah, you do have to watch the dates here. They
13 pile on top of each other.

14 So, yeah, the -- the
15 grandfathering date is December 11, 2014.
16 Petitions for rehearing are due December 14, 2015.

17 MS. HARRIMAN: January --.

18 MR. VAN RYN: January 15. Yeah,
19 January --.

20 CHAIR ZIBELMAN: You just like
21 Christmas so much, you want it to be Christmas
22 again. We all know this is going to be a
23 nightmarish year and we want it over really fast.

24 So thank you, Mr. Van Ryn.

25 MR. VAN RYN: Yeah.

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2 CHAIR ZIBELMAN: So, basically,
3 just to be clear, I mean there -- the -- the order
4 for clarification is to address a number of the
5 concerns that people had that they were not clear
6 what we meant by the grandfathering and what do we
7 mean by a separate two-megawatt. And it is
8 intended to provide that level of clarification.

9 I'm well aware that we have one
10 petition for rehearing already that has been filed
11 with the Commission. And so they will be taken up
12 in -- in due course. But this is really to make
13 sure that, to the extent that people would feel
14 compelled to ask for reconsideration only because
15 of a misunderstanding of what we meant when we say
16 a -- a separate two-megawatt project or what we
17 would grandfather, that we could address those
18 and -- so that settled expectations would not be
19 disrupted.

20 And I -- and I appreciate that
21 that -- the order intends to do that.

22 So with that, I would -- you
23 know, I'm going to -- I guess we would vote to
24 amend it. So thank you.

25 Any other further questions or

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2 comments on this?

3 COMMISSIONER BURMAN: Yes. My
4 only comment is that I do see, in the most recent
5 petition that was filed yesterday by Couch White on
6 behalf of Sun Edison, that it stated in its
7 petition that this error of fact that they're
8 referring to in here, it's not important
9 substantively right now, could have been avoided if
10 the Commission had established procedures that
11 invited comments on the proposed change. Then it
12 goes on to go into it.

13 So I do see, you know, we are
14 going to be, it seems like, looking at other
15 potential petitions for rehearing. And so from my
16 perspective, I think that note in that petition
17 does make me question is, you know, here we are
18 dealing with one aspect. Obviously, we're not
19 dealing with the whole kitchen sink. And I
20 understand there's timing issue and you want to get
21 out the clarification.

22 But you're still going to then
23 have to clarify or fix it or change. And so I'm
24 just, you know, noting that I think we should be
25 mindful that when we do do things, that we do ask

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2 have we sort of socialized this in a public way,
3 before we go down that road and then have to deal
4 with what I would call cleanup issues.

5 So it's -- you know, it doesn't
6 really require anything unless you want. That's --
7 that's fine. I see you're chomping at the bit
8 to -- to say something, Kim. So I just really do
9 want to make sure that we are looking and saying,
10 hey, have we gotten, you know, everybody involved
11 that may be able to help us in -- in what we're
12 doing.

13 So thank you.

14 CHAIR ZIBELMAN: Well, I think
15 that the issue for -- on rehearings will be taken
16 care of. And I'm sure there will be dialogue among
17 staff and the petitioners on all of these things,
18 so that if we are doing -- going to do rehearings,
19 we make sure that we've addressed all the issues
20 and understand, you know, where, in fact, there may
21 be ambiguity so we clarify them up front.

22 So I -- that -- that is sort of
23 the normal route. I think that this -- these
24 are -- this was an exceedingly complex set of
25 issues that we were dealing with. And so -- and I

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2 think that the clarification will make it clear of
3 what the Commission's intent would be.

4 But, you know, that's one of the
5 reasons, I think, frankly, generic proceedings are
6 helpful, is that it allows us to get that clarity
7 up front.

8 But with that, let me take a vote
9 then on Item -- this item, unless there are any
10 other comments.

11 Okay. For second -- for --.

12 COMMISSIONER BURMAN: Can I
13 ask -- I do have a question. You talked about the
14 timeframe. Is there a -- you know, I mean, time is
15 of the essence, I think, for the developers. And
16 obviously, you know, there seems to be a concern
17 with communication. And, you know, is there -- you
18 know, we're in a sense fast-tracking this today
19 rather than waiting because of that.

20 But what about the ones who are
21 going to need some more input in what we're doing,
22 sooner rather than later? Rather than, I mean, the
23 time -- the clock is ticking.

24 MS. HARRIMAN: So, I think, one
25 of the reasons why staff recommended quick action

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2 for clarification is because there's pending
3 projects out there in the queue and folks need to
4 know how to deal with those and how to treat those,
5 both from a utility, from NYSERDA, from a developer
6 perspective. So clarification was brought pretty
7 quickly back to the Commission because of that
8 need.

9 Also because of our observation
10 that, without the clarification, we would see
11 declaratory rulings, petitions for clarification.
12 And we were trying to actually be proactive with
13 the Commission, not waiting for those filings to
14 come in.

15 Second, Len probably gets called
16 more than anybody in the building on a daily basis
17 from developers of net-metered facilities. And --
18 and they ask a multitude of questions, both of Len
19 and Tina Palmero, who have really worked this issue
20 to the benefit, I think, of the department and
21 avoiding everybody else having to deal with it.

22 But they -- they do entertain a
23 discussion and we have reached out and have been
24 working with NYSERDA. It's part of what informed
25 the clarification but -- that you see before you

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2 for action. And we're going to have to do that.
3 Some may need more definitive response from the
4 Commission. And that, we'll -- we will see with
5 petitions for rehearing.

6 And we, you know, took the
7 proactive step, when we were notified of the issue
8 on grandfathering, of going out with the SAPA
9 before we even got the first petition for
10 rehearing. So in every sense of the word for this
11 case, we have been incredibly proactive in
12 recognizing the needs of the marketplace.

13 And so we will be back to you in
14 pretty quick order because of our proactive nature
15 and getting the SAPA out and try to resolve these
16 issues for everybody so they know how to move
17 forward.

18 CHAIR ZIBELMAN: But to be clear,
19 the clarification is in the modification of our
20 original decision. It's just to make sure our
21 original decision is clear, so. And -- and the
22 petitions for reconsideration may involve people
23 to -- petitions to ask us to modify the decision,
24 in which case, we would have to make a
25 determination as to whether we want to change our

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2 minds.

3 So -- and we're -- you know,
4 certainly we'll -- we'll consider both.

5 Any other further comments?

6 Okay. Then for -- let me take a
7 vote then. All those in favor of the
8 recommendations to clarify the order raising net
9 metering minimum caps and requiring tariff
10 revisions, other findings, and establishing further
11 procedures, please indicate by saying aye.

12 COMMISSIONER BROWN: Aye.

13 COMMISSIONER SAYRE: Aye.

14 COMMISSIONER ACAMPORA: Aye.

15 CHAIR ZIBELMAN: Opposed?

16 COMMISSIONER BURMAN: I -- I am
17 abstaining, based on my prior history in abstaining
18 in this order. And I do note that for the record,
19 I am interested in the process and making sure that
20 we make sure that the people on the ground are
21 involved in looking at this, and especially if
22 there are time-sensitive issues for developers.

23 Thank you.

24 CHAIR ZIBELMAN: I'm going to --
25 so four in favor and one abstention. We will then

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2 proceed. And -- and the vote is -- the
3 recommendation is adopted.

4 So let's now move to the consent
5 agenda. And I note that Commissioner Sayre is
6 recusing himself from Item Number 562 on the
7 consent agenda.

8 And are there any comments or
9 questions from the Commission on the consent agenda
10 items?

11 COMMISSIONER BURMAN: On Item
12 364, I --.

13 CHAIR ZIBELMAN: Commissioner
14 Burman, let me just check and see.

15 COMMISSIONER BURMAN: Sure.

16 CHAIR ZIBELMAN: Anyone else?

17 No. Okay.

18 COMMISSIONER BURMAN: Thank you.

19 On Item 364, which is a
20 recommendation that the Commission should deny the
21 petition of GP Renewable and Trading for Voluntary
22 SBC/RPS Opt-in Mechanism for all New York Power
23 Authority Municipal Customers, and the
24 recommendation is to deny the petition, my comment
25 here is that I am going to concur if it's a denial

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2 without prejudice.

3 I do believe that there are many
4 issues in going forward. We are -- I understand
5 that we need some consistency and transition to the
6 Clean Energy Fund and -- and the discussions on
7 that. And, obviously, I've raised, in the past,
8 looking at a drill-down on the funding streams and
9 all of those issues with that.

10 And I'm very comfortable, but I
11 don't want this to be, you know, now we cannot
12 revisit these issues, and looking at opt-in or
13 opt-out of these programs, and, you know, how can
14 we best help customers. I think these are issues
15 that people should feel comfortable raising, you
16 know, down the line, so.

17 Thank you.

18 CHAIR ZIBELMAN: Just -- Counsel,
19 do you want to --?

20 MS. HARRIMAN: So -- so I just
21 want to clarify the position you're taking,
22 Commissioner. Concurrence -- concurrence, with
23 that note on the record of what you anticipate
24 seeing in the future with the without prejudice,
25 versus I will only concur if you change the order

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2 that is before you? And I just want to make sure

3 for purposes of the voting record --

4 COMMISSIONER BURMAN: Right.

5 MS. HARRIMAN: -- we have that

6 correct.

7 COMMISSIONER BURMAN: Correct.

8 MS. HARRIMAN: Is it the former

9 or --?

10 COMMISSIONER BURMAN: It's the

11 first.

12 MS. HARRIMAN: It's the first.

13 COMMISSIONER BURMAN: Yes.

14 MS. HARRIMAN: Okay. So it's --.

15 COMMISSIONER BURMAN: You want to

16 restate it?

17 MS. HARRIMAN: No. Well, I'll --

18 I'll state it and you can confirm, how's that?

19 It's --.

20 COMMISSIONER BURMAN: Then I may

21 disagree with you.

22 MS. HARRIMAN: It's a concurrence

23 with the decision and a notation that you expect,

24 without prejudice, these issues be allowed to be

25 raised in subsequent proceedings such as --

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2 COMMISSIONER BURMAN: Yes.

3 MS. HARRIMAN: -- the Clean
4 Energy Fund?

5 COMMISSIONER BURMAN: Those
6 issues, as well as any -- anyone that wants to
7 bring anything to the table that may be helpful in
8 how we deal with funding streams, I'm -- I'm all
9 for, so.

10 CHAIR ZIBELMAN: Counsel, let me
11 just -- just get a clarification here just for the
12 record. As a matter of law, no Commission order
13 can bind any future Commission orders. So,
14 frankly, there is no decision we make that is with
15 prejudice.

16 And -- and so just to be clear,
17 it is our expectation, on both the Clean Energy
18 Fund as well as REV and everything else, that we're
19 exploring all these issues, including the multiple
20 interveners petition that is also looking for a
21 forum of opt-in or opt-out.

22 So, Commissioner Burman, to your
23 point, I -- I agree that these issues will remain
24 and should be looked at on a broad policy basis of
25 how we address energy efficiency in the future,

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2 including the particular topic of this petition of
3 whether NYPA customers should or should not be part
4 of a pool and how they would participate. So I
5 think --.

6 COMMISSIONER BURMAN: But there
7 is a distinction now --.

8 CHAIR ZIBELMAN: Well -- well,
9 I'm just -- I'm just so -- so just so it's clear,
10 at least my vote is -- is that when I vote -- when
11 I'm voting on this petition, I'm voting
12 specifically on this petition because I think the
13 issue of whether NYPA customers should be able to
14 participate in the energy efficiency programs is a
15 big policy issue that has ramifications that we
16 need to consider in a broader policy decision like
17 REV or -- or the Clean Energy Fund, where we are
18 considering -- and the multiple intervener
19 petition, where we're considering these on a -- on
20 a broad scale.

21 But to try to do it on the basis
22 of one petition for one vendor could put us in an
23 awkward outcome. And -- and I think it -- it
24 requires deliberation. And this proceeding just
25 doesn't give us that -- that opportunity. That's

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2 why we have the EEPS. We're looking at that and
3 we're looking at these other proceedings.

4 So, at least for me, and I -- and
5 I -- I'm speaking, I think, on -- now on behalf of
6 the Commission as a group, we are -- we're -- this
7 is not a necessarily a -- a -- sort of a sense that
8 we're not going to look at this issue. It's that
9 we are not going to decide this particular issue in
10 this docket.

11 COMMISSIONER BURMAN: And I
12 understand that. There is a distinction between a
13 denial of a petition and a denial without
14 prejudice. Even if something -- even if you deny
15 something or grant something, you can always --
16 obviously, that's part of the difficulty with
17 regulatory uncertainty. The Commission can always
18 revisit an issue and change its policy or position.

19 I want to make clear that I'm not
20 deciding it on the basis of necessarily the policy
21 of whether someone opts in or opts out, I'm saying
22 that I'm very open to looking at this and I do
23 agree that these issues should be looked at down
24 the road. And so in -- in a sense, I'm really
25 agreeing with the parties that said this should be

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2 decided later in the right forum.

3 So I'm -- I'm deny -- I am
4 comfortable denying without prejudice so that these
5 issues are not having to be raised again and then
6 they say, well, asked and answered but we'll relook
7 at it. I'm saying they should be moved into that
8 bucket. And then any and all issues relating to
9 opt-in and opt-out and how they benefit.

10 I mean, you know, NYPA customers
11 opting in may actually be beneficial for the ones
12 that don't have the ability at this time to opt
13 out. So I'm comfortable with all of those. So
14 I -- I understand that we're denying, but I'm not
15 denying without prejudice is my position.

16 CHAIR ZIBELMAN: Counsel, should
17 we record that as a no vote or a yes vote? Because
18 I -- I -- I do not want to suggest that -- that any
19 of us want to preclude these issues.

20 COMMISSIONER BURMAN: It's a
21 concurrence on that I'm denying without prejudice.
22 And my comments at session speak for themselves.

23 CHAIR ZIBELMAN: Well,
24 Commissioner Burman, let me ask Counsel, because --
25 about what her opinion is on how we should record

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2 this.

3 MS. HARRIMAN: Okay. So -- so
4 the -- Commissioner Burman is concurring in the
5 decision of the Commission to deny the petition.
6 But in concurrence, she is articulating that she
7 believes the other dockets, such as C.E.F., should
8 take on this and other issues associated with
9 opt-in and opt-out. So for purposes of a vote,
10 it's a five-one recording.

11 CHAIR ZIBELMAN: Thank you.
12 Four-one.

13 MS. HARRIMAN: No. It's one,
14 two, three, four, five. She's concurring. You can
15 record it as a five-one.

16 COMMISSIONER BURMAN: It's
17 four -- it's four yeses and one concurrence.

18 MS. HARRIMAN: If we record that
19 way.

20 COMMISSIONER BURMAN:
21 Technically, you're right on the five-one, but
22 you're counting my vote twice, which I'm all good
23 with.

24 MS. HARRIMAN: It's all good.

25 CHAIR ZIBELMAN: Back in Chicago.

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2 Okay. Any other comments on the
3 consent agenda?

4 Okay. Let's move to a vote. All
5 those in favor of the consent agenda, please
6 indicate by saying aye.

7 ALL: Aye.

8 CHAIR ZIBELMAN: Opposed?

9 Okay. For the record, Max, you
10 did not do your job.

11 Secretary Burgess, is there
12 anything further to come before us today?

13 SECRETARY BURGESS: There's
14 nothing further for today. The next Commission
15 scheduled is February 5th, at ten thirty in Albany.

16 CHAIR ZIBELMAN: Great. Thank
17 you.

18 (The meeting concluded at 12:00
19 p.m.)

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1-8-2015 - Session

STATE OF NEW YORK

I, Howard Hubbard, 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 81, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 13th day of January, 2015.

Howard Hubbard, Reporter

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