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PUBLIC SERVICE COMMISSION

Regular Meeting of the Public Service Commission

Thursday, May 19, 2011
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Agency Building 3
19th Floor
Albany, New York

COMMISSIONERS:
GARRY A. BROWN, Chairman
PATRICIA L. ACAMPORA
ROBERT E. CURRY, JR.
JAMES LAROCCCA

SECRETARY:
JACKLYN BRILLING
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CHAIRMAN BROWN: Good morning. I'd like to call the May 19th, 2011 session of the New York State Public Service Commission to order. I note that Commissioner Harris is unable to attend today's session.

Madam Secretary, are there are changes to the agenda today?

SECRETARY: There are no changes to today's session.

CHAIRMAN BROWN: Okay. Let's move to the Consent Agenda. Anyone abstaining or recusing themselves from voting on any of the Consent Agenda items today?

COMMISSIONER CURRY: No.

CHAIRMAN BROWN: Hearing none, all those in favor on the recommendations on the Consent Agenda please say Aye.

(Ayes)

Opposed?

(No affirmative response)

No opposition. The recommendations are adopted.

Let's move on to the regular agenda. I
think we have six items for discussion today. 
First item for discussion is Item 201, Case 08-M-0593. Proceeding on motion of the Commission to establish and develop a standardized facility and equipment transfer program which will be presented by Chad Hume, Director of the Office of Telecommunications.

Chad?

CHAD HUME: Thank you Chairman Brown, Commissioners. Good morning.

On June 5th, 2008 the Commission instituted a proceeding to evaluate and develop a standardized facility and equipment transfer or Safe T program. Staff facilitated a collaborative with participants representing the major electric and telephone pole-owning companies, third-party attachers and government entities to collaborate on a statewide facility transfer and pole removal process that would span all of the diverse entities that own or attach to utility poles.

The collaborative process provided interested parties with a full opportunity to express their views, concerns and suggestions.
for an effective Safe T program that would meet the needs of the participants, as well as goals set forth by the Commission. I commend the participants on their efforts and on the results that have been achieved.

In the item before, staff recommends the implementation of a Safe T program that projects -- that reflects the consensus of the collaborative parties with respect to the protocol and software requirements of the program and other recommendations that compliment the program to address other matters.

Installing new poles is essential to maintaining safe and reliable electric and telephone service and the deployment of competitive services. However, the removal of older often structurally unsound poles has not kept pace with new installations. This results in a partial transfer of facilities by a utility of its equipment to the new pole while facilities continue to remain on the old pole. Where transfers are not completed in a reasonable period of time or never completed at
all, it often results in unnecessary future costs to utilities and ratepayers. In addition, the failure to properly or promptly remove the old pole, which may be damaged or in an unsafe condition, may jeopardize public safety.

Various state agencies, municipalities and members of the public have complained to the Commission regarding incomplete facility transfers over the years. Staff investigations have revealed that as much as five percent of observed outside plant is in an incomplete transfer condition or that the old pole has been abandoned. Coordination among utilities and other parties regarding the transfer of facilities to new poles is inconsistent and the lack of a means to effectively communicate appears to be the leading contributor to incomplete transfers. Approximately 20 others states participate in programs to address incomplete facility transfers.

The Safe T program will provide a single database of pole status information and enhanced coordination, communication and
monitoring necessary for efficient facility transfers on utility poles owned by electric and telephone companies. The minimum software services required by the program will be available to program participants at no cost for six years. Cost of additional services would be borne by the requesting party. The effectiveness of the program, including success in achieving targeted completion timelines, will be evaluated in two years.

Existing double pole remediation is not part of the Safe T program requirements except that the notification system can be utilized to aid and addresses this issue. However, the draft order does require pole-owning utilities to submit a report by January 1st, 2012 as to how each pole owner proposes to reduce the number of double poles in existence, describing impediments to reduce the number of existing double poles and setting forth solutions. Also where double pole situations create an immediate or potential safety hazard, it is recommended that the situation be resolved immediately upon recognition of the situation
or within 24 hours.

Additionally, the program does not mandate completion timelines, but staff recommends that initiating pole owners schedule a 60-day period for routine facility transfer and pole removals. For pole transfers involving more than three attaching entities, a longer period may be necessary. However, we would expect that all required work be completed within 120 days.

We expect the program, once approved, will continue to operate as a collaborative and the effectiveness of the program including actual completion timeline targets be monitored for a two-year period. At the end of the pilot period the overall success of the program will be evaluated.

Efficient coordination among pole owners and attachment stakeholders with respect to pole transfers and removals is long overdue. Consistent with the consensus of the collaborative parties in this proceeding, we believe that implementation of the Safe T program will provide an effective notification
system to facilitate expedient facility transfers and pole removal. Therefore, I recommend that the Commission adopt the Safe T program.

I'd be happy to take any questions.

CHAIRMAN BROWN: Any questions?

COMMISSIONER ACAMPORA: Question.

CHAIRMAN BROWN: Commissioner Acampora?

COMMISSIONER ACAMPORA: Chad, after the two-year period will you be coming back to us on this?

CHAD HUME: I would expect to come back to report with respect to the effectiveness or non-effectiveness of the program.

COMMISSIONER ACAMPORA: And also after the 120 days if the remediation has not been completed, are there any penalties?

CHAD HUME: No. At this point we're just recommending those timelines and expecting the owners and attachers to, you know, try to achieve those targets. And that's all part of the evaluative process we'll go through over the next two years, as to whether or not those are reasonable timelines.
COMMISSIONER ACAMPORA: I think 120 days is reasonable. Yet, I have personally seen where we've had the double pole situation where poles have been damaged and still tied to one another. So the safety aspect I believe is really important and we should make sure that something is done about that.

PETER McGOWAN: If I could just emphasize that while the 120 days at this point of guidance the Commission is directing in this order, a remedial action be taken within 24 hours if there's a safety issue involved. So that is an enforceable requirement.

COMMISSIONER ACAMPORA: Are we explicit in what we consider what is a safety issue? As I've said, I have seen poles in my travels that have damage to them and still have been left there.

PETER McGOWAN: I don't -- we are not being explicit in defining the criteria, but I think we can expect that the pole owners will be working with staff to make that clear. So that will be -- there no doubt will be criteria for that which we can continue to monitor.
CHAIRMAN BROWN: Commissioner Curry?

COMMISSIONER CURRY: I guess I have two observations. One from a legal standpoint if there is a safety problem later on and someone is injured the fact that no one has taken remedial action -- the fact that the appropriate parties have not taken remedial action would be something that will weigh on the scales of justice very much against them. And another approach could well be if we wanted to be inventive about it, is failure to act within the relevant period of time could make the costs of doing so not prudent. So there may be some tools around that we can use if it's appropriate.

CHAIRMAN BROWN: Commissioner Larocca.

COMMISSIONER LAROCCA: Just a comment from the -- they don't sound like they're on today -- from the session brief as the discussion went on, it occurred to me that we're still seeing the same kind of wooden pole that we would've seen a hundred years ago, pressure treated, osmose treated poles set in the ground with an expected life of 30 years or
something. And so I just ask if we could get some literature or a report on the state of materials and whether updated materials would have any bearing on these other subjects including pole life because that really hasn't changed in a very long time.

CHAD HUME: Staff can provide information.

CHAIRMAN BROWN: Any other comments or questions?

(No affirmative response.)

Staff recommends implementation of the Safe T program for new facilities, transfers of utility poles and the filing of a report by June 1, 2012 by pole owners concerning existing double pole situations as discussed by Chad.

All those in favor of the recommendations please say aye.

(Ayes)

Opposed?

(No affirmative response)

Hearing no opposition, the recommendations are adopted.

Thank you, Chad, and I think we'll see you again later.
CHAD HUME: Yes.

CHAIRMAN BROWN: Item -- second Item for discussion, Item 202, Case 09-M-0754, Comprehensive Management Audit for Central Hudson Gas & Electric Corporation's electric and gas businesses presented by Wayne Brindley, Deputy Director in the Office of Accounting and Finance.

WAYNE BRINDLEY: Good morning Mr. Chairman and Commissioners. Today I'm here to report on case 09-M-0764; the Comprehensive Audit of Central Hudson Gas & Electric Corporation. The only action that will be necessary today will be for you to accept the report and to direct the implementation -- the filing of an implementation report within 45 --

CHAIRMAN BROWN: Wayne, just for the record, I incorrectly said 0754. You're correct, it is Case 0764. Thank you.

WAYNE BRINDLEY: As I said, the only action today basically will be to accept the report and direct the filing of an implementation plan 45 days. The report was performed by the NorthStar Consulting Group.
It contained 161 findings and conclusions, 20 recommendations that covered eight scope areas and identified five high priority areas that should be reviewed by the company.

Normally Kate would give this presentation, not me. But being the consummate project manager she somehow managed to secure my vacation approval before I realized this was on the schedule. I'm hoping I can certainly do justice to the report itself and to Central Hudson.

My presentation consists of three general parts. First, an overall assessment of what I see coming out of the report and Central Hudson's efficiency.

Second, a brief summary of what NorthStar termed five high priority improvement opportunities.

And last, the increased emphasis that we're placing on the cost benefit analyses and Central Hudson's comments.

Just to set the stage for what you were reading in these long reports, these 200-page reports that you're getting, the focus of
Management Audits is on improvement opportunities. So don't be surprised if the final report is not complete with laudatory language on utilities performance. We're trying really to focus on those areas where there are needs for improvement. In fact, you know earlier this week I had a meeting with a separate consultant on a separate case that I'm not overseeing and one of the points they made was their reviews inherently tend to focus on the negative. Improvement opportunities, that's what we're here to do. We're here to try to improve the effectiveness and the efficiency of utility operations. I'm operating under a limited budget, so that's where my focus is.

But sometimes, you know, the nuances, because a report is really just talking about the things you need to improve. Sometimes it's nuance, you know, can be missed. So I wanted to give you a general impression that I have.

Going into the audit my general impression of Central Hudson was that it was a generally well run company, cost conscious mentality and
admirable work force. And I saw some reflections of that a few sessions ago when we saw how they responded to the snow storm. My own response of a snow storm basically was to call in and saying, you know, I'm not coming into work today. Those people are out there doing an admirable job. I think this speaks very well to the union workforce, the executive team and the management for creating a positive work environment and sound general decision making.

My post-audit impression, it's really unchanged. But as always when you perform an in-depth Management Audit you're going to find area for improvement. Why is my opinion unchanged? Basically if you read through the report the recommendations in there are fairly straightforward. What you would typically expect to see in a Management Audit; better linking from strategic plans to operational plans, improvements in forecasting techniques, development of the work management systems so they can better manage your workforce. But second, unlike other reports I don't have a
sense of high alarms that I've seen in the first two that we have performed. In Con Edison we had comment about threatening the financial viability of the corporation if things changed. You don't see that in Central Hudson. When we did National Grid we had severe concerns about the line of business, structure that they maintained and inability to have a focus on New York operations, as well as some affiliate charges that were going on, which is a matter of a separate subject. Again, I don't see. I do not have a sense of the high alarms.

Granted, there was an affiliate issue raised in the NorthStar report where there was a lack of compliance with a Commission order. But my impression is it involves barely immaterial dollars, Central Hudson is downsizing its non-regulated operations in any event, and rate case staff is now aware of it. So I don't see a need to really belabor this point. Fix the problem, file a waiver and move on. That's what I'm trying to accomplish here.

Third, I also do respect that they have a
CQI philosophy. CQI, Continuing Quality Improvement. It's one of the philosophies that are followed. And it tends to focus on organizations and systems, it tends to look at processes as opposed to people. So that if certain people are lost, we can still maintain continuity and effectiveness of the operations. But I did note that there is room for improvement. No surprises. And while Central Hudson is noted for being cost conscious, it may be doing so to an extreme. And if so, what I would expect as a general matter is to see certain things happening and I think they were noted in the Central Hudson report, a certain informality of planning, a lack of documentation, and there could be an improvement in methods and software tools. And to some extent that's understood. They are a very cost conscious company, they're a very capable company. But again, what I'm trying look for here is to have a sustainable organization in case certain key players disappear and to make sure that the thing happens over time. So again, basically I think
the NorthStar recommendations will help these
in those regards.

And to Central Hudson's credit, they are
receptive to some of the recommendations
already, while they have a healthy skepticism
on others that may require further study or
staged approach. That's what I want. I don't
want companies just saying yes because a
consultant recommended it. I want them to
basically -- I want there to be a demonstration
of thinking and analysis before we go forth and
spend ratepayer money that may or may not
derive ratepayer benefit.

So if you step back and you look at it
from my position, again, I think that Central
Hudson is a well run company, it's cost
conscious, good workforce, no alarms going off,
but there are some room for improvement and
we're going to be following up on those during
the implementation phase.

Second piece of my presentation is 20
recommendations, but there were five high
priority opportunities and they tend to cut
across the recommendations. The first one
involves strategic planning and performance management. And NorthStar said Central Hudson's strategic planning process is in a state of transformation but there may be some gaps in it. Gaps between strategic planning, performance measurement tools and how you get the people to actually go out and do that work. What's the status of that now? Central Hudson has made significant progress in improving their strategic planning process, and when they're done they should have addressed portions of recommendations six and seven in this report. Again, that's a positive result, that's what I want to see, let's go after the big bucks first and address them.

The second area was supply planning. It was found NorthStar believed that Central Hudson had a relatively short-term view of both electric and gas/supply capacity planning, 12 to 18 months. What's the status? Central Hudson has made significant progress in improving its supply procurement and plans to make further improvements this year. And when they do, they'll have addressed portions of
recommendations nine, 10 and 11.

Third big ticket item, system planning. NorthStar felt that their system planning is largely informal and not well documented. And while it does comply with some of the regulatory requirement, it may not be sufficiently robust to deal with some of the challenges that they're facing. What's the status? Central Hudson plans to document its current system planning process and to integrate system planning deliverables with project deliverables for capital projects. And when they do so they will have met portions of recommendations 12 and 13.

The fourth major one was project management. NorthStar found that their project management practices are undeveloped, poorly documented and do not provide adequate controls over their capital projects. What's the status? Central Hudson plans to implement a centralized project management and document its project management procedures. When it does so it will have met another three recommendations.

And the last one deals with work
management. NorthStar felt that Central Hudson does not have an effective program to manage the use of its outside contractors and internal workforce. Status? Central Hudson plans to pursue a six-phase approach to this to implement a work management program. This may involve significant dollars. Let's not go all in at once. Let's go in step by step and make sure the next step is worthy. And again, when it does this it will have addressed portions of recommendation number 20 in this report.

The bottom line in these five high opportunity areas, Central Hudson is open to their consideration has already made progress in several instances.

So again, I mean if you read the report literally line by line you're going to get a negative impression of all these different things, but I've tried to give you my overall assessment of what I think of Central Hudson, as well as when we're talking about the big ticket items that I consider their performance to date satisfactory. But certainly that will have to be much more extensively reviewed
during the implementation phase.

Now, let's talk about a piece that maybe
didn't go as well. The cost benefit analysis.
As Central Hudson's 55 pages of comments reveal
there is -- or 50 odd pages, I'm sorry, I
forgot to count them before I came here,
there's significant consternation surrounding a
newly added element to the Management Audit
Report, and that being the addition of the
consultant's estimate of cost and benefits that
could result from the implementation of their
recommendations and their eventual inclusion in
the rate proceeding.

I think most of Central Hudson's concern
is really with the execution and the
development of that as opposed to the general
concept of that. And I think Central Hudson's
extensive comments were really a reaction to an
unfortunate choice of words that were used
during one part of the discussions, and that
was by me. I'll take the praise, I'll take the
heat too. I don't have any problem with that.
What I termed at one time I said these would be
a benchmark. And that may have some legal
significance, I have no idea if it does or not, but rest assured I do not take that to be a rebuttable presumption of NorthStar, and I'll talk a little bit more about this, and understand that Central Hudson is going to have ample opportunity subsequent to this audit to provide their own analysis. And I support them and encourage them to do so. They'll be able to do it in the implementation plan, they'll be able to do it in subsequent updates to the implementation plan, they will be able to do it in a rate case. So there are many more bites of the apple before we really have to make any decisions on these matters.

Now, before I get to that let me just tell you, because this is something new. I mean it was always a possibility that I can be put in there, I put it in there. Said many times before the Management Audit function is evolving. This is part of the evolution. I hope and I do not believe that the addition of cost benefit analysis should be seen as a reason to take a rare opportunity where company and staff and the consultants can work together
towards the common good for the company to turn this into an adversarial, litigious procedure. That is not my intent here. I think we're all on the same page to work for common good here.

Why do these? I think they discipline the process, I think they provide a superior product and it to be responsive to requests that I've heard. I'm trying to discipline the consultants so we don't get pie in the sky recommendations and ensure that when they make a recommendation that they're based on their professional judgment that the benefits will exceed the cost. I also want to ensure that there's a true meeting of the minds on the recommendation. Somehow when you attach dollars and cents to a recommendation everybody gets a lot more serious. And I want to make sure that consultants and Central Hudson are on the same page when we're talking about a recommendation. I'm also trying to help the rate case staff a little bit. One of the reasons that we hire management consultants is that we lack internal expertise in the area of
management science. And I believe the
consultants are better positioned to provide in
the first instance an initial estimate of the
cost benefits of their recommendations.

And also, absent a consultant's thought on
what may result from the recommendation,
there's little counterweight to what the
company's position is. And I believe this will
provide independent analysis distinct from
staff and the company. I'm also trying to be
responsive to things that I've heard from the
Commission themselves; to better link the
output of the Management Audit to rate cases.
I'm pushing for a minimum of five-year forecast
and cost benefit analyses so we can put that in
tandem with the five-year cycles that we have
to perform these audits. Anytime a rate case
comes in, you'll have a relevant time period to
incorporate the Management Audit results. And
from a more personal basis to the Management
Audit Unit, I'm also trying to develop a track
record of exactly how good the consultant's
recommendations are. It's one thing to say
something's going to happen. I'd like to look
at them after the fact and that may guide us from future consultant recommendations. It's really just about accountability. It's just numbers. It's not a rate case. There's plenty of time to do further analysis and litigate it later on. I'm just trying to set the stage.

As far as Central Hudson's comments goes, and I have attached the full comments to the items that you've seen, I believe that Central Hudson agrees with the basic theme of the report; you can improve its planning, operations and management process, and it will propose an implementation plan to do just that. I really couldn't agree anymore with that.

Central Hudson has many problems with NorthStar's quantifications and believes of the cost benefits analyses and believes it should be permitted to provide a superior analysis. I had toyed with the idea of maybe allowing NorthStar to some rebuttal on this. But then it turns into a rate case. That's not what this is about. We have ample time to work on this during the implementation phase. And I would also expect Central Hudson to have a
superior analysis to the consultants because they have additional time to perform this analysis. They have in-depth familiarity with the utility itself and they can deal with the details opposed to the generalization provided by the consultants. And the consultants merely provide a guidepost.

And just to be clear, because again, I took the bullet on using the word benchmark, NorthStar's numbers are not rebuttable assumptions. Their estimates are just that, they're estimates. And they will be afforded the evidentiary weight that can be supported in the next rate proceeding, just as any other matter in a rate case.

And I expect and hope that Central Hudson will provide during the implementation phase a much more detailed and a much more accurate estimate of the cost benefits that will result based on the specific circumstances that they're operating in. And in fact, if Central Hudson can deliver the proper, reliable, reasonable cost benefit analysis it promised, I have no problem labeling it a benchmark.
That's what I want. I want the best numbers.

One of the last points I'm going to cover is that Central Hudson also believed that an accounting and rate mechanism should be developed to allow it to recover implementation costs. Conceptually, you know, I really have no problem with that. But I'm not -- this is not a rate case here. I'm not setting rates here. That really probably should be addressed in a separate petition. I would note that the joint proposal in its most recent rate case did include Management Audit fees for the consultant, but did not reflect implementation costs. So I don't really know what happened in the settlement. Was there a tradeoff? Was this considered? That has to be dealt with outside of the Management Audit process. We're not setting rates here. We're an input for the rate setting process. We're not setting rates.

My three final points, I think this was a positive report. I think it reflects a company that is generally doing well, but there is room for improvement. I think anywhere you look, even in our internal operations, there is
always room for improvement. You just have to accept it in a constructive manner.

The lesson I learned, there's a need for increased formalization of cost benefit analysis process. I need to get -- maybe conduct it in a collaborative process much earlier on. I've taken that lesson to heart and I'm trying to do so in the Ebadraula (phonetic) audit.

And my last comment is that cost benefit analyses cannot become the tail wagging the dog. But absent cost benefit analyses, the dog has no tail.

CHAIRMAN BROWN: And that's your ending?
WAYNE BRINDLEY: That's my ending.
CHAIRMAN BROWN: Very nice. I just want to make a couple of comments and then I'll open it up for questions or comments. You know, the Management Audit Program, the reinvigorated Management Audit Program to my mind and I think the rest of the Commission, might've been highly successful up to this point in kind of really taking a good fundamental look at how the utilities are set up. And I think it's
been especially useful because it's been, as you say, kind of working together between the consultant, the staff and the company to really try to -- and they didn't feel threatened by the Management Audit.

The cost benefit analysis, and I share your opinion that cost benefit analysis has a value in bolstering the recommendations, a real value, and needs to be pursued. I also share your concern that we don't want this getting into a rate case type conflict where they're worried that the numbers are going to be, you know, used against them or used -- gain more credibility than perhaps they would want in whatever the next rate case coming up is, which takes away from a working together approach and makes it a little bit more antagonistic.

So I think what Wayne is suggesting is that there is a place where the cost -- we can balance these two. The cost benefit analysis often is valuable information. But without trying to take it to the level yet and that there's a fear that that cost benefit analysis will somehow not be subject to further review,
investigation, comments, whatever, whenever it's appropriate in a rate case.

So I want to send the signal to the following, you know, utilities to come that the cost benefit analysis is, we recognize as a Commission, is a good tool to help with the Management Audit process. It's not necessarily a precursor to staff testimony or anything else in a subsequent rate case. I also want to thank Central Hudson, you know, we have a real diversity of utilities in the state. And when you think that we regulate Consolidated Edison and the largest city in the country and Central Hudson, mostly rural fairly small, less than 1,000 employees, one size does not fit all. They do seem to be able to do it. They're very nimble as a utility. They seem to be in the -- in the storm response, we thanked them before, but they were nationally recognized for that response on that storm that where every employee in the company, from the CEO on down was out trying to help make that all happen. So I think this is good audit and I appreciate the work that's done on it. And with those
comments I'd like to open it up for any
comments or questions from Commissioners.

COMMISSIONER CURRY: I share the
Chairman's perspective, and Wayne, I think you
articated it very well. Central Hudson is
doing a very effective job. But the only thing
that cannot be improved in my life's experience
is my wife's cooking. So if you take that as
your premise, and leaving the tail dog thing
aside, if you take that as your premise then
you have to take a look at the cost benefit
analysis. And as I recall most mergers in the
United States are sold to respective boards of
directors, by management consultants,
estimates, synergies and improvements, most of
which statistically never prove out. They do
however provide a basis for conversation, for
scrutiny, for innervation for improvement.
Maybe not the improvement to the extent which
things were originally projected, but at least
areas that can be subject to further good
constructive dialogue among staff, the company
and the consultants. So I think as the
Chairman just articulated and you were
articulating, we're looking for the right balance here, I think it's been achieved in part of the process of evolving this new approach. Management Audits requires us to use the method or parallel parking that has you bumping into the car in front of you and the back of you to get out of the space and this is part of that process. So I commend you for your candor, for your willingness to take responsibility and to have bad jokes.

CHAIRMAN BROWN: Any other analogies that need to be used here? Commission Larocca?

COMMISSIONER LAROCCA: I just want to congratulate Wayne on a very good report, a very good closing line and the first good haircut I've seen you with in a long time.

COMMISSIONER ACAMPORA: On that I'd like to comment. It makes you look much younger. But really, thank you Wayne, for your honesty and your analysis and all of the help that you've given us through this audit and knowing what was going on between the company and the auditors and our staff. As the Chairman said, the Management Audit tool has been one that has
been very successful and in your clarification of the cost benefit analysis we still remain positive that again, it's a tool and it's not meant to beat anybody over the head. It's only meant to make things better. So thank you very much.

CHAIRMAN BROWN: And thank Kate and the staff as always for their hard work, as well as you taking the credit here today.

WAYNE BRINDLEY: Thank you.

CHAIRMAN BROWN: Okay. We need to accept the final report. I think we got a recommendation from Wayne to accept the final report and require the company to file an implementation plan within 45 days. All of those in favor of the recommendation, please say aye.

(Ayes)

Opposed?

(No affirmative response)

Hearing none, the recommendation is adopted.

Thank you again, Wayne.

WAYNE BRINDLEY: Thank you.
CHAIRMAN BROWN: The third item for discussion is Item 203, Case 07-M-0548, proceeding on motion of the Commission regarding an energy efficiency portfolio standard which will be presented today by Bill Saxonis, Utility Supervisor in the Office of Energy Efficiency and the Environment.

Good morning, Bill.

BILL SAXONIS: Good morning, Chairman, good morning Commissioners. It's really actually very nice to be here. Evaluators are a lot like the dog without a tail that Wayne was talking about. Oftentimes we're kind of in the background, looming in the background and never get much of a chance to actually talk about what is it that we're doing. And perhaps after you hear my presentation you'll know why. But let me try to give you a high level overview of material that I provided to you earlier.

And first of all, why is evaluation important. I think it's a very fundamental question because it's more than just documenting basic energy savings. It will do
things like tell us whether or EEPs goals are being met. It can help the New York Independent System Operator develop their estimates for statewide planning and forecasting needs. It can provide efficiency estimates to allow us to deal with the loss revenue recovery and incentive payment issues. It will help us to deal with are the right programs being offered at the right times. Are the programs being implemented effectively. So it really provides a lot of value to the Commission to our programs and to the ratepayers. And to achieve these goals we basically look at two basic types of evaluation. One is impact evaluation. Generally sometimes refer to as measurement and verification. In fact, when we were doing some of the initial working group three activities, people kept calling it M&V, not evaluation. And I was threatening to charge people a dollar every time they called it M&V, not EM&V, because it does include more than simply documenting basic impacts. It's also looking at the process component, where we look to see
how well a program is actually operating. And what we are actually doing is requiring that there will be actually recommendations in every process evaluation from the independent evaluator. Those recommendations must be presented in the company's -- in NYSERDA quarterly reports and where they are at in terms of implementing those recommendations and whether they're feasible.

One of the things that I have said over and over again is we don't want to have these reports just collect dust on a shelf somewhere. They need to actually lead to direct improvement. We're investing a lot of money in evaluation and we need to see some direct benefit from evaluation.

One of the things that made a lot of this possible is I must say again thanks to the Commission. You actually gave us the tools to do this by increasing the evaluation budget, by giving staff more authority, by creating the evaluation advisory group. All critical components in making our evaluation program work.
When we started this process for EEPS in terms of setting up the evaluation process and procedures, we went to basically a back to basics philosophy. Because I’ve been involved with evaluation for quite a while and I have seen many evaluations be basically ruined because the right data wasn’t being collected. And so we said we got to plan properly. You got to collect the data upfront. I don't want to hear three years down the road when we don't have the data to do the evaluation or we didn't think of that. So what we're saying is that with every program that’s proposed, there must be an evaluation plan. We're also saying that evaluation plan must be improved upon, reviewed by staff and it must be consistent with evaluation guidelines. And these evaluation guidelines you would wisely audit us even though it's somewhat difficult to do within 45 days after the passage of the June 2008, the basic EPS order, to have those guidelines in place and also establish an evaluation advisory group. And I'm pleased to announce that we made it within three hours of the deadline. I
just took it easy for those last three hours. Put that on the record.

But this was important because basically we were looking at utilities that in many cases had not run a comprehensive portfolio in energy efficiency programs in about 10 years. We also were looking at NYSERDA while they had extensive evaluation experience, was now given a 150 percent increase in their budget. Meaning that they would have to be doing more rigorous evaluation, which meant different methodologies and different techniques. So we need to set some kind of direction; what was the Commission's expectations, what were staff expectations, and the guidelines provided that fundamental framework, that road map. We also made a commitment on the staff to review basically all the evaluation plans and the related documents. One of the most critical problems in evaluation is getting it right initially, because if you end up doing a survey you may allow -- say thousands of surveys, you get the results back and then someone says why didn't you ask that question? That was a
question that we really needed to know. Well
you either have to go through the expense of
doing the survey all over again or you have to
go through some other methods to try to fill in
the fill-in-the-gap. It's not a very good way
to do business, and this is why we put such an
emphasis on this back to basis and basic
planning.

One of the things that helped us a great
deal is having an evaluation advisory group.
And the evaluation advisory group has really
been terrific. And it consists of not only the
program administrators, but also outside
organizations like the New York Power
Authority, the Long Island Power Authority, the
New York Independent System Operator, several
state agencies, the City of New York and many
environmental and business and related groups.
This gives us further accountability, further
input and further feedback. Also we've gotten
excellent cooperation from LIPA and NYPA. They
are actually submitting reports on their
progress and they participate in the evaluation
advisory group and we're doing our best to try
to synchronize the work that they're doing in evaluation reporting with the work that we're doing. And having a vehicle like the evaluation advisory group makes that possible. It's also a terrific forum for resolving problems and issues that come up at a place where we can regularly meet and discuss these issues.

The EAG also played a major role in developing these wonderful reports that you received every month, the score card reports and also the quarterly and annual reports and also we went through a very painful sometimes process of updating the technical manuals, which I think is something around 500 pages in its current condition, and you just have to imagine the fun we had spending hours and hours and hours of meeting, debating all the little nuances of all those formulas on the various 500 pages. But the evaluation advisory group to our subcommittee system took that job on very effectively.

A couple of other things that the advisory group is doing that I think are worth noting is
we've been trying to look also beyond the basic
to look kind of ahead a little bit, we have a
statewide studies subcommittee, we were looking
at evaluation work that can be done best on a
group level where people are pooling their
resources together. I just attended a couple
of days ago a kickoff meeting for process
evaluation where a contractor has been hired to
look at the best ways of doing process
evaluation based on the New York portfolio, the
number of problems we have, the type of
utilities, our objectives of EPS program.
We're also talking about doing a statewide
study looking at baselines. What is the
current state of energy efficiency in New York
State, what is the potential and certain
measures. Again, that is something being done
on a group basis. We also have a special team
looking at coordination. Can we do evaluations
on a group basis because we have similarity in
programs. And also what about basic things
like not asking the poor guy at Home Depot
about how many appliances have been sold
because that is a question I think all of our
utilities and NYSERDA are interested in asking. Is there a way we can coordinate that to be done more cost effectively and save this poor man at Home Depot with the old appliance statistics getting five or six different phone calls. These are all kind of basic, basic things that we feel are important and we've been trying to build basically the foundation for evaluation.

Now, we have gotten some evaluation results to date. We have a number of process evaluations and some initial impact evaluations. So we are making progress. We think that in the -- by like say late summer, early fall there be will a considerable number of evaluations rolling in, which we are looking forward to.

And I did what to address a question that I know is on several of the Commissioners' minds is, why does it take so long to do an evaluation. Well, there actually are several reasons to that. First of all, you have to have enough people in the program to actually evaluate. And I won't get into statistics, but
you really need to have kind of a cross-section of the population. And if you have a very small sample, it becomes very difficult to get a representative sample and meet the precision and confidence levels that we are demanding. That is an issue. The other issue is oftentimes there is a lot to evaluation. A frequent technique is called billing analysis where they look at what was happening in the previous 12 months before a measure was installed and then look at activity in the next 12 months, which means that you have to have a measure in place for a 12-month period. And in some cases, especially in the cases of new construction, you may actually commit to do that measure but it may not be fully installed say for a year, two years, sometimes even three years. I think any us that had experiences with getting work done on our house or whatever, can understand that this whole process can take a long time. And obviously you can't evaluate something if it's not fully in place. So there are a variety of reasons why the evaluation work couldn't be done as
quickly as we might like. But we are getting the process evaluation results in and those are actually having an impact and have resulted in program improvements.

In conclusion, we are really building upon our achievements and getting the foundation in place. I think as I said, the evaluation advisory group has been valuable. I think we really accomplished a lot and I think we still have more to do. There are many challenging issues that we face. For example, one of them is -- one of my favorite issues is attribution. With so much activity going on in energy programs at the federal, state, local and private sector level, how do we know what actually caused that person to take the action. Was it the Central Hudson program, was it the federal program, was it a combination of things or was it something they experienced in a program five years ago that influenced them to do something today. These are all issues that we have to confront. It makes it a very challenging endeavor, and it's actually a lot of fun actually. But I still like to get my
paycheck, by the way, as much fun as I am having.

And just in conclusion. One of the things that I'm always pleased about is we have gotten a lot of calls from all over the country, a Commissioner in California called me asking me about our evaluation advisory group, about the possibility of patternning what they're doing after our group. I was at a conference not too long ago where someone from another country, as a matter of fact, got up in front of about 200 people and he said, "in evaluation, we just follow what New York is doing."

So that's kind of a high level overview of what the material I provided you, and I'd be glad to answer any questions.

CHAIRMAN BROWN: Thank you, Bill. Part of the goal that at least I have here and I think it's part of the whole energy efficiency goal is to truly this time make energy efficiency equal to generation and transmission, not just in its ability it contribute, but in -- for engineers, with engineers' minds to rely on it as adequately as they say, they know what a new
power plant looks like. It's a little bit more nebulous when you talk about replacing a million refrigerators or insulating a thousand homes or whatever it is that you're doing to the lighting program, to be able to count on that and say we're not going to build that power plant. We are going to count on that. To me that's what evaluation -- why it's so important. You can deliver the programs and not really know what you get out of it. You know you probably achieved something, but you're not sure what. And when we're spending hundreds or millions of dollars each year and collecting it from the ratepayers, it has to happen. We're very fortunate. I was going to tout Bill as a nationally recognized expert, but he did it himself. We're lucky to have him and I'm not going to say that again twice either.

So this moving beyond the lipped-service energy efficiency to really make it happen, and just I think the evaluation is important. It's a little frustrating because it just doesn't come flowing out in a week and a half after you
begin the program. You have to have a lot of results. Looking forward to seeing the results and start coming at the end of the summer. We're going to hold you to that one that they're going to start coming and we can really take a good hard look at this.

So with that, I'll open it up for any other comments or questions.

Commissioner Curry?

COMMISSIONER CURRY: Just a quick comment. By total accident I met with the energy advisor to the President of Brazil, who herself had been the energy minister first in the state level and federal level before she became president, and he said to me what you just quoted; "when it comes to energy efficiency, we follow the leader, New York." So to me since I like the idea of Brazil generally, that's a big positive statement. I think you've done a great job taking the tools that we've tried to enhance for you and at your inspiration and insistence and thank you for taking it as far as you have.

BILL SAXONIS: And actually, for the
record, the county that said that, at least I heard was Canada.

CHAIRMAN BROWN: Well, we go north and south. Good.

Any other comments or questions?

(No affirmative response)

Thank you very much, Bill.

We just need like two minutes here to set up the next group. So if anybody needs to take a short break, we can do it. But we will start again as soon as the group gets up here.

(Brief pause in proceedings.)

CHAIRMAN BROWN: The next item for discussion are items 331-A, B and C, Case 11-E-0162, and this is our -- every year at about this time we take a look at the summer ahead to see where we are. We're going to be looking at it from three different perspectives today; how does the bulk power system look, how does the distribution system look, and what do we see in terms of customer price and price volatility for the summer.

So we'll start with Item 301-A, focusing on bulk power system to be presented by another
nationally recognized expert, Jerry Ancona, a power transmission planner. Next will be Jason Pause, a power systems operations specialist who will focus on distribution system preparedness in Item 301-B. And lastly Paul Darmetko, a utility engineer who will discuss customer price and volatility outlook for the summer in Item 301-C.

So Jerry we'll start with you on 301-A.

JERRY ANCONA: Good morning. I'm here to talk about the 2001 summer preparedness of the bulk electric system. We will go through what do we need to serve this summer, also what types of resources do we have to serve these needs with and special case resources which are demands -- the response either interruptible load or distributed the generators, and then we'll move into well how do we stack up, how do our needs shape up versus the resources. And then finally, how does the bulk electric system stack up in terms of preparedness both in terms of ability and the adequacy.

So the first chart is a chart of the historical and the forecast peak loads with New
York. On the left we've got a jaggedly line
which are the actual -- the recorded peaks, and
then we got the black line, which is weather --
the normal lines. So they've been converted to
loads as if the weather was typical as opposed
to either hotter or colder than the normal.

So in terms of 2010 it's essentially lower
than all the last four years, and that reflects
a continues weak economy. Also, along with
that though is 2010 had 450 megawatts of SCRs
of the EDRP, demand the response. So that --
the reduced to what I've seen by 450 megawatts,
and this was all New York City in so-called the
Zone, the J. So if we go to the forecast, we
have to take into account that the forecast
doesn't include any impacts of demand response.
It includes the impact of energy efficiency,
but it doesn't assume -- demand the response
will take place in emergency measure.

So if we look at the two on a comparable
basis, if we were to take the 2010 and ignore
the impact of the demand response, the forecast
is actually 250 megawatts lower, even though on
there it's about 200 megawatts higher, as I
said if we did it on a comparable basis it would be 250 megawatts lower.

The next slide is Zone J, New York -- the city, it's the same shape. The city is about a third of New York State total peak. And the only difference in the shape is 2006 and 2010 were virtually the same thing. I think they're 8 megawatts apart. But besides that, 2010 was lower than the last three years anyway. Then again, as I said it has 450 megawatts of demand response right in Zone J. So if we move to the forecast it looks like a huge jump. But again that doesn't -- that assumes that no demand response takes place. And a demand response that took place in 2010 is about equal to one whole block, one whole vertical block there. So if you compared the two on the same basis without the demand -- the response, the forecast is only slightly higher. It's about 1.1 percent higher, whereas on that chart it looks like about 5.3.

So how do we stack up in terms of the resources. We start out within state generation of 38,000 megawatts. We had some
retirements, about 187, the megawatts of coal Upstate and another 120 megawatts of gas to Upstate. And then we had the addition that the Empire Generation Site of 571 and we've also got about 8 megawatts of wind that was added. And this is basically the derated it's about 10 percent of the -- the 8 megawatts, it's about 10 percent of the name plate. We've left off the Astoria Phase II project, which is another 576. That should be coming on any day now, but for the purposes of this chart it's not shown on there. And then we've got Special Case Resources, which is over 2,000 megawatts. So that's a sizable chunk. So it all totals up to 40,000. And then we've got also external purchases, which has another 1,800. So we've got about 42,000 megawatts of capacity available to New York.

So if we look at the load versus what we have in terms of resources, we start out with a peak demands forecast of 32,700. And this year we need to add 15-and-a-half percent reserves, which is about 51,000 megawatts. Last year it was 18 percent through a number of mildly
assumption changes in the calculations for IRM is dropped to 15-and-a-half. So the total amount that we need is 37 eight about. And again, from the previous page we have about 42,000 megawatts of resources. So we've got about 4,400 megawatts of excess. Now, taking into account that 4,300 megawatts includes about 2,000 megawatts of SCR, special case resources, and that includes another I think it's about 500 megawatts of energy efficiency that's noticed.

There's about another 500 megawatts of energy efficiency that's reserved to reduce a peak load. So those two things are a sizeable part of this whole picture.

All right. And then we got the same chart for New York City. The peak demands is 11.5. This year the required 18 percent reserve in the city. Last year was 80 percent. So it's up one percent. But it's about the same because their load forecast is down slightly. And then got installed the capacity based on the bottom assumptions there of 9,900. That assumes that the Linden, the very low frequency
transformer, is about 300 megawatts but it
doesn't include the Astoria which as I said is
576. So they've got about 593 of excess. And
if you look at SCR, between the SCR available
which is 521 megawatts, and an energy
efficiency of 82 megawatts, those two things
just about eliminate the excess margin. But
take into account a zero margin still meets
that you meet the requirement. This is just
above and beyond.

So to sum it up, if we look at the
availability of the equipment in the state, we
don't foresee any major problems to serve the
load under a variety of conditions, mostly
extreme weather and/or outages. So the
availability appears to be good. And then
again what we went through is in terms of the
resource adequacy we've -- we've got extra
margin in terms of what is required. But as I
said, SCRs are a large part of what the excess
margin in New York City is. So it's an
important item.

And then finally if we look throughout the
Northeast, Canada and U.S., basically that
whole region is in pretty good shape in terms of adequacy. And that concludes it.

CHAIRMAN BROWN: Thank you, Jerry. Any questions on the bulk power system part of the report? We can open up at the end of all three of them too. So let's go to 301-B. I believe that's Jason.

JASON PAUSE: Good morning Chairman Brown and Commissioners. Item 301-B provides a summary of the New York State utilities preparedness on electric distribution systems for the 2001 summer season.

In most areas of New York State the summer months produced the highest electrical loads of the year which can stress the electrical infrastructure. Therefore, utilities perform specific preparation efforts prior to the upcoming summer season. Overall the annual summer preparation process conducted by each utility is very similar in methodology. Historical summer loads -- loading information it tracked and reviewed, taking into account historical weather conditions, load growth and any new business information available to
obtain projected loadings for the next summer season. Utilities then simulate its electrical system using the projected summer loadings to identify any equipment or specific areas where overloading may occur. From these efforts projects are selected for completion prior to the next summer season to address any issues identified.

In terms of staffs reviews and monitoring of these efforts, the utilities provide their summer preparedness reports to staff starting in March of each year. The reports include a summary of the company's process, procedures and associated efforts along with any updates or changes to the overcall process. A list of all equipment, such as transformers and circuits that are at or above normal operating ratings during projected peak loading conditions, as well as a list of proposed projects identified for completion prior to June 1st.

Additionally, utilities provide status reports on those projects identified for completion, as well as contingency plans if
needed.

At this time the upstate utilities have completed approximately 50 percent of their identified projects, while Con Edison has completed approximately 65 to 70 percent of their projects. The remaining 20 to 30 items are considered minor projects, such as load transfers, and are expected to be completed on or before June 1st.

For any projects that are not completed before June 1st, the company will develop contingency plans described in alternatives to address potential issues. Overall based on our analysis, staff is satisfied that the utilities are prepared to meet the needs for the upcoming 2011 summer season.

For Con Edison due to its unique characteristics, the company has multiple Load Relief Programs available for deployment during high load system conditions. The Direct Load Control or DLC program allows Con Edison to reduce enrolled customers' demand by taking direct control of and cycling central air conditioning loads during system emergencies.
The total amount of load reduction available through the DLC program is approximately 33.5 megawatts for both small commercial and residential customers enrolled in 2011.

For the Rider U program participants provide demand response through load reductions or operation of on-site generation when called upon by the company on a network-by-network basis. The total amount of load reduction available through the Rider U program is approximately 202 megawatts for both mandatory and voluntary customers enrolled.

Con Edison also has Rider S and Rider T programs available, which are system peak shaving pilot programs. The Rider S program is available to large commercial or industrial customers that can curtail a load or have access to generation. The Rider T program is available to all customer classes. It allows participants who can reduce their usage by at least one kilowatt.

Under both programs participants are called upon by the company when a day-ahead
forecasted load is at least 96 percent of the forecasted systemwide peak. At this time the Rider S program has 20.4 megawatts and the Rider T as 25.6 megawatts of load reduction signed up for 2011.

One last note on Con Edison. As part of today's Consent Agenda the Commission approved a new targeted Demand Side Management program that is designed to achieve 100 megawatts of permanent network load reductions. These efforts of this program are not expected to have an impact for the 2011 summer season, but will do so in future years.

That concludes my presentation.

CHAIRMAN BROWN: Thank you, Jason. And let's go right to Paul.

PAUL DARMETKO: Good morning Chairman Brown, good morning Commissioners. The purpose of this presentation is to report to you on the electric utilities historic residential portfolio price volatility, planned residential supply portfolio composition and New York State electric supply price outlook for the 2011 summer season.
It's projected that approximately half of the annual energy needs of all utility customers, including those customers that are commercial industrial customers, will be served by ESCO's for the 12 months ending April 2012. However, today's report is limited to the utilities full-service residential customers.

I'll now briefly summarize the Commission's supply portfolio policies. In August of 2004 the Commission issued its retail market policy statement which required the utilities to protect their residential and small commercial customers against wide swings in spot market prices, but not enter into any new contracts for their largest usage commercial and industrial customers.

In April of 2007 the Commission issued its supply portfolio guidelines. These guidelines laid out the general criteria that the utilities are expected to follow when procuring new supply contracts.

And finally in February of 2008 the Commission issued its portfolio reporting requirements which required the utilities to
report quarterly on their portfolio's price and volatility as compared to market.

Here on slide three we've displayed this statewide 12-month rolling average residential market price and portfolio price volatility from March 2008 through March 2011.

On the chart lower is better. The blue line represents the statewide portfolio price volatility, whereas the red line represents the statewide market price volatility. As shown as a result of the Commission's energy portfolio policies, the residential portfolio prices have been significantly less volatile than the New York ISO market price. For point of comparison, for the 12 months ending March of 2011, the utilities portfolio price was approximately 63 percent less volatile than the market price.

Staff and utilities meet annually to review the companies' supply portfolio's performance and planned supply portfolio composition. Due to increased supplies of natural and shale gas, the overall price of natural gas has declined. As a consequence of
this, the electric market price and volatility has also declined. As a result of these changes in the markets some of the utilities have taken steps to reduce the level of fixed price hedging contracts to take advantage of this trend.

But as you can see on slide four the utilities have taken steps to reduce the price volatility of their May 2011 through April 2012 residential commodity portfolios through various hedges.

The fixed portion of the statewide supply portfolio is about 63 percent statewide but varies by utility.

The fixed price contracts are primarily comprised of legacy contracts with nuclear plants and other fixed price physical and financial contracts. The balance of the statewide portfolio consists of New York ISO spot market purchases, utility owned generation and indexed price contracts.

Electric energy futures are traded on the New York Mercantile Exchange for three New York zones; New York City, Hudson Valley and West.
As shown on slide five the current NYMEX futures data indicates that this summer's electric prices will be 10 to 14 percent lower than last summer's actual prices. However, as also shown on the slide actual market prices can vary from the NYMEX futures due to a number of factors, such as weather and economic conditions.

In summary, as a result of the Commission's hedging policies, the utilities supply portfolios will ensure that full service residential customers will not experience the full magnitude of any market price changes in the coming year.

That concludes this presentation.

CHAIRMAN BROWN: Thank you, Jason. Can we just go back to chart one quickly? It's the one that shows the volatility. And I just -- whenever we talked about hedging, I just feel the need to talk about this.

The fact that the less volatile price does not necessarily equal that that price is cheaper. It means that when prices go way up you're protected, but it also means when prices
decline you're protected in a sense that you don't see the volatility. And usually there's a slight cost to reducing volatility. I'm sure the economists here will explain it to me if I need it explained. But it actually -- you're probably overall cheaper to ride the waves than you are to protect yourself against volatility. But people don't want to be exposed to that sort of crazy swings and I understand. That's why we set the policy and it's a good policy. But I just wanted to make very clear, hedging, half the time you win, half the time you lose, and that's the nature of hedging. So I just wanted to make that point one time as we talk about all of this.

So thank you, Jason. I just wanted to -- because the chart looks like oh, you're always better off on that blue line. Well, that's just a percentage difference. That's not -- it doesn't really tell you the full story.

Are there any comments or questions for the group on this summer?

COMMISSIONER ACAMPORA: Do we have any programs -- are the utilities going to be using
programs this summer in utilizing more energy
efficiency suggestions to consumers that are
out there?

DOUGLAS ELFNER: First of all, we as a
department have an outreach and education
effort for summer awareness. It's a relatively
modest program, but it's essentially the things
we've done in past years. It focuses on
providing printed material to consumers mostly
through our partners, community leaders and
community-based organizations that have been
(inaudible) over the years. That will be out
in the street in ten days or so. No TV ads or
anything like that. It's a relatively focused
printed material effort. And certainly the
utilities also as part of their comprehensive
year-round informing efforts to inform
consumers about energy efficiency will
certainly also be taking actions.

COMMISSIONER ACAMPORA: I just think, you
know, I've always said it about our education
and outreach programs, along working with
utilities are extremely important because
consumers today, their pockets, everyone has
their hand in their pocket. So anything that we can do to facilitate their education with regard to lowering the usage I think is well worth the effort.

CHAIRMAN BROWN: Well, it sounds like it's a fairly good news story in the sense we certainly have adequate resources, the T&B system appears to be strong, natural gas prices are resulting in lower electricity price. So it sounds like we're in pretty good shape going in. But that, of course, that doesn't take into account thunderstorms, wind shears, hurricanes and all the other things that can happen, and a heatwave that doesn't stop, which we experienced a little of last year and we haven't for a few years. But I think the Special Case Resources are especially a success story, that more and more we're able to count on reducing or changing loads to meet the peak load times and maintain the reliability of the system. So it doesn't just happen. I know that planners and the folks here and at the utilities go a long way towards making that happen.
So with that any other comments or questions?
(No affirmative response)

There's no vote necessary on this, and thank you gentlemen for the report.

The fifth item for discussion today is Item 302, Case 10-E-0155, proceeding on motion of the Commission to New York State's electric utility transmission right-of-way, management practices which will be presented by Dave Morrell, Utility Environmental Analyst in the Office of Energy Efficiency and the Environment, also available to respond to Commission questions today are Jim Austin, Deputy Director in the Office of Energy Efficiency and Environment, Guy Mazza, Assistant Counsel in the Office of General Counsel.

Dave?

DAVE MORRELL: Thank you Chairman Brown. Good almost afternoon Commissioners. This recommendation or report is really about the customer. Much or our previous policy has had to do with the nuts and bolts of managing
vegetation on transmission right-of-ways. And as you'll see and with recent events I think your recommendations go a long way to addressing a lot of the issues that have arisen.

A little bit of why we're here. In 2009 Con Edison and also to some extent Orange and Rockland performed vegetation management in a way that concerned a great amount of citizens mostly in the lower New York area, Westchester, Rockland Counties. The thing that was different this time around I think that caused much of the consternation was the fact that the work performed was not your typical job. Due to water policies, due to the NERC standards that were also in effect on Con Ed's, in this case, 345 line. It resulted in a far vast, vast amount of trees that were removed. What also didn't help was the fact that on this right-of-way is the New York City water aqueduct. And unbeknownst to the company and I think the contractor the amount -- the size of the equipment that could actually access the right-of-way was reduced due to weight
concerns. This caused the vegetation to be left laying on the ground for a number of months. So all that added up to a bunch of unhappy customers who lived near and in the area.

And before I get into our recommendations I wanted to take you on a quick walk back through some of the department's and Commission's history regarding policy on right-of-way management. Back in the '70's we were covering the right-of-ways with helicopters. You know spraying virtually everything that was within the right-of-way and sometimes things that were outside the right-of-way.

In the '80's we saw that that approach wasn't effective in New York and the Commission discontinued it. There was a pretty famous chemical that was used on the right-of-ways also, 2,4 5-T. That was banned as well.

And then you'll see in the '90's our policies resulted in different approaches in the techniques which were more selective. We started seeing different products on the market...
that allow us just to approach only the vegetation that needed to be treated.

And of course in 2003 the northeast blackout. We did a report, an investigation on it, FERC did one. And the focus after that, understandably was reliability, reliability, reliability. Our order stemming from that investigation, pertaining to vegetation anyways, strictly dealt with vegetation in its context with reliability, and it's been very effective since. However, we've experienced some new results or impacts from that policy and that's what we're going to be improving on.

The Commission really set the benchmark for vegetation management in '80 with this statement, and that was, "The Principal management objective is the growth of low growing, relatively stable plant communities that are esthetically pleasing, beneficial to wildlife and need relatively little maintenance over the life of the right-of-way. And it's using that premise that has gotten us where we are today in terms of I think leader in the country with the types of programs the
companies run.

Just run through and a couple of notable stats. We have about 17,000 miles of right-of-way in Upstate New York, including Con Ed and really all the investor companies, and about 171,000 acres of treatable right-of-way. So it gives you kind of a sense of the scope and expanse of what we as a regulatory body have to keep on eye on.

Something I'm proud of, and that is the rates of herbicide that has been used on rights-of-way over the years. Just a couple of numbers. In '85 companies used an average of almost a gallon on acre of concentrate on the right-of-ways. And in 2006, and this number carries through now, we're down to about a third of a gallon. So we've reduced our herbicide use by almost two-thirds. And that's not a fact that's been lost really on companies around the country as they look to develop their programs along with ours.

We've been aggressive the last few years partly because of our rules, partly because of FERC's. Last year was not the banner year, but
it was close in terms of the amount of dollars spent on right-of-way work, and that was around 19 million. That will hold probably for another year or two and then I expect it to drop off fairly significantly.

Last year our companies treated 24,000 acres of right-of-way. That's roughly a fifth of the system. Are companies are averaging a five to six-year cycle. Last year we received about 30,000 complaints at the department and about 59 or a very small percentage of them were related to vegetation.

So in the case at hand we initiated the proceeding in April 2010. We -- prior to that we had probably four or five meetings with municipalities and landowners around Westchester and Orange County. We then had public statement hearings, six of those, receiving over 200 comments. Most of the comments, 90 percent, 95 percent, were from Orange and Westchester Counties. We took great pains to digest the comments into a succinct as possible grouping that captures the most important ones obviously, but ones we felt
people were most passionate about. And as you can imagine people are quite passionate about trees. Whether it's transmission or distribution management, nobody likes to see trees cut down. They understand why most times. They're not happy nonetheless. So many comments -- and I said this was customer -- these recommendations were customers based and this is why. The comments received, the people did not like the clearcutting. They saw down along Con Ed's right-of-way, retention of buffers between highways, such as the Sprain, which is where this Con Ed right-of-way ran. Right-of-way habitat, people felt that that type of cutting was impacting the natural ecosystem of the right-of-way. While herbicides were not a large part of it, it's always a notable comment due to the controversy that sometimes surrounds it. So we put that in there. We heard a lot about the contractors doing their own thing and not really being under the company's control. Notification was a huge, huge, dominating comment by municipalities, landowners. It was done. It
wasn't done accurately and it wasn't done as widespread as we will have in the future.

Replanting, people think after right-of-way management, the right-of-way should be replanted in some form. They think vegetation should be protected if it doesn't need to be removed. And website information from the companies is inconsistent, and we felt as well as many of the commenters that to bolster that in a consistent manner that describes the companies programs is definitely a good thing. And there was still some ongoing confusion as to the actual meaning of our orders in case of 04-E-0822 in the right-of-way proceeding that was put out in '05. So we felt that important to capture that only so we can clarify again for the record what exactly is required by that order.

So we've come up with a bunch of recommendations that we think go a long way, hopefully all the way in addressing the concerns of the people, not only downstate but across the state. These are a little bit abbreviated. The first couple are Con Ed and
O&R specific because so many of the comments were specific to those service territories. One is notification. It gives timeframes and it requires a staff to review the content of that notification to make sure it's going to do the job of educating the people in that territory as to what's going to happen with the company's work. We also took a shot at requiring Con Ed and O&R to identify high density areas and in order to better tailor their right-of-way management in those areas.

Reflective of the greater amount of people, enhance certain things that should be done in higher density locations versus rural area. As I said, the companies will be updating -- all companies will be updating their websites and any information mailers to the customers, putting a finer, much finer point on exactly what their program is about.

And in responding to customers' concerns that the contractor is just out there doing his own thing, we have recommended that the companies put -- install a direct line of communication in order to provide not only
clearer communication between the contractor and the company, but also the customers who have questions about work going on.

Replanting is going to be more of a trial and error. All companies have done it over the past, but we've never captured it either programmatically in rates because it was just buried as an expense, nor was there any criteria around that. And because so many people think that's important and we feel the same, that we want to codify more directly what that exact program is going to entail.

We're going to have the companies bolster the descriptions in their plans of when vegetation needs to be removed from the right-of-way. That was a significant concern that tree that they cut when they could never -- hit the wires. And we agree to some extent and we're going to look to improve on that.

And finally, there is a number of good comments that with our various orders and rules out there, can the companies follow them without being confused between overlapping orders -- if it's order or a policy or a rule.
So we're going to combine everything in one place and we think that that will help the companies understand and better implement all of our rules for right-of-way management.

We think and I hope this goes all the way in addressing customer concerns for transmission management. But if it doesn't, then we're prepared just to make modifications as needed when we feel like we've done a very good job at reaching out to the extent practical, keeping reliability in mind, many of the concerns of our customers.

Thanks.

CHAIRMAN BROWN: Thanks, Dave. I see Commissioner Larocca has comments.

COMMISSIONER LAROCCA: Two points of clarification. The Con Ed Orange and Rockland specific protocols, actions of the protocols, have counterparts for all the companies?

JIM AUSTIN: The first three recommendations were just for O&R and Con Ed service territory, reflective of the fact that 95 percent of the comments came from those two. We did see an awful lot of comments from the
upstate areas. We think that's because of the
difference in the demographics. You don't have
the very high voltage power lines running
through people's backyards in upstate like you
do downstate.

COMMISSIONER LAROCCA: Let's go back to
that slide for a second.

JIM AUSTIN: Of the recommendations?

CHAIRMAN BROWN: Are you asking -- and I
was going to ask, is there a notification
process required upstate?

JIM AUSTIN: We're not changing the
notification requirement.

COMMISSIONER LAROCCA: And specific to Con
Ed and Orange and Rockland and not the other
upstate consumers?

CHAIRMAN BROWN: Correct. What is the
notification process upstate? None?

DAVE MORRELL: There's a variety of
notification requirements. DEC has one for
herbicide use. We have no formal notification
requirement upstate primarily because we have
never encountered any notification concerns
from landowners that would lead us to go in
that direction.

CHAIRMAN BROWN: So that's obviously an open question? If we start to see problems we can make that adjustment if necessary?

DAVE MORRELL: Well, the companies do notify...

CHAIRMAN BROWN: That's what I'm asking.

DAVE MORRELL: The companies do plenty of notification upstate mostly because with Grid and NYSIG, they own mostly easement right-of-ways versus Con Ed who owns most of their right-of-way. It's their property. So consequently Grid, NYSIG, RG&E had in place a pretty good system. They're entering private property. They have to notify out of respect for the landowners that they're coming and they do. And so we very rarely, and I can't recall any concerns where it was a notification that the person was complaining about, it might be the work practice, but they knew the company was coming. They have mailers, the contractors knock on the doors and we're satisfied at this point that that's effective.

CHAIRMAN BROWN: Mr. Larocca, I'm sorry to
have interrupted you.

COMMISSIONER LAROCCA: That's the logical place the question went.

Secondly, it's just on the early stats you had the 17,000 miles, that does not include Nassau and Suffolk?

DAVE MORRELL: Right.

CHAIRMAN BROWN: Commissioner Acampora?

COMMISSIONER ACAMPORA: First, let me thank the three of you for the work that you've done on this. I appreciate it very much. But I have to thank all the citizens and the elected officials at every level that really came forward to let us know that there were problems that needed to be addressed or else we wouldn't be having this proceeding today. So I think it's important to keep those lines of communication open. And with that, the question I have is when there is some remediation going on and a contractor is there, are we requiring anyone from the utility to be there? Because as we saw in some of these past cases it seemed that no one from the utility was there and that's when the great chainsaw
massacre occurred.

    DAVE MORRELL: Part of one of the recommendations to bolster the company contactor interface will be staffing commensurate with the amount of crews that are on a project or on a right-of-way.

    COMMISSIONER ACAMPORA: So if a contactor says, well, gee, I'm not aware, we will have someone from the company there who will be aware of what they should and should not be doing?

    DAVE MORRELL: We shouldn't be having contractors from here on out or we shouldn't have had them prior saying they're not aware of anything. And further, if the customer wants a company contact, that should take about two seconds to provide.

    COMMISSIONER ACAMPORA: Well, that seemed to have been the problem where everybody was pointing fingers at each other but no one was taking responsibility. So I think it's important that we make sure that someone is there as an overseer while the work is being done so that if there is blame, someone is
there to take the blame and fix it the next time.

GUY MAZZA: Excuse me, Commissioner Acampora, just to pursue that for one more minute. The recommendation that addresses that specific concern that you were referring to is that a direct line of communication is established. So any time a resident or other person needs to contact the company, there is somebody available to discuss the work that's being done or to be contacted. And that was a problem that was expressed previously. If there was something later on, the resident may not always have been able to contact the company. This recommendation rectifies that situation.

COMMISSIONER ACAMPORA: And I really think this is the opportunity for the utilities to utilize the social media to communicate with their citizens.

CHAIRMAN BROWN: Dave, you gave us a bit of a history lesson on this issue, which was very helpful. One thing you didn't mention though is the use of contractors and how -- let
me start in the form of a question. I'll play Jeopardy. Has that changed over the time periods you were looking at or is it the same as it's always been?

DAVE MORRELL: Well, for transmission which is different than distribution where we kind of hold over in-house crews and that's slowly falling away. Transmission management has historically been a contractor performed activity. Where I'm seeing more contractors now is at the company level for field inspectors, assistant foresters, things like that. Grid used to have two or three in-house folks, east, central, west. Now they have one with one or two contract assistants. So that certainly has changed in the last five to six years roughly.

CHAIRMAN BROWN: You made a comment in response to Commissioner Larocca that hopefully contractors will never again say, oh, I didn't know the rules. I think that's essential in implementing this correctly, is getting that relationship between the utilities and the contractors straightened out; that the
contractors know exactly what the rules are, exactly what the process is, exactly what they should and more importantly shouldn't be doing. And I think I've actually asked Jim Austin informally to kind of know -- I'd like to know a little bit more about the contractual relationships, what are the metrics that contractors are performing under. You know how do they get rewarded or penalized and make sure that that lines up with what we're trying to accomplish here with proper notification and proper management.

Now, with all that said I just also want to make sure to thank the people that one of the reasons that New York maintains the reliability that we maintain has been because of the correct approach towards maintaining right-of-ways and doing proper vegetation management. So I don't think anything we're doing as of recommendation today lessons our commitment to vegetation management. It's just doing it better, more communications and not making mistakes that are very disruptive to neighborhoods. So I want to thank you for kind
of trying to maintain that balance along,
although I know it's a difficult one. But also
of course, cost, which comes into play.

Are there any other comments on questions
on this today? I believe we have staff
recommendations to improve and clarify utility
practices regarding high voltage transmission
right-of-way vegetation management practices.
All those in favor please say aye.

(Ayes)

Opposed?

(No affirmative response)

Hearing none, the recommendations are
approved. Thank you again for all your hard
work on this.

And the sixth and final item for
consideration today is Item 501, Case
11-C-0713, in the matter of quality services
provided by local exchange companies in New
York State which will be presented by Chad Hume
again, Director of the Office of
Telecommunications.

This time good afternoon, Chad.

CHAD HUME: Good afternoon Chairman and
Commissioners. Item 501 will address staff's report of Verizon telephone service quality during the first quarter of 2011, which represents the first quarterly service and quality report under Verizon's service quality improvement plan.

I will first provide a brief overview of the service quality improvement plan, and I will then discuss the company's results from the first quarter of 2011.

In December 2010 the Commission approved Verizon's service quality improvement. A major feature of the plan is that it provides additional focus on what we have termed core customers. That is customers who have no competitive wireline alternative or who are lifeline customers who have special needs, such as the elderly or people with medical issues.

In addition, the plan streamlined service quality reporting and Verizon is no longer required to report its performance on certain service quality metrics. I want to underscore, however, that no charges were made to Verizon's obligation to maintain service quality data on
all metrics and to provide it to staff upon request.

Now, I will share with you Verizon's first quarter 2011 service quality results. The company's network reliability as measured by customer trouble report rate was good during the quarter. With respect to timeliness of repair performance Verizon met all thresholds for its core customers for each of its five reporting areas, with the exception of the out-of-service threshold in the New York City area in February. I will indicate that they did meet it in New York City in January and March, and based upon data we have now, they have met that metric for New York City in April.

There are two areas of service quality that we are watching closely. First, we see a continuing decline in the company's repair service answer time performance. That is how quickly calls are answered at a repair call answer center. The company is planning to address this problem by workload reallocations and targeted overtime. We've also put in place
some additional system efforts to more efficiently prioritize voice repair calls over other calls such as file service repair calls.

Our second area of concern is the substantial increase in customer complaints to our Office of Consumer Services. I would add that a large percentage of the complaints relate to delayed repairs. However, it is important to recognize that a significant number of customers who file complaints are also likely to be non-core customers who have competitive options. We are working with the company to provide assurance that we are not experiencing an increase of complaints from core customers.

In sum, under the service quality improvement plan the company's customer trouble report rate is good and has resulted in prioritized repair for core customers. However, customer complaints to the department are on the rise and we also remain concerned about the company's timeliness of answering customer calls for repair service.

We continue to meet with the company on a
monthly basis to review its service quality efforts.

This concludes the presentation. I'm glad to take any questions or comments.

CHAIRMAN BROWN: Commissioner Acampora?

COMMISSIONER ACAMPORA: Chad, when a customer calls do they have to -- is the onus on them that they have to identify themselves as a disabled, as a senior, someone who we've identified along with the company as a core customer or is it just luck? Does anyone ask them? And when no one asks them and the customer doesn't identify themselves, what happens?

CHAD HUME: That's one of the things we're working with the accompany on, to make sure that that's happening. To give you a couple of examples. If the customer is already in the system as a lifeline customers, it's already identified that they would be a core customer. The same thing if it's in an area that Verizon has identified as having choices or competitive alternatives versus not having any choice of competitive alternatives, those customers are
already identified in the system. If you have a senior citizen out there that hasn't already identified themselves as a senior citizen, it is currently up to that person to identify themselves as a senior citizen when they make that service call request. We're trying to work with the company right now to determine how their reps are actually trying to determine that information if a person makes a phone call.

COMMISSIONER ACAMPORA: I don't think the onus should be on the customer. I think that the company should be asking, you know, sir, ma'am, are you -- do you happen to be a senior citizen? Do you have any type of a disability? I think that their customer reps should be taking on that responsibility.

CHAD HUME: We share that concern. That's what we're dealing with the company on that.

COMMISSIONER ACAMPORA: Thank you.

CHAIRMAN BROWN: Thank you, Chad. And you know it's good news/bad news, but I'm very happy that Verizon is living up to it's a -- for its core customers and the performance that
they managed to meet the metrics. It is a little disconcerting to see perhaps the rise in a couple of the categories for all customers. So I would -- I think we'll ask Doug and Sandra's shop and your shop to keep an eye on the compliant rate in general, so that we keep current whether this is just a momentary trend or an ongoing problem.

Thank you.

CHAD HUME: We hear you.

CHAIRMAN BROWN: Chad's was for informational purposes, so no votes required.

Madam Secretary, is there anything else to come before us today?

SECRETARY: There are no additional items. The next session will be held here in Albany on June 16 at 10:30 a.m.

CHAIRMAN BROWN: Thank you very much. The meeting is adjourned.

(Whereupon the proceeding in the above-entitled matter concluded at 12:30 p.m.)

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CERTIFICATION

I, DIANE DALY-GAGE, Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify that the foregoing record taken by me at the place and date noted in the heading thereof is a true and accurate transcript of same to the best of my ability and belief.

_________________________
DIANE DALY-GAGE

Dated: May 23, 2011