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Monthly Meeting - 2-11-21

STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

MONTHLY MEETING OF THE

PUBLIC SERVICE COMMISSION

VIA WEBEX

Thursday, February 11, 2021

10:30 a.m. until 12:55 p.m.

COMMISSIONERS:

JOHN B. RHODES, Chair

DIANE X. BURMAN, Commissioner

JAMES S. ALESI, Commissioner

TRACEY A. EDWARDS, Commissioner

JOHN B. HOWARD, Commissioner

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2 (The meeting commenced at 10:30 a.m.)

3 CHAIRMAN RHODES: Hi, this is John
4 Rhodes. I'm going to do the 10 second countdown, if
5 that's okay.

6 THE REPORTER: That's fine, Chair
7 Rhodes. Yes, we're just waiting for you.

8 CHAIRMAN RHODES: Great. Thank you.
9 Good morning. This is John Rhodes, Chair of the
10 Public Service Commission. And I call this session
11 of the Public Service Commission to order. Secretary
12 Phillips, are there any changes to the final agenda?

13 SECRETARY PHILLIPS: Yes, Chair, there
14 is one change to the final agenda. The Commission is
15 going to be considering a resolution pertaining to
16 the size of the Commission that will be considered
17 after the regular agenda items and prior to
18 considering the consent agenda.

19 CHAIRMAN RHODES: Thank you. And that
20 -- that sequencing makes sense so let's do it that
21 way. Before we get started, I would like to note our
22 arrangements for session today. In line with the
23 guidelines concerning social distancing and
24 minimizing large gatherings and in light of executive
25 orders that suspend meeting provisions of the Open

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2 Meetings Law on an emergency basis, we're conducting
3 today's session remotely.

4 I'd like to remind those who are
5 participating by phone, to please mute your lines
6 except when you are speaking. Public will have the
7 opportunity to listen to the session on the
8 Department's webcast page. And we will also record
9 and transcribe the session as has been our practice.

10 These arrangements have been reviewed
11 by our general counsel. And he has found that these
12 meet the requirements of the executive orders, and
13 also that they meet my own expectations of honoring
14 the intent of the Open Meetings Law to the maximum
15 extent permitted by our duty to protect the public
16 health of New Yorkers.

17 Before moving to the agenda, I would
18 like to conduct a roll call of the Commissioners and
19 I am roll calling myself. I'm John Rhodes, and I
20 confirm that I'm here. Commissioner Diane Burman?
21 Commissioner Burman, can you confirm you're with us?

22 COMMISSIONER BURMAN: I am here.

23 CHAIRMAN RHODES: Commissioner James
24 Alesi.

25 COMMISSIONER BURMAN: Can you hear me?

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2 CHAIRMAN RHODES: I could hear you
3 Commissioner Burman, yes, thank you. Commissioner
4 James Alesi? Commissioner Tracey Edwards?

5 COMMISSIONER EDWARDS: I am here.
6 Good morning.

7 CHAIRMAN RHODES: Good morning. Thank
8 you. And Commissioner John Howard?

9 COMMISSIONER HOWARD: I am here, Mr.
10 Chairman.

11 CHAIRMAN RHODES: Great. Thank you
12 very much. And circling back to Commissioner James
13 Alesi.

14 MR. ROSENTHAL: Commissioner Alesi,
15 you are on mute.

16 COMMISSIONER ALESI: I am here.

17 CHAIRMAN RHODES: Excellent. Thank
18 you. We are complete. So let's proceed to the
19 regular agenda, the discussion items and to the first
20 item for discussion. Item 301 case 20-E-0197, which
21 is the proceeding on a motion of the Commission to
22 implement transmission planning pursuant to the
23 Accelerated Renewable Energy Growth and Community
24 Benefit Act, presented by Elizabeth Grisaru, Deputy
25 Director Office of Electric, Gas and Water.

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2 Tammy Mitchell Directory of Electric,
3 Gas and Water and Robert Rosenthal, General Counsel
4 are available for questions. Liz, please begin.

5 MS. GRISARU: Thank you. Good
6 morning, Chair Rhodes and Commissioners. I'm pleased
7 to present to you today the proposed draft order on
8 the phase one local transmission and distribution
9 project proposals. The action taken here is an
10 initial step to implementation of the grid planning
11 directives contained in the Accelerated Renewable
12 Energy Growth and Community Benefit Act, which
13 Governor Cuomo signed into law in 2020.

14 The Act directed the Commission to
15 develop and implement plans for future investments in
16 the electric grid that will support achievement of
17 the State's climate goals as established in the
18 Climate Leadership and Community Protection Act or
19 C.L.C.P.A.

20 Before diving into the terms of the
21 draft order, I will note for you and members of the
22 interested public that staff expects to bring forward
23 additional items related to those transmission
24 planning mandates in the coming months. Last May,
25 when it initiated this proceeding, the Commission

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2 directed the utilities to identify distribution and
3 local transmission investments that will support
4 C.L.C.P.A. goals.

5 In response, the utilities conducted a
6 study that was filed last November, in which they
7 identified, excuse me, a number of potential
8 projects. The utility study shows, among other
9 things, that traditional infrastructure investments
10 driven by reliability, load growth, and asset
11 maintenance needs can coincidentally capture
12 significant C.L.C.P.A. goals in delivery of renewable
13 energy within a utility system.

14 We refer to this category of
15 investment as Phase 1 project. The draft order
16 before you focuses on the Phase 1 category and
17 provides direction to the utilities on the processes
18 required to move forward with these investments. The
19 draft order states that the preferred mechanism for
20 review and approval of Phase 1 projects is ordinarily
21 the rate case process.

22 Thus, where a Phase 1 project is
23 already funded in a utilities rate plan, the draft
24 order directs the utilities to continue with project
25 development. However, not all of the Phase 1

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2 proposals submitted with the November filing are
3 currently funded.

4 Given the tight deadlines we have for
5 meeting C.L.C.P.A. goals, the draft order recognizes
6 that an alternative funding mechanism may be
7 necessary to ensure these projects are constructed in
8 time. If a utility determines that a project will be
9 needed sooner than can be achieved under its next
10 rate case, the draft order authorizes the utility to
11 file a petition seeking funding for that project.

12 It also specifies the information that
13 utilities will be required to submit in support of
14 those petitions. As a threshold matter, the
15 utilities must make a showing as to why construction
16 plans cannot be adjusted or reprioritized to fund the
17 necessary Phase 1 project.

18 The order states the expectation that
19 the petition mechanism will only be needed in the
20 short term, and that as utilities incorporate
21 C.L.C.P.A. objectives in their distribution and local
22 planning processes, the rate case will ordinarily be
23 the venue for consideration of these investments.

24 The draft order adopts the utilities'
25 recommendation that costs for these Phase 1 projects

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2 be recovered from the sponsoring utilities'
3 ratepayers, as they would for other capital projects
4 as these investments are needed under traditional
5 planning criteria, without consideration of
6 C.L.C.P.A. requirements.

7 Funding and cost allocation for -- for
8 facilities that are driven by C.L.C.P.A. needs are
9 issue staff expects to be addressed in future orders.
10 There are two other planning-related directives given
11 in this draft order that I should mention.

12 First, the draft order directs the
13 utilities to review and report on the applicability
14 of certain well tested technologies to their phase
15 one investment proposals. These technologies have
16 the potential to increase the C.L.C.P.A. benefits
17 associated with the projects.

18 Second, the draft order directs staff
19 to develop a straw proposal for a study methodology
20 that will improve on the utilities approach to
21 evaluating distribution and local transmission system
22 capabilities. This will be used to inform future
23 studies and the identification of needed projects.

24 Staff will publish the straw proposal
25 within 30 days for public comment and feedback. That

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2 concludes the summary of the draft order and we are
3 happy to take your questions.

4 CHAIRMAN RHODES: Thank you very much.
5 I'll go first with my -- with my reaction. In my
6 eyes this is a thoughtful and practical item founded
7 on an open and thorough process with ample -- ample
8 opportunity for input and in fact, ample and helpful
9 uptake of that opportunity for input.

10 It represents the next milestone to
11 developing out the grid that we know we will need, in
12 today's case focusing on the distribution and local
13 transmission side of the grid. The steps that we are
14 taking today and the next steps that we are setting
15 up with this item will enable smart projects that can
16 support increased renewables in a cost- effective and
17 useful manner while also delivering on clear and
18 present reliability needs.

19 I am going to support this item. Let
20 me now turn to my colleague Commissioners for
21 comments and questions. Commissioner Burman.

22 COMMISSIONER BURMAN: Thank you. This
23 is Commissioner Burman. I have no comments or
24 questions. Thank you.

25 CHAIRMAN RHODES: Thank you very much.

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2 Commissioner Alesi.

3 COMMISSIONER ALESI: Thank you, Mr.
4 Chairman. I -- I see that this gives us the -- the
5 steps that need to be taken to meet the mandates that
6 require a reorientation of transmission and
7 investment planning, as we pursue the goals of the
8 C.L.C.P.A., and I'll be supporting.

9 CHAIRMAN RHODES: Thank you very much.
10 Commissioner Edwards.

11 COMMISSIONER EDWARDS: Yes, thank you
12 very much, Chair Rhodes. I am in support of this --
13 this project as well. I think that, you know,
14 anything that we can do to move forward on the
15 C.L.C.P.A. we need to do that. So I think getting
16 the Phase 1 projects off the ground is necessary.

17 I know that we will be working to try
18 to provide as much information as possible to both,
19 who was going to be developing the projects, as well
20 as the public. So I think it's a good step for us to
21 move forward and I will be supporting. Thank you.

22 CHAIRMAN RHODES: Thank you very much.
23 And Commissioner Howard.

24 COMMISSIONER HOWARD: I will be
25 supporting this item, but I will comment that we are

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2 at the beginning of a very long trip. This really
3 does mark the change in how transmission planning
4 moves from serving native load exclusively at the
5 lowest cost to a more environmentally sensitive and
6 environmentally driven system.

7 Most of the -- the items here on Phase
8 1, were going to go forward regardless of the
9 C.L.C.P.A. in most instances and we do get some
10 tremendous benefits, environmental benefits by their
11 construction. I look forward to in the very near
12 future to see staffs' recommendations as we go
13 forward which will, quite honestly, that's where the
14 real challenges lie, but I will be supporting this.

15 CHAIRMAN RHODES: Thank you very much.
16 With that, I think we are ready to proceed to vote on
17 this item, and I will call for a vote. For the
18 record, it's John Rhodes and my own vote in favor of
19 the recommendation to establish processes for the
20 utilities to develop Phase 1 local transmission and
21 distribution projects as discussed.

22 Commissioner Burman, how do you vote?

23 COMMISSIONER BURMAN: Yes.

24 CHAIRMAN RHODES: Thank you.

25 Commissioner Alesi, how do you vote?

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2 COMMISSIONER ALESI: Yes.

3 CHAIRMAN RHODES: Thank you.

4 Commissioner Edwards, how do you vote?

5 COMMISSIONER EDWARDS: I vote yes.

6 Thank you.

7 CHAIRMAN RHODES: Thank you. And

8 Commissioner Howard, how do you vote?

9 COMMISSIONER HOWARD: Yes.

10 CHAIRMAN RHODES: Thank you. The item

11 is approved, and the recommendation is adopted.

12 Let's now move to the second item for discussion.

13 Item 302 case 19-T-0684, Article 7 application of New

14 York Transco to construct the New York energy

15 solution project presented by Administrative Law

16 Judge Anthony Belsito. Judge Bel -- Belsito, please

17 begin.

18 MR. BELSITO: Good morning Chair and

19 good morning Commissioners. This proceeding involves

20 an application submitted pursuant to Article 7 of the

21 Public Service Law by Transco, L.L.C. for

22 authorization to construct the New York Energy

23 Solution Project, including the installation of a new

24 54.5 mile 345 kV overhead electric transmission line

25 to be co-located with reconfigured 115 kV

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2 transmission lines in an existing electric
3 transmission corridor between a new 345 kV
4 Knickerbocker Switching Stations located in the Town
5 of Schodack, Rensselaer County, and the existent --
6 existing 345 kV and 115 kV Pleasant Valley,
7 substations located in the Town of Pleasant Valley,
8 Dutchess County.

9 The rebuild of the 150 kV Churchtown
10 switching station in the Town of Claverack, Columbia
11 County, the replacement of 2.2 miles of 115 kV
12 electric transmission line and existing electric
13 transmission corridor extending from the existing 115
14 kV Blue Stores substation to attach with the existing
15 115 kV LaFarge to Pleasant Valley line and the
16 reductoring of a 0.8 miles of two 345 kV electric
17 transmission line circuits on existing structures
18 that will run between the existing Pleasant Valley
19 substation and the new 345 kV Van Wagner Capacitor
20 Bank Station in the Town of Pleasant Valley.

21 The submission of the Article 7
22 applications addressed by the draft order follows and
23 results from the New York Independent System
24 Operators for the NYISO's Public Policy Transmission
25 Planning Process. That process was developed to

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2 comply with the Federal Energy Regulatory Commission
3 for first order number 1000 which requires among
4 other things, a planning process for the
5 consideration with transmission need driven by Public
6 Policy Requirements.

7 This project along with the one the
8 Commission approved at its January session, in case
9 19-T-0549 and some other smaller upgrades that
10 constitute the A.C. transmission upgrades. The
11 previous case involves segment A and this case
12 involves segment B. Together, they will meet the
13 public policy need for new 345 kV major electric
14 transmission facilities to cross the central east and
15 UPNY-SENY interfaces in order to move power from
16 upstate to downstate.

17 On October 18th, 2019, the applicant,
18 as a developer selected through the Public Policy
19 Planning Process for segment B, submitted its Article
20 7 application for consideration in this proceeding.
21 The application was determined complete as of
22 February 10th, 2020, and on April 14th, 2020, the
23 applicant filed the notice of -- notice of impending
24 settlement negotiations, notifying parties and
25 interested persons that settlement negotiations would

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2 begin on May 4th, 2020.

3 Public statement hearings and
4 information sessions were held virtually on October
5 14th, 2020, and twelve public comments have been
6 filed in this proceeding. All of them indicate
7 support for the project. The New York League of
8 Conservation Voters also submitted comments
9 supporting the project, arguing that it advances the
10 goals of the Climate Leadership and Community
11 Protection.

12 On September 9th, 2020, the applicant
13 filed a joint proposal setting -- settling the issues
14 between the signatory parties, which include the
15 applicant, staff of the Department of Public Service,
16 staff of the Department of Environmental
17 Conservation, and staff of the Department of
18 Agriculture and Markets as well as Conso --
19 Consolidated Edison Company of New York Incorporated,
20 and the International Brotherhood of Electrical
21 Workers Local Union number 97.

22 The joint proposal represents a
23 comprehensive settlement that is sufficiently
24 supported by a record that will allow the Commission
25 to make all required findings. Article 7 required

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2 findings include among others, the basis of the need
3 for the facility, the nature of the probable impacts,
4 and that the facility represents the minimum adverse
5 environmental impact, considering the state of
6 technology and the nature and economics of the
7 various alternatives.

8 And that the facility conforms to a
9 long-range plan for expansion of the electric power
10 grid of the State and interconnected systems. In
11 this proceeding, Cricket Valley Energy Center,
12 L.L.C., a natural-gas- fired generation plant located
13 in Dutchess County, as well as a joint group of
14 interveners consisting of the Towns of Livingston,
15 Milan, Claverack, and Pleasant Valley, the farmers
16 and families of Livingston, farmers and families of
17 Claverack and Walnut Grove Farm oppose the joint
18 proposal, arguing that the project is not needed or
19 that it does not represent the minimum adverse
20 environmental impact.

21 However, as described in detail in the
22 draft order, the record in this case fully supports a
23 finding that the facility is necessary to increase
24 transmission capacity across the UPNY-SENY interface.
25 And that need is expected to continue as New York

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2 works towards the requirements of the Climate
3 Leadership and Community Protection Act and the
4 Accelerated Renewable Act.

5 The record also demonstrates that by
6 moving power efficiently and cost effectively across
7 the interface, the project will advance numerous
8 public policies including reducing congestion and
9 production costs, improving market competition and
10 liquidity, enhancing efficiency, reliability and
11 resiliency and avoiding refurbishment costs of aging
12 infrastructure.

13 Further, the record clearly supports
14 the required findings including that the facility
15 represents minimum adverse environmental impact,
16 considering the state of technology and the nature of
17 economics of the various alternatives, and that the
18 facility conforms to a long-range plan for expansion
19 of the electric power grid of the State.

20 Therefore, the draft order recommends
21 the Commission grant to the applicant pursuant to
22 Public Service Law Article 7 Section 121, a
23 Conditional Certificate of Environmental
24 Compatibility and Public Need. That is the end of my
25 presentation and I'm happy to respond to any

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2 questions you may have. Thank you.

3 CHAIRMAN RHODES: Thank you very much,
4 Judge Belsito. My own take is that this item will
5 approve a good application for a good and valuable
6 project that is clearly in the public interest, and
7 that clearly meets a public policy need. It flows
8 out of diligence, long range and systemic planning,
9 and out of a thorough and open and transparent
10 process, considering potential impacts, and the best
11 way to mitigate and balance those impacts, leading to
12 a very sound joint proposal.

13 This to me clearly meets the test of
14 being in the public interest and I will be supporting
15 this item. Commissioner Burman?

16 COMMISSIONER BURMAN: Thank you so
17 much. This is Commissioner Burman. I just really
18 have one question. This item is not directly on
19 point, but to the extent that we are talking about
20 transmission and for corridor 1000. Can you give me
21 a sense, and this might also be directed to the
22 Chair, of when we will see the -- the resource
23 adequacy, white paper -- staff white paper, as we're
24 talking about transmission and all of that this is
25 really important?

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2 CHAIRMAN RHODES: So let me -- this is
3 John Rhodes. So the research advocacy white paper is
4 well advanced, and the work is good. So I hope it
5 will come to bear, and I don't like to make
6 predictions, especially about the future. But my
7 strong hope is that we'll be able to finalize and
8 issue it shortly.

9 COMMISSIONER BURMAN: As in this week,
10 next week, just trying to -- in a month, next --

11 CHAIRMAN RHODES: Either -- I
12 understand that you'd like a more concrete answer.
13 As soon as we can -- since you got specific it won't
14 be this week. It will -- as in it won't -- we won't
15 be able to get to it tomorrow. But -- but other than
16 that in the near future and -- and I'm afraid I just
17 can't -- I can't promise anything more precise than
18 that.

19 COMMISSIONER BURMAN: Thank you for
20 that answer. I have no further questions or
21 comments.

22 CHAIRMAN RHODES: Thank you very much.
23 Commissioner Alesi?

24 COMMISSIONER ALESI: Thank you, Mr.
25 Chairman. Clearly, this serves the public need. I

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2 believe it's consistent with the long-term plans to
3 improve reliability and transmission capability and
4 it will accommodate -- help to accommodate future
5 expansion and is the result of hard work and
6 transparency and I will be supporting it.

7 CHAIRMAN RHODES: Thank you very much.
8 Commissioner Edwards?

9 COMMISSIONER EDWARDS: I will be
10 supporting this item. Thank you.

11 CHAIRMAN RHODES: Thank you.
12 Commissioner Howard?

13 COMMISSIONER HOWARD: I also will be
14 supporting this item quite honestly,
15 enthusiastically. And this and -- and the previous
16 project that we have approved I look -- I look
17 forward to seeing steel in the ground in the next
18 coming months, so thank you.

19 CHAIRMAN RHODES: Thank you very much.
20 With that we are in a position to proceed to vote and
21 I will therefore call for a vote. For the record,
22 it's John Rhodes speaking, and my own vote is in
23 favor of the recommendation to adopt the terms of the
24 joint proposal as discussed. Commissioner Burman,
25 how do you vote?

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2 COMMISSIONER BURMAN: Yes.

3 CHAIRMAN RHODES: Commissioner Alesi,
4 how do you vote?

5 COMMISSIONER ALESI: I vote yes.

6 CHAIRMAN RHODES: Commissioner
7 Edwards, how do you vote?

8 COMMISSIONER EDWARDS: I vote yes.

9 CHAIRMAN RHODES: Thank you.
10 Commissioner Howard, how do you vote?

11 COMMISSIONER HOWARD: Yes.

12 CHAIRMAN RHODES: Thank you. The item
13 is approved, and the recommendation is adopted. We
14 will now proceed to the third item for discussion,
15 which is an informational non-voting item. It is
16 item 501 case 21-M-0042 as it relates to the staffs'
17 investigation of the impact of Tropical Storm Isaias
18 on telephone and cable television services presented
19 by Michael Rowley, Chief Network Reliability.

20 Nicolas Forst, Assistant Counsel.
21 Debra LaBelle, Director Office of Telecommunications.
22 Joseph Suich, Director Office of Investigations and
23 Enforcement. Kevin Wisely, Director of Office of
24 Resiliency and Emergency Preparedness and Brian
25 Ossias, Managing Attorney are available for

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2 questions. Mike, please begin.

3 MR. ROWLEY: Thank you. Good morning
4 Chair Rhodes and Commissioners. In this information
5 only item, staff presents to the Commission, its
6 report on Tropical Storm Isaias impact on telephone
7 and cable networks and services.

8 The report provides a summary of the
9 preparation and restoration efforts of the service
10 providers in areas impacted by the storm, including
11 Verizon New York, Frontier Communications, Charter
12 Communications, Comcast Communications, and Altice
13 U.S.A. It also includes input from municipal
14 leaders, emergency response agencies and customers.

15 The report also provides background
16 and evidentiary support for alleged violations by
17 Altice and Frontier that have been identified and
18 forwarded to the Department's Office of
19 Investigations and Enforcement for next steps.

20 As you are aware, Governor Andrew
21 Cuomo directed the Department to conduct an
22 investigation into New York State's major electric
23 utilities, telecom corporations, and cable television
24 companies following their slow and inadequate
25 response to Tropical Storm Isaias.

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2 The standard for measuring telephone
3 company preparation and restoration performance
4 following a storm or emergency are provided in Part
5 603.5 of the Commission's Regulations which has three
6 components. These regulations require providers to,
7 One, construct and maintain networks which are
8 intended to minimize service failures due to severe
9 storms and maintain continuous operation of its
10 service in the event of a commercial power loss.

11 Two, maintain emergency contingency
12 plans to prepare for emergencies, perform repairs and
13 service restoral in the aftermath of such events.
14 And Three, report major service interruptions to the
15 Department pursuant to established outage reporting
16 guidelines.

17 Existing Commission regulations do not
18 have specific emergency contingency plan, or outage
19 reporting requirements for cable television
20 companies. But the Commission has significant legal
21 authority to investigate and ensure that cable
22 television companies provide services in a safe,
23 adequate, and reliable manner, including during
24 storms and other outage events.

25 The major cable companies in New York,

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2 Altice, Charter and Comcast do provide outage reports
3 per establish guidelines during storms.
4 Additionally, as part of the Altice Cablevision
5 merger order in 2016, Altice was directed to file an
6 update annually, an emergency response and readiness
7 plan which Altice calls its resiliency plan or R.P.

8 The Altice R.P. also includes a
9 detailed and comprehensive severe weather
10 preparedness plan, or S.W.P.P. In addition to our
11 observations and active storm restoration monitoring
12 the Department's investigation included the review of
13 thousands of pages of documents and emails,
14 interviews with telephone and cable television
15 employees, including key personnel with storm-
16 response duties, meetings with municipal stakeholders
17 and emergency response agencies and a review of
18 customer complaints.

19 The result of staffs' investigation
20 identified apparent violations in the preparation and
21 restoration operations of two providers, Altice and
22 Frontier. As to Altice, the Department's
23 investigation revealed that Altice failed to adhere
24 to many significant asp -- aspects of its R.P. and
25 S.W.P.P.

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2 A few days following the storm, the
3 Department began to field numerous inquiries from
4 county and local elected officials who reported they
5 could not easily reach Altice representatives, and
6 that when they were successful, Altice could not
7 provide accurate outage and restoration information
8 for its service areas, particularly municipalities in
9 its Westchester, Nassau and Suffolk County territory.

10 Officials reported being overwhelmed
11 by the level of constituent complaints received when
12 subscribers couldn't reach Altice, and this continued
13 in many areas for several days after commercial power
14 had been restored. As a result of these inquiries,
15 the Department arranged daily conference calls with
16 municipal and Altice government affairs personnel in
17 the Westchester and Long Island Counties.

18 During these meetings, Altice
19 acknowledged several problems it experienced with its
20 restoration, including the failure of its interactive
21 voice response or I.V.R. system, and its website that
22 prevented customers from being able to lodge service
23 requests and ascertain accurate information regarding
24 the status of their services.

25 These failures occurred at a critical

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2 stage just after Tropical Storm Isaias had passed
3 through New York. Additionally, Altice could not
4 initially provide the Department or the municipal
5 officials with estimated time -- estimated
6 restoration times for the thousands of remaining
7 customer outages and only did so late in the
8 restoration process.

9 Altice also admitted it did not
10 conduct sufficient outreach to County Emergency
11 Management Offices or local government officials at
12 the onset of its restoration efforts, which could
13 have resulted in a more coordinated restoration with
14 electric utilities, enhanced damage -- damage
15 assessment strategy, and a more timely restoration of
16 servers -- of services overall.

17 The daily conference calls also
18 included lengthy discussion about service credits for
19 customers experiencing outage, which Altice committed
20 to issue proactively stating that customers in most
21 circumstances would not have to call to request
22 credits.

23 Subsequently, the Department issued a
24 Notice of Apparent Violation or N.O.A.V. on August
25 19th, 2020, alleging numerous violations of its R.P.

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2 and S.W.P.P. that contributed to Altice's inability
3 to timely restore service and effectively communicate
4 to customers experiencing outages.

5 Because we were still in storm season,
6 the N.O.A.V. also demanded that Altice implement
7 remedial action items to immediately improve
8 restoration policies and operations and prevent any
9 delayed restoration from potential storms.

10 In response, Altice among other
11 things, committed to several actions, including
12 upgrading and revising its R.P. and S.W.P.P., address
13 the need for additional crews and equipment.
14 Developing plans to actively participate with
15 municipal and county's O.E.M. emergency response and
16 restoration activities.

17 Developing a revised plan to deploy
18 and monitor power supplies, generators, and backup
19 generators adequate for use during emergency and
20 storm restorations, A commitment to better identify
21 government contacts and affected areas, establishing
22 a process to provide timely and accurate information
23 to customers, to media and government groups.

24 Establishing a process to provide
25 timely and accurate outage information including

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2 estimated times of restoration for each municipality
3 and establishing a process to coordinate periodic
4 updates to its customer websites.

5 The Department continues to monitor
6 the commitments Altice had made to improve its storm
7 readiness and response. And as -- and as mentioned
8 resolution of the apparent N.O.V. -- N.O.A.V.
9 violations are being addressed by the Department for
10 next steps.

11 The Department's investigation also
12 found Frontier in apparent violation of several
13 regulations regarding the failure to provide
14 continuous operation of its service during the loss
15 of commercial power at a critical Central Office.

16 As well as apparent failure to timely
17 and accurately notify the Department of major outages
18 following the storm, including that which affected
19 the 911 network in Orange County. The loss of power
20 at Central Office was due to what staff found to be
21 an avoidable equipment failure and apparently
22 defective or improperly loaded batteries and improper
23 alarming of the power system which contributed to an
24 inad -- inadequate response.

25 This caused the -- this caused the

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2 loss of down time to over 5800 individual customers,
3 businesses, and government agencies served by the
4 Central Office switch, including the Orange County
5 911 center for public safety answering point.

6 Orange County 911 handles emergency
7 911 calls from all telephone access lines in Orange
8 County, as well as wireless 911 calls made within the
9 county. Orange County did not become aware of the
10 loss of the Central Office until after it occurred
11 and those could not -- could make contingency
12 arrangements to notify citizens of alternative --
13 alternative methods to reach emergency 911 responders
14 during the severe weather emergency.

15 In the course of its investigation,
16 staff found four other major outages following the
17 storm that Frontier failed to report to the
18 Department for established outage reporting
19 guidelines required in our regulations.

20 Frontier has also taken steps to re --
21 remediate the problems that led to the Central Office
22 shutdown, including upgrades to its power systems,
23 and contingencies, training, and improving the
24 ability to reroute 911 traffic should critical
25 switches become inoperable. Staff will continue to

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2 monitor the commitments Frontier has or will make to
3 improve its Central Office power systems and
4 contingencies.

5 As mentioned, apparent violations have
6 been identified by the Department for future
7 resolution. This investigation did not find any
8 apparent violations of specific regulations by
9 Verizon or other service providers in its restoration
10 following Tropical Storm Isaias.

11 With regard to the readiness and
12 restoration of telephone and cable television
13 networks in general, some customers and elected
14 officials were dissatisfied with the performance of
15 providers and raised concerns regarding the
16 timeliness of repair to outages, unclear credit
17 policies, the lack of coordination and communication
18 with municipal officials, and the lack of
19 coordinating restoration efforts with the electric
20 utilities.

21 Many of the problems and concerns
22 raised by customers and elected officials in the
23 areas most affected by Tropical Storm Isaias,
24 including those raised by United Westchester were the
25 same problems observed by staff.

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2 So to address these shortcomings,
3 staff suggests the Commission pursue changes to
4 regulations that would require the filing and annual
5 updating of more robust emergency contingency plans,
6 similar to those required of the electric utilities.

7 These changes would require the
8 companies conduct annual storm drills to test the
9 adequacy and effectiveness of storm preparedness and
10 response policies and personnel, including contacts
11 with outside -- outside agencies, local governments,
12 and others who would normally be included in service
13 restoration response.

14 Customer support systems would also be
15 tested. Companies would be required to conduct
16 annual testing of critical power systems and
17 contingencies. Among other things, the enhanced
18 emergency response plans would require companies to
19 develop emergency classifications to better predict
20 the type of expected damage estimated at the time and
21 the time required to restore service to business-as-
22 usual levels.

23 And an indication of whether company
24 personnel alone or company and supplementary
25 personnel would be needed to repair system damage.

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2 Companies would also be required to develop service
3 restoration procedures and an emergency response
4 training program for those personnel assigned service
5 restoration responsibilities.

6 Cable television and telephone
7 companies would be required to state how they will
8 coordinate with electrical utilities and local county
9 governments as part of their emergency plan and
10 develop improved ways to communicate with customers
11 during storms.

12 Companies would also declare what
13 corporate policy and criteria govern -- governs
14 conditions under which requests for mutual aid from
15 other service providers and contractors would be
16 taken. Staff also supports exploring revised
17 regulations for telephone and cable television
18 service to provide credit to subs -- subscribers when
19 it is not available to customers following outages
20 caused by storms and power outages.

21 This change would bring cable credit
22 regulations more in line with what is available to
23 electric and certain telephone customers when service
24 is not available due to storms and power outages.
25 Staff believes that these new regulations will hold

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2 telephone and cable television companies more
3 accountable for their respective storm preparedness,
4 staffing for efficient restoration, adequate
5 communication and coordination with emergency
6 agencies and municipalities, the issuance of credits
7 for storm outages and make violations of these
8 provisions more enforceable.

9 That concludes my presentation, and we
10 will gladly address any questions you may have.

11 CHAIRMAN RHODES: Thank you very
12 much. This is John Rhodes.

13 And I note again that this is an
14 informational item and a nonvoting item. So but if
15 we -- but we do want to create the opportunity for
16 the Commissioners to react to and comment on and ask
17 questions.

18 So my own reaction is that I
19 appreciate the thorough report, laying out the
20 findings of this rigorous -- rigorous investigation
21 into service failures related to restoration and
22 credits and communications are really familiar to
23 failures by telecom providers, during and after the
24 tropical -- after Tropical Storm Isaias and the
25 effects of those failures on customers and local

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2 governments.

3 Obviously, this storm and these
4 failures occurred while we were in the grips, as we
5 still are, of the COVID crisis. And thus, at a time
6 when our fellow New Yorkers were especially develop -
7 - dependent on communication services. And they are
8 for the situation at a time when the failures were
9 especially consequential. I also note that the
10 investigation appropriately found varying levels of
11 performance by the different -- by the different
12 companies.

13 I find that the next step that their -
14 - this Mike Rowley's presentation describes to be on
15 the mark. And I find the recommendations to flow
16 responsively from -- from the issues identified and
17 the gaps identified in the report, and I look forward
18 to the next steps on those recommendations, namely
19 input from the public and various other modes of
20 consideration of the recommendations as -- as
21 listing, as this topic finds its way towards the
22 Commission for, you know, ultimate order.

23 So I commend the strong team, strong
24 work on this item. Thanks very much for that. Now,
25 I turn to my other colleague Commissioners,

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2 Commissioner Burman.

3 COMMISSIONER BURMAN: Thank you so
4 much. This is Commissioner Burman. I will be fairly
5 brief. One question -- I have several questions.
6 But one question I have for Mr. Rowley is, you stated
7 that apparent violations of the Commission
8 regulations have been identified to the Department's
9 Office of Investigations and Enforcement for next
10 steps.

11 What are those next steps? Who will
12 be involved in those decisions and when will the
13 Commission be engaged in that?

14 MR. SUICH: Commissioner Burman, this
15 is Joseph Suich, from the Office of Enforcement,
16 perhaps I would -- you would allow me to -- to
17 address some of those comments and --

18 COMMISSIONER BURMAN: Great, thank
19 you.

20 MR. SUICH: -- make a comment. Thank
21 you. It's correct that this investigation which I
22 see as quite comprehensive to the telecom and
23 telephone industries, did not identify violations
24 across the board with every -- with every utility we
25 looked at. There were -- as noted, there were two

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2 telecommunications companies and cable companies,
3 Altice U.S.A. and Frontier.

4 They both have approached the
5 Department in terms of settlement, the Department, my
6 office is in confidential settlement agreements with
7 those two entities right now. I'm not allowed, as
8 you know, under our rules to discuss any details of
9 those settlement agreements as they're currently
10 pending.

11 So I will not under this -- under this
12 public forum or under any other circumstances.
13 However, should a potential settlement be reached
14 between the Department and these entities, this would
15 be brought to the Commission as with all our
16 potential settlements, for your consideration and
17 potential approval.

18 COMMISSIONER BURMAN: You mentioned
19 that you're in settlement negotiations. Has formal
20 settlement negotiation notice been put forward
21 pursuant to our settlement regulations guidelines?

22 MR. SUICH: Yes. The -- the parties
23 have submitted to us a confidential information under
24 --

25 COMMISSIONER BURMAN: And that is

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2 notice --

3 Mr. SUICH: -- Section 3.9 what's --
4 what's -- it's not noticed -- Commissioner in that
5 it's a proceeding has not yet been commenced as to
6 this -- as to this -- as to this pers -- this action.
7 So since there is not yet an order to show cause, we
8 are treating it as confidential negotiations.

9 But it does precisely fit under
10 Section 3.9, which -- which is triggered to a
11 proceeding.

12 COMMISSIONER BURMAN: All right. I am
13 a little concerned about that process. As I've
14 stated before, I think that we do need to lean in as
15 a Commission with staff on our processes, regards to
16 investigations or show causes and settlement
17 negotiations.

18 And then ultimately, what the proper
19 focus should be, and what the prudent substantive
20 analysis and resolution would look like, as well as
21 making sure that stakeholders feel that there is a
22 fair regulatory structure that's in place. And that
23 we are treating all stakeholders in the same way and
24 not picking and choosing.

25 So it is something that I -- I, you

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2 know, would like to further discuss, I think it's
3 really important to our critical role here. But
4 thank you, and my comments from other sessions on
5 this matter, really are part and parcel.

6 I do think it is odd that it's a
7 information only item, especially as the -- as the
8 staff, as Mr. Rowley stated is suggesting that the
9 Commission pursue changes to regulations that would
10 require the filing and annual updating of what they
11 perceive as more robust emergency contingency plans.

12 To the extent that they are currently
13 working with us and coordinating in their emergency
14 response and there are several regulations and
15 requirements that are important for them to follow.
16 To the extent that they are putting forth documents
17 and emergency plans, telecoms, who is reviewing them
18 is -- who is reviewing them, where is the analysis on
19 where they can improve.

20 And how does that process work with
21 the telecommunication staff working with the folks
22 who are involved in the storm management? I'm not
23 sure --

24 MR. ROWLEY: Companies are required to
25 file emergency response plans and we do, you know,

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2 look at them routinely and certainly following a -- a
3 major storm. We also expect and them to be preparing
4 for storms. And we do communicate with the
5 telecommunications companies prior to a storm.

6 But you know, as we know, in our
7 regulations, they're -- they're not uniform, between
8 telephone and cable providers. So there are, you
9 know, these companies respond to storms differently.
10 I believe because of that. And, you know, we're --
11 we're trying to create a more uniform approach to how
12 we evaluate, you know, the company's performance, you
13 know, after their restoration or -- or during and
14 after their restoration.

15 And it's, you know, I think it's
16 difficult for us to do that, when we also have, you
17 know, stronger, you know, we know what the electric
18 companies do for their restorations. You know, we
19 think that is, you know, an effective way to monitor
20 and evaluate performance following a storm.

21 And it just, you know, we just don't
22 have those same standards of when we -- when we
23 evaluate telephone and cable operation. So that's
24 why, you know, that's the really the gist of the --
25 of the recommendations.

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2 Ms. BURMAN: Thank you. I don't fully
3 understand exactly what you're saying because it
4 doesn't necessarily translate to all that I've been
5 told as a Commissioner, since I've been here since
6 Superstorm Sandy and focusing on all of the
7 regulatory oversight the telecom folks were doing and
8 working with emergency response.

9 So it is something of a disconnect to
10 me. We recently had a opportunity for our five-year
11 view of regulations to have staff recommend any
12 regulations that they thought were in need of being
13 changed. I can't imagine that after one storm with
14 only two telecoms that you're currently in settlement
15 negotiations with that changing the whole structure
16 of the regulatory process would be done.

17 And not necessarily first thought
18 through in terms of coming to the Commission with,
19 you know, something for us to vote on, that would be
20 appropriate or not. So I just have a difficult time
21 fully understanding exactly, you know, what you think
22 that the regulations being updated would do.

23 Because as I see it for right now,
24 they are reported a number of things, we are engaged
25 with them and we have always been assured that the

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2 telecom folks, were working with the electric folks
3 in ensuring -- and storm management, in ensuring that
4 we were working through any challenges. So I'm just
5 -- I'll leave it at that, I look forward to engaging
6 further on this.

7 But I think it is something we need to
8 really seriously consider. And also to the extent
9 that if there are changes that staff feel would be
10 helpful to their management oversight role, that they
11 share that, you know, with the Commissioners,
12 internally as well and work through that and lead
13 into our substantive engagement on these issues
14 because we all care about it.

15 So thank you so much. I have no
16 further questions. I am sorry, this is more fleshed
17 out as a item for voting on.

18 CHAIRMAN RHODES: Thank you very much.
19 Commissioner Alesi.

20 COMMISSIONER ALESI: Thank you, Mr.
21 Chairman. This is good work, very in depth and the
22 report clearly underscores the need for improved pre-
23 storm planning and better, quicker restoration of
24 service. Almost too obvious to state, but it
25 provides us also with an opportunity to revise our

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2 own regulations.

3 And perhaps with regard to things like
4 credits for service interruption, et cetera. And
5 most importantly, I think it should be clear that
6 communication, improved communication is the key to
7 avoiding the failures that we have seen. And that
8 are noted in this report. As I said before, it is
9 good in-depth work.

10 And we can use this as a significant
11 tool as we move forward in improving the landscape in
12 predicting failures and to dealing with them quickly
13 when they occur. I'll be voting yes. Oh, I'm not
14 voting.

15 CHAIRMAN RHODES: You're not voting,
16 no.

17 COMMISSIONER ALESI: I am voting yes,
18 anyway.

19 CHAIRMAN RHODES: Well, let's --
20 let's move along, Mr. -- Commissioner Howard.

21 COMMISSIONER EDWARDS: I think I'm
22 next.

23 COMMISSIONER HOWARD: I defer to
24 Commissioner Edwards.

25 CHAIRMAN RHODES: Yes. Commissioner

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2 Edwards, you are next, please. And I misspoke, I'm
3 very sorry.

4 COMMISSIONER EDWARDS: That's okay.
5 No, not -- not a problem. You know, I really want to
6 -- I want to thank the team for this update. You
7 know, and I understand that it is an update. You
8 know, residents are very reasonable during storms and
9 during service outages, you know, we all work very
10 hard to prepare for storms.

11 Especially since the storms have
12 changed over time. And we also understand how
13 companies have to ensure that safety of their
14 employees is a pre -- is a priority. But what we can
15 never tolerate is a lack of communication. And
16 changing restoral times without communicating to the
17 residents or to the municipalities that are also out
18 there trying to coordinate their storm teams.

19 In a developing and submitting
20 emergency contingency plans is not a paper exercise.
21 We expect them to work when implementing. So I
22 really want to thank the investigation team for
23 working with speed on providing this update to
24 identify these failures. And you know, you have also
25 identified items that we can do better or to do

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2 better and we will do better.

3 I want to thank you. And I hope that
4 these companies will work expeditiously. And in
5 cooperation with all of us to do -- to get this
6 right, this needs to be -- to get this right. So I
7 want to thank you very much.

8 CHAIRMAN RHODES: Thank you very much.
9 And now -- and now Commissioner Howard.

10 COMMISSIONER HOWARD: Thank you, Mr.
11 Chairman. I give staff a great deal of credit for
12 what they produced. And identifying issues and
13 potential remedies and holding systems account.
14 However, the failure that New Yorkers and quite
15 honestly, all Americans need to understand that is
16 the regulation of data services.

17 And I think in this case, that is the
18 most critical part of what people miss here, data,
19 internet services and particularly as we move into
20 the internet of things, that states and this State
21 Commission as all state commissions have, have
22 limited, very limited regulatory oversight on the
23 issue of data provisions.

24 I would urge and I think we were able
25 to meet with our national colleagues the past few

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2 days virtually, it is very clear that the issue of
3 treating data services as a utility service that is
4 absolutely necessary with the same regulations that
5 we provide for energy utilities at the state level is
6 absolutely necessary.

7 And I commend staff for using every
8 trick or pardon me, tool in their book, including
9 making sure that companies live up to agreements they
10 met with -- made with this Commission. However,
11 until we are able to have a fully integrated
12 regulatory oversight of data services, we will be
13 continuing to do the best we can under the
14 circumstances, but not the best that can be done.

15 Again, I look forward to everybody's
16 further work on this. But again, to our
17 representatives in Washington, please give this
18 Commission the authority to fully regulate data
19 services. Thank you.

20 CHAIRMAN RHODES: Thank you very much.
21 So that concludes our consideration of this item for
22 this session. We will now move to the resolution
23 that Secretary Phillips notified us was additional
24 item. Will you be -- well, Bob Rosenthal, will you
25 be presenting this item or --

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2 MR. ROSENTHAL: Yes, I will, Chair.

3 CHAIRMAN RHODES: Thank you very much.

4 MR. ROSENTHAL: I am prepared. And so
5 I will prepare the -- provide the presentation, you
6 know, combined with myself, Tom Congdon and Michelle
7 Phillips will be prepared to provide any answers to
8 questions that the Commissioners may have. So with
9 that stated, thank you and good morning, Chair Rhodes
10 and Commissioners.

11 Let me provide some background
12 pursuant to Public Service Law Section 4, subdivision
13 2. The Commission has authority to request that the
14 Governor increase the size of the Commission from 5
15 members to 7 members if it certifies there is a need
16 to do so.

17 Under the operative language of the
18 statute, "Whenever the Commission shall certify to
19 the Governor that additional Commissioners are needed
20 for the proper disposition of the business before it,
21 the Governor may increase the membership of the
22 Commission to 7 members by appointing two additional
23 Commissioners by and with the consent of the Senate".

24 One additional point, the term of any
25 added Commissioner is the same as the existing

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2 Commissioners, 6 years from -- from the February of
3 the calendar year in which the Commissioner is
4 appointed.

5 With respect to the resolution before
6 you, that's a resolution that certifies the need to
7 expand the Commission as in division by Section 4
8 Subdivision 3 of the Public Service Law. So there
9 are numerous examples of new initiatives and
10 statutory requirements that have been added to the
11 Commission's document in recent years that justify
12 this expansion.

13 And let me name a few. First, is
14 the transformation of the retail electric industry to
15 provide New York customers with cleaner, more
16 renewable, resilient, reliable, and affordable
17 electric service. Second, is establishing and
18 refining a statewide program to make energy more
19 affordable for low-income consumers.

20 Third is adopting and refining the
21 clean energy standard. And then there are many other
22 examples, like implementing the statutory
23 requirements of the C.L.C.P.A. by aligning the clean
24 energy standard with the 70 by 30 target and the zero
25 emissions by 2040 target, the requirement to procure

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2 at least 9 gigawatts of wind, as well as the
3 procurement targets related to solar and battery
4 storage.

5 The Commission otherwise has been
6 promoting clean and renewable energy resources and
7 community net metering, the metering new efficiency
8 New York NYSERDA program. It's been securing
9 benefits the New York customers as conditions, the
10 major telecommunication company mergers, it's been
11 strengthening natural gas safety through enforcement
12 actions, and championing water conservation
13 alternatives.

14 The P.S.C. has also been tasked with
15 expanded regulatory work over the last few years,
16 including an increase in the number of Article 7
17 activities that address existing transmission
18 constraints. And we've heard a few of those over the
19 last few weeks and months. And additional cases that
20 will be filed, as noted in Ms. Grisaru's presentation
21 to address the utility transmission planning and
22 investments required by the Accelerated Renewable
23 Energy Growth and Community Benefit Act of 2020.

24 There's expanding -- there's a need
25 for expanding access to broadband with more critical

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2 and difficult due to the -- to the enduring and
3 devastating toll brought by the COVID-19 pandemic and
4 the need to promote improved preparation, planning
5 and resilience by regulated utilities into more
6 frequent incidences of severe weather from climate
7 change.

8 The P.S.C. has also commenced a
9 greater number of enforcement actions against
10 utilities. And as a result, has a significant number
11 of open litigated proceedings currently underway.
12 All of this, of course, is in addition to the core
13 work we do, with respect to rate cases, management
14 and operation audits and consumer protection.

15 In sum, given these broad
16 responsibilities, there is a need for additional
17 perspectives and assistance, to ensure that all the
18 issues now confronting the Commission are given due
19 consideration and properly balanced by competing
20 points of view.

21 Additionally, given the changing
22 composition of the Commission that will already be
23 occurring with Chair Rhodes' departure, it seems that
24 now is the right time to articulate the need to
25 expand the membership of the Commission to the

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2 Governor, as required under Section 4 of the Public
3 Service Law, as well as to the legislature and the
4 general public. That ends my remarks and as noted,
5 several of us, are available for any questions that
6 you may have.

7 CHAIRMAN RHODES: Thank you very much.
8 So we'll proceed through, our now familiar, even
9 though I got it wrong the last time, order of
10 commissioner comments and questions. I'll begin with
11 myself, it's John Rhodes. I find that this is
12 fundamentally a straightforward matter. If there's a
13 need, it's proper and in fact, almost necessary for
14 the Commission to acknowledge that need and advance a
15 proposal like this to the Governor.

16 And I do believe the need itself is
17 clear cut. Bob, you -- Bob has outlined a number of
18 areas in which the workload on the Commissioner and
19 on the staff has been increasing over the years.
20 This is a good thing because we're doing good work
21 for New Yorkers. But we have to understand what it
22 means in terms of capacity.

23 We talked about Rev, we talked about
24 T.C.L., C.P.A., clean energy standard Article 7,
25 storms, enforcement action related to storms and

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2 beyond, the Indian Point, our affordability,
3 especially in the contents of COVID. The list -- the
4 list is well known. I am going to be, I am in favor
5 of this -- of this resolution.

6 With that, let me turn it over to my
7 colleague Commissioners, beginning with Commissioner
8 Burman.

9 COMMISSIONER BURMAN: Thank you so
10 much. This isn't the first time that a Commission
11 has utilized the Public Service Law Section --
12 Article 4, Section 2, to certify to a Governor that
13 additional Commissioners are needed for the proper
14 disposition of the business before it. It was done
15 in January 1975, unanimously by Alfred Kahn, who was
16 then the chairman, under Governor Carey, Alfred Kahn
17 did it after Governor Carey publicly stated that he
18 would like to see the Commission increase.

19 For those of you who follow some of
20 the historical underpinnings of the Commission, there
21 was also significant tension between Governor Carey
22 and Alfred Kahn. Governor Carey did after the
23 Commission unanimously confirmed the certification
24 and sent it to him. Governor Carey did take up that
25 certification recommendation and did appoint in

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2 1976, shortly thereafter, the two Commissioners.

3 He also shortly thereafter, removed
4 Alfred Kahn as the sitting chairman. Alfred Kahn,
5 much to the consternation of the Governor at the
6 time, remained on as a Commissioner, even though he
7 had been removed as -- as -- as Chair.

8 In 1991, and so the Commission
9 remained at 7 members until 1991, when Mario Cuomo
10 did not have -- continue and the terms of office
11 where the folks were removed and they were not
12 filled, the two. So the two that are -- that become
13 on or sit in those terms and only if there's a
14 decision to continue and recertify will they remain.

15 Mario Cuomo in his 1991 budget address
16 actually proposed the reduction in membership of
17 about 20 independent boards and commissions and
18 elimination of compensation for members and
19 chairpersons in 56 boards and commissions.

20 During that same year, he also
21 proposed the merger of the State Energy Office, the
22 Energy Research and Development Authority and the
23 low-income weatherization program of the Department
24 of State into then a newly constituted State Energy
25 Authority. That merger was seen as -- can those who

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2 are not -- who are not speaking mute themselves?

3 Thank you. The merger was to achieve economies in
4 management and administration it was seen as helping
5 to improve program coordination and be a cost saver.

6 In 2011, Governor Andrew Cuomo also
7 established the Spending and Government Efficiency
8 Commission, commonly known as SAGE, which was to mark
9 the beginning of a full-scale effort to modernize and
10 right size New York State government. SAGE was
11 responsible for coming up with ways to streamline
12 every state agency, recommending structural and
13 operational changes to make government perform better
14 and at a lower cost.

15 They did complete their work and
16 released the final report in February 2013. The
17 goals of SAGE as articulated by SAGE and the Governor
18 were to reorganize state government, reduce costs and
19 improve service, and build a culture of performance
20 and accountability. In fact, during that same
21 timeframe, the old Consumer Protection Board was
22 merged into the Department of State and that is now
23 known as U.I.U.

24 Can those who are not on speaking, can
25 they please mute themselves, there is some background

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2 noise. Thank you, I appreciate it.

3 I guess the question becomes and
4 Counsel Rosenthal, I do appreciate that you answered
5 the question why now. When you spoke, it was because
6 you've seen this time is right. We have two
7 Commissioners whose terms have been up since February
8 1st, one Commissioner is leaving, at least as of now.

9 And we have now, we will go down to
10 four Commissioners, potentially three. And so when
11 we look at this, it may seem like the appropriate
12 time, I put that though, it isn't the appropriate
13 time, because we actually don't know who the Governor
14 will pick as his interim and/or permanent chair.

15 For me, when I look at that, it's
16 important for us to take full stock of what we are
17 doing as a Commission and what we are doing with
18 D.P.S., which is the agency that is a part of the
19 Commission and is our staff arm.

20 I asked, only finding out yesterday,
21 for a number of things. What concerns me is that it
22 is the first time I had ever been told that this is
23 something that was being looked at or interested in.
24 I don't think it's appropriate for the chair, who is
25 leaving to weigh in on what the balance of the

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2 membership should be after he is leaving.

3 It is for us as Commissioners working
4 with our staff to determine what we think are the
5 needs and whether or not it's proper for us to say
6 that we really do need to certify to the Governor
7 that additional Commissioners are needed.

8 We don't know what the one or two
9 commissioners that may come, and who will be the
10 chair, will bring with them, what their expertise
11 will be, what their technical capabilities will be,
12 and what their understanding is of the workings of
13 the Commission and the staff. Therefore, I think
14 it's really appropriate for us to wait until those
15 can -- those spots are filled or reappointed.

16 And in that case, we can have as a
17 Commission, together a robust discussion and work
18 with our staff on what the needs are and whether or
19 not we think that additional Commissioners are
20 necessary. With additional Commissioners, we really
21 have to look at what we are currently doing to be
22 able to do that.

23 Couple of things that I asked for
24 yesterday, when I realized that this was going to be
25 on session was, One, the Commission resolution that

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2 was done the last time back in 1975. And any
3 internal documents on that matter that would help to
4 show the analysis that was -- that was engaged in.

5 I was told it cannot be found. I feel
6 that that's very disconcerting to me that historical
7 documents on something as important as the makeup of
8 the Commission. And for us to have come before us at
9 the last hour would be something that wouldn't have
10 been looked to in terms of the appropriateness and
11 comparison.

12 We have an item on the agenda, that
13 consent agenda, it's a water item that refers back to
14 the 2008 order. And we make some decisions based on
15 that 2008 order. I think it's really important for
16 us to have the historical perspective, historical
17 understanding and also to see how it was done from a
18 process perspective to make sure that what we do is
19 deliberative and that we're getting it right.

20 The other thing I asked for was the
21 press release or statement, which was around 1991 or
22 '92 when Mario Cuomo declined to continue the
23 commission at the 7 number. It's very important for
24 me to understand why there was a going from 7 to 5,
25 some of the very same reasons that it went up to 7

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2 we're saying now.

3 But then it went back down to 5 and I
4 want to understand that more. I also asked about
5 what the current staffing levels are, I was told that
6 it's about 473. For me, I see this as something that
7 we really need to address, our own staffing levels
8 and whether we have the appropriate resources and
9 that includes our staff and making sure that they
10 will be able to handle an additional two
11 Commissioners.

12 I think we're understaffed currently.
13 And that does concern me, it does not mean that I'm
14 advocating for more staff. I understand our
15 budgetary constraints. I understand that that's
16 something that the legislature will be working
17 through with the Governor. And I accept whatever
18 they say. However, I am really concerned.

19 One of the other questions I asked
20 was, the number of staff that have left the agency,
21 whether through retirements, leaving for a new job,
22 or other matters since 2014 and what year each left.
23 I was told that that wasn't able to be given to me
24 before the session, I did do a quick search on our
25 state telephone directory.

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2 And I know it's not potentially as
3 accurate as it could be. But it indicated, at least
4 based on the data that was there, that in the year
5 2020, 45 staff members have left our agency. I think
6 that's a lot. I don't know, if that's something that
7 is historically seen each year.

8 I'd like to understand that; I'd like
9 to understand the breakup of that. I asked also
10 about the number of staff expected to leave now
11 through 2021 and 2022. Those who have indicated they
12 are leaving or will be leaving and getting ready for
13 some transition with that. I asked about the number
14 of staff eligible or will be eligible to retire from
15 between now and 2025.

16 We need to make sure that if we're
17 looking to increase the size of Commission that when
18 staff leaves, if they're not going to be -- we're not
19 going to be able to hire, that we're able to work
20 with the -- with that number and that the staff is
21 able to have the resources they need, and more staff
22 might be necessary.

23 I asked about the number of staff
24 hired when we were given monies in the budget prior
25 to hire for Article 10. I asked about the number of

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2 staff leaving or expected to leave to staff the new
3 siting office. I do understand one staffer has
4 currently left and that more may be coming.

5 I asked for a list of all the outside
6 consultants that even if paid through another agency
7 or State funding or working with us on State Energy
8 Environmental proceedings. I would like a list of
9 those, what they're doing, and how much their
10 contract is for and where the funding is coming from.

11 And we may be able to look at
12 reduction in the need for outside consultants and
13 also look at what that means for the ability to have
14 more staff or not. We also looked at -- I asked for
15 the number of D.P.S. staff and outside consultants
16 that are engaged with the Climate Action Council.

17 We have several staff members who are
18 formally engaged as well as the Chair, who was
19 working with that.

20 I also asked about the budget hearing
21 and the discussion that was asked to Chair Rhodes
22 related to the staffing levels. And the difference
23 between the current staffing levels and requested
24 amount. The budget indicates a staffing of 476, I
25 believe, or 473 one way -- it's either one of the

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2 two, it's either we have about 473 staffers, and I
3 think the budget indicates 476.

4 The issue for me is we do understand
5 that there will be no backfilling. We also, for me,
6 is this coming out of left field concerns me. It
7 could have been something that was discussed at the
8 budget hearing. And so I guess the question I really
9 have is one, to -- why the rush? What's the upside
10 of doing that? Is there a downside by waiting?

11 Now, as I see it, the upside by
12 waiting is that we can wait for the Chair to be
13 nominated and appointed or a new Commissioner and
14 then the Governor picking who would be the Chair.
15 And then we can have a discussion on what is
16 appropriate or not. If we move forward with this and
17 the Governor acts on it in the same session cycle,
18 what happens is that you would now have four
19 Commissioners with a current term of six years
20 expiring at the same time.

21 That means when we go -- when we fast
22 forward, 6 years, we would lose potentially or have
23 to deal with holdover status and/or potential
24 worrying about reappointments, we could potentially
25 lose 4 key Commissioners out of the 7 at the same

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2 time. We already have 3 Commissioners whose terms
3 expire at the same time. That knowledge base leaving
4 could be very impactful.

5 So it doesn't, for me, seem like it's
6 a rush for us to fill or to certify that we should
7 have additional Commissioners, when we haven't done
8 our own homework and analysis on what we may need and
9 what the staff may need to be able to work. Some of
10 the things that we should be looking at, we should be
11 determining whether the department's organizational
12 structure is best suited to meet chain -- our
13 changing regulatory responsibilities.

14 We should be determining whether
15 existing staff resources are adequate and properly
16 allocated to the Department's tasks and
17 responsibilities. We should be evaluating whether
18 our processes and management met -- methods optimize
19 the efficiency and effectiveness of staff. And we
20 should be evaluating whether processes and management
21 methods optimized working with the Commission and
22 what the proper role of the Commission is internally.

23 I administer -- I've been at the
24 Commission, both as a staffer, and as a Commissioner.
25 I have worked either as a staffer or when I was a

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2 Commissioner in total, with 7 different chairs,
3 whether an interim status or not. I can tell you
4 that it is really, really important that we have an
5 engaged and committed Commission, working with the
6 staff. But it's hard work. And just because there's
7 a lot of substantive hard work that needs to get
8 done, adding 2 Commissioners doesn't necessarily make
9 it easier or better.

10 Having us as a body working together
11 seamlessly, even if we feel where, you know, have
12 fewer members is something that's really, really
13 important. So I'm going to be voting no on this. I
14 would really ask folks to think carefully about this,
15 because I don't think this is necessarily the
16 appropriate time to do this. And I think we need to
17 still do a lot more homework on what it is that we as
18 a Commission need and what we working with the
19 Department need from the Department.

20 So I'm going to be voting no, I really
21 feel concerned by this. And I'm not quite sure where
22 this came from. It's out of left field for me just
23 having gotten this yesterday and so I am concerned.
24 Thank you.

25 CHAIRMAN RHODES: Thank you,

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2 Commissioner Burman. Mr. Alesi, any comments or
3 questions?

4 COMMISSIONER ALESI: Yes, Mr.
5 Chairman, thank you for the opportunity. I'm going
6 to support this. I'm very impressed with the
7 professionalism and hard work of -- of the staff
8 especially, and my colleagues as well.

9 MR. ROSENTHAL: Thank you.

10 COMMISSIONER ALESI: But if the --
11 you're very welcome. The premise here is that the
12 workload is growing. And so we need more
13 Commissioners. It's been mentioned already, and I
14 also agree that this could put an additional burden
15 on our existing staff. And I agree that that's a
16 strong possibility and we need to address that, if
17 that, in fact, occurs.

18 I think it's occurring right now. And
19 yet, as I alluded to the professionalism and hard
20 work of the staff, in my initial remarks that that we
21 will have to -- we will have to help. And we should
22 let the governor know that if we do this, that we
23 might need that help. That should be an alert that
24 goes out if we increase the size of the Commission.

25 As you know, my term expired, but I am

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2 sitting here today, and I have voted on 3 issues and
3 nobody has taken issue with the fact that I have
4 voted on any of those issues. Your term expired;
5 nobody took issue with the fact that you voted on
6 those issues. And so I don't see why there is any
7 issue with you or I voting on this issue. I'll be
8 voting yes.

9 CHAIRMAN RHODES: Thank you very much.
10 Commissioner Edwards?

11 COMMISSIONER EDWARDS: Well, thank you
12 very much. So Chair, it, you know, you are creating
13 a big hole for us when you are leaving, and you see
14 we need more people to replace you. So I think that
15 that is a credit to your leadership and your hard
16 work. I look at this a little differently. I want
17 to thank Commissioner Burman for that history,
18 because I was not aware of that history.

19 But I will say, you know, a few
20 things, one, when there's a significant change and if
21 there are potentially going to be 2 new people, 1 or
22 2, organizational do not -- organizational design
23 should occur at that time. And if there are going to
24 be any increases, it would be the right time to do
25 that. So that we can work together from a structural

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2 perspective and not do things piecemeal.

3 You know, I've only been on the
4 Commission for a year. When I went to the National
5 Association of Regulatory Utility Commissioners,
6 there is different numbers of people that are on
7 State Commissions. One of the challenges that I saw
8 when I came onto the Commission is the fact that
9 because we only have 5 members, it's very difficult
10 for us to stay within the law. But work together on
11 Committees, which I think increasing the number of
12 Commissioners will allow us to do that more.

13 I would love to have Committees with
14 our Commissioners working on the C.L.C.P.A. which is
15 right in front of us and we need to really work hard
16 on it. I would love to make sure that we are doing
17 everything we can to ensure that we are caring for
18 low-income programs. Today, we talked about storm
19 management, I love to work with a fellow Commissioner
20 on that work and then a Committee on policy.

21 I think that this is an opportunity
22 for us to strengthen our work and do it in a way
23 working with the staff. And I do agree that we need
24 to help the staff as well with this because there are
25 a lot of things that are for -- before us, we need to

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2 do it right. I think it could help our work, quite
3 frankly.

4 So I look at this as an opportunity
5 for us to be stronger. You know, there's been some
6 criticism in the past of us taking too long. This
7 could be an opportunity for us to be more
8 quantitatively quicker, but also qualitatively and to
9 work together in between sessions on some of these
10 things with the staff.

11 So I will be supporting this. I think
12 it's a good idea. And I want to thank you, Chair
13 Rhodes. And I do think it's appropriate for you to
14 weigh in. Because you have that knowledge and you
15 leaving gives us that perspective. So I want to
16 thank you.

17 CHAIRMAN RHODES: Thank you. Thank
18 you for your comments, including the personal note,
19 thank you very much, Commissioner Edwards.
20 Commissioner Howard.

21 COMMISSIONER HOWARD: I, like
22 Commissioner Edwards who have been on the Commission
23 probably over a year. And some days when I see the
24 volume of material for me, it becomes a little
25 overwhelming. So the concept of a few more hands

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2 sharing the work and the responsibility, and the
3 interchange of ideas certainly is appropriate.

4 I've also been in government a long
5 time, for decades and I have seen how it is shrunk in
6 terms of human beings. And technology was the
7 probably biggest driving force of that. However, in
8 various organizations that I have served in or
9 observed, sometimes we ask an organization to do more
10 with less.

11 Well, sometimes you get less with
12 less. And in a period of such dramatic change in how
13 we vision, certainly our energy system in this State
14 going forward, and decisions that will need to be
15 made in '21 in particular and '22 that will set the
16 course for several decades and potentially hundreds
17 of billions of dollars of new investment.

18 You know, it is clear, now's the time
19 to not only add more Commissioners, but clearly, I
20 think we should revisit the issue of staffing levels
21 at the Commission. And rather than seeing other
22 agencies or affiliated groups grow, particularly with
23 resources that were voted on by this Commission, I
24 think it's time that we examine division by division,
25 where we know our shortages are.

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2 Additionally, we're at a point of
3 great change in the State workforce. What gives me
4 real pause right now is the hundreds of years of
5 institutional knowledge by some very terrific people,
6 in our staff and particularly our senior staff. If
7 they move on, more than just them leaves, a bunch of
8 wisdom and insight leaves with them.

9 So those transitional issues need to
10 be addressed. And this is not something unique to
11 the Department of Public Service. I believe its
12 unique is true across the board. Us baby boomers as
13 we move on to our next part of life, we -- I don't
14 believe we've had an adequate succession planning not
15 only at this agency, but across the board.

16 And I would hope that we would take
17 this opportunity particularly as we have no
18 leadership to the agency to examine those issues
19 quickly and try to make what changes will be
20 necessary, probably in this legislative session. And
21 that's -- that is my hope. But I will be supporting
22 this resolution.

23 CHAIRMAN RHODES: Thank you very much.
24 So with that, we can proceed to a vote on the
25 resolution. For the record, I'm John Rhodes and my

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2 vote is in favor of adopting the resolution.

3 Commissioner Burman.

4 COMMISSIONER BURMAN: I vote no.

5 CHAIRMAN RHODES: Thank you.

6 Commissioner Alesi.

7 COMMISSIONER ALESI: I vote yes.

8 CHAIRMAN RHODES: Thank you.

9 Commissioner Edwards.

10 COMMISSIONER EDWARDS: I vote yes.

11 CHAIRMAN RHODES: Thank you.

12 Commissioner Howard.

13 COMMISSIONER HOWARD: Yes.

14 CHAIRMAN RHODES: Thank you. The
15 resolution is adopted. So we will now move to the
16 consent agenda. And I ask, as per usual, do any
17 Commissioners wish to comment on or recuse from
18 voting on any items on the consent agenda? I do not.
19 So we begin with Commissioner Burman.

20 COMMISSIONER BURMAN: Thank you. Can
21 you hear me?

22 CHAIRMAN RHODES: I can. Yes. Thank
23 you.

24 COMMISSIONER BURMAN: Great. I have
25 four items that I will be speaking on. On item 269,

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2 this is a draft order adopting with modifications
3 what was proposed in staff's integrated data resource
4 white paper filed May 29th, 2020. I'm voting no.
5 While I think that the proposal for a statewide
6 integrated energy data resource may have some merit,
7 it is not something I think we should undertake as a
8 Commission right now at this session.

9 The process set up with the program
10 governments, with steering committee and advisory
11 group needs more in-depth discussion among the
12 Commission itself on what is appropriate and what
13 guardrails should be in place for proper functioning
14 of the steering committee and advisory group.

15 Frankly, we can and should wait until
16 the new permanent chair to decide if this is the
17 direction the new Chair and the Commission under that
18 Chair, want to have staff deeply invested in since it
19 will be very time consuming. We'll all -- we also
20 already put time and energy into the utilities having
21 such data access programs and should instead of
22 focusing on eventually scrapping many of those but
23 the statewide one, we should discuss this in more in
24 depth.

25 It makes no sense to me that we note

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2 that several programs have been initiated relating to
3 various aspects of accessing and using energy,
4 customer energy system data. And that we say
5 considering the time needed to implement all the
6 integrated energy data resource capabilities, it will
7 be necessary and reasonable for the utilities to
8 maintain existing data access resources and to
9 continue developing currently planned resource
10 enhancements and additions that would provide
11 stakeholders with earlier access to more data.

12 For me, maybe our focus should be
13 invested more on working with the utilities and other
14 stakeholders on improving what we already have asked
15 of the utilities and the stakeholders and going
16 towards that more.

17 The Commission draft order also
18 recognizes that we are considering the establishment
19 of new State policies for uniform and comprehensive
20 data access framework to govern the means and methods
21 for accessing and protecting all types of energy
22 related information.

23 Thus, the Commission is in agreement
24 with the staff that all aspects of implementing and
25 operating the proposed integrated energy data

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2 resource must comply with the policies comprising any
3 future new data access framework.

4 The Commission also in this draft
5 order agrees with D.P.S. -- with staff's assertion
6 that much of this integrated energy data resource's
7 value will depend on the extent to which the State
8 Energy stakeholders trust the integrated energy data
9 resource as a reliable source of accurate
10 information.

11 Both of those points in terms of
12 waiting for any future new data access framework and
13 how the I.E. -- I.E.D.R. must comply with those
14 policies out of that framework, as well as ensuring
15 that State Energy stakeholders trust the I.E.D.R. as
16 a reliable source of accurate information make sense.

17 It doesn't make sense to me that we're
18 forcing this today, deciding this today, without
19 looking at clearly what our future focus will be on
20 the new data access framework and without working
21 with the stakeholders more on how can we achieve
22 optimal efficiencies.

23 I am just not comfortable. This is an
24 overly ambitious program, and I'm not comfortable
25 with actually seeing that this will be properly

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2 executed. We need to make sure that we have the
3 leadership resources and staff capabilities for the
4 long haul to handle the next steps. Therefore, I'll
5 be voting no on this item.

6 CHAIRMAN RHODES: Commissioner Burman.

7 COMMISSIONER BURMAN: Yes.

8 CHAIRMAN RHODES: Sorry, just a point
9 of order. I believe you said you were going to
10 comment on 269?

11 COMMISSIONER BURMAN: No.

12 CHAIRMAN RHODES: I believe.

13 COMMISSIONER BURMAN: 262.

14 CHAIRMAN RHODES: Okay, great. Thank
15 you very much. My -- I misunderstood. Thank you.

16 COMMISSIONER BURMAN: Great. I'm
17 commenting on 4 items. The first was 262.

18 CHAIRMAN RHODES: Thank you. Sorry
19 about that.

20 COMMISSIONER BURMAN: That's okay.

21 The next is item 365. This is a petition by Hudson
22 Valley Clean Energy, as well as Solar Energy
23 Industries Association Alliance for Clean Energy New
24 York. Both Solar Initiative National Resources
25 Defense and the Alliance for Solar Choice and focus

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2 on clarifying certain things in our orders.

3 The Commission here is denying a
4 distributed energy's petition for 2-year extension of
5 the term for retaining a monetary crediting
6 methodology beyond the 25-year term established by
7 the Commission's 2015 transition plan in this
8 proceeding.

9 While I will concur with the draft
10 order, I note that this item is troubling. It shows
11 the extensive engagement the company reports it had
12 during the development stages, such that it turned to
13 our staff ombudsman process, not once but seemingly
14 many times and quite extensively.

15 I am genuinely concerned that we need
16 -- we may need to drill down more in this process and
17 the challenges that are presented there and really
18 understand more from the stakeholders what's going
19 on. I want to be kept more informed of similar
20 issues and how we're working through these to make
21 things better, it's really important to me.

22 I'm going to skip for a moment, my
23 third item which is 371 and go to 374 and then come
24 back to 371. 374 is, here the order denies the
25 requests in the petition to, One, allow customers to

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2 receive credits for multiple community distributed
3 generation projects. Two, allow customers to receive
4 credits for both the value of distributed energy
5 resources value stack, as well as net metering.

6 And Three, determine the 25-kilowatt
7 large customer threshold in the C.D.G. program by
8 contracted demand or subscription size within a
9 C.D.G. project rather than actual meter demand.
10 However, because utilities were calculating it
11 inconsistently, the guidance in this order is
12 pertaining to the calculation of the 25-kilowatt
13 thresholds. Such guidance on the calculation of the
14 25-kilowatt large customer threshold is intended to
15 create consistency among utilities and lessen
16 investor confusion as our prior orders were unclear.

17 Also, the order allows advanced
18 projects to be grandfathered in the new 25-kilowatt
19 guidance regardless of whether the threshold was
20 previously based on meter demand, customer size, or
21 classification, or C.D.G. subscription allocation
22 size. I will be concurring with this item, but I am
23 speaking on it because I am concerned about two
24 things that I want to flag.

25 The draft order states that the

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2 Commission's long-standing policy is to protect
3 developers with projects in advanced stages of
4 development as those projects were developed based on
5 good faith reliance on existing policies. This is an
6 issue for me that we really need to be more careful
7 on and more thoughtful. We just had at our January
8 session, an item with Daroga Power regarding
9 grandfather statuses per value stack compensation.

10 I do think my comments then talking
11 about my concern about how we were handling things
12 and working with developers is something that we
13 really need to take more thoughtfully. When we set
14 forward policies and there is a good faith reliance
15 on existing policies, we really do need to understand
16 that it's not just picking a point in this and
17 saying, well, they're so -- so advanced, so they --
18 they'll come under the grandfathering.

19 Others won't, even if they've expended
20 a lot of time and resources. When they work with us
21 on our policies and they're trying to comply and you
22 can see a -- a tortured history, it's something we do
23 need to take seriously and figure out what we might
24 be doing wrong in -- in that and in our ways that
25 we're handling establishing our policies, especially

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2 when we see a continued concern about the lack of
3 clarity at times.

4 The second item that I'd also like to
5 address in here is that the order states that going
6 forward the utility shall apply the Commission's
7 guidance contained in the body of this order in
8 determining the interpretation of the 25-kilowatt
9 demand threshold. And no project under development
10 may claim a prior but inconsistent utility
11 interpretation.

12 After the date of issuance of this
13 order, we state that a 6-month transition or other
14 time period is inconsistent with recent Commission
15 practice and would increase impacts on non-
16 participating ratepayers. I am concerned about that,
17 I'm concerned that having it take effect immediately
18 upon the date of issuance of this order, is something
19 that is concerning to me. And I think we should be
20 really carefully looking at that if our practices are
21 appropriate.

22 The next item that I will address is
23 item 371. To be clear, I am a no on this item. I'm
24 going to explain in a moment why. This is an item in
25 the matter of developing a funding mechanism for the

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2 electric generation facilities sensation mitigation
3 program. This is a really important item.

4 And it's one that I have carefully
5 weighed. I've looked at the history on this, as well
6 as all the filings that were done and the comments
7 that were saved, received from the State Energy
8 Planning Board. And I've looked at the law very,
9 very much.

10 Here, the State Energy Planning Board
11 and it's important to understand the historicalness
12 of this. State Energy Planning Board in 2015, set
13 forth the State energy plan. It was actually two
14 years late. Every four years, the State Energy
15 Planning Board is to put forward a State energy plan.

16 If we go by the 2015 date, 2019 should
17 have been the next State energy plan. And then the
18 2019, the next one would be 2023. The State Energy
19 Planning Board did take the time to issue an
20 amendment to the 2015 State Energy Planning Board and
21 they did so in 2020. Now, they did not update the
22 State energy plan to 2019 or to make it a 2020 State
23 energy plan. Part of that was that if they did have
24 to do that there would be a lot more work that would
25 have been required.

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2 And since they felt that the Climate
3 Action Council was working on that, there was no need
4 for them to update the State Energy Planning Board or
5 at least that's the thinking that goes because we
6 haven't really gotten an official word on if they're
7 thinking of a 2023 plan, what -- why they decided not
8 to do a 2019 plan, et cetera. It's important. It's
9 important because we do need to look at what -- how
10 we're following the law and the impact that this may
11 have, especially as it goes to some criticalness in
12 terms of our State energy planning.

13 So with that, in 2020, there were --
14 there was an amendment; it actually had two parts to
15 it. One was incorporating the goals and the targets
16 and some of the language from the C.L.C.P.A. into the
17 amendment into the plan. And then the other was the
18 amendment related to the mitigation fund. We're
19 going to read that in a moment.

20 Here it -- it focused on the language
21 being put into the new State energy -- into the 2015
22 State energy plan, stating New York's electric
23 generation fleet is and will undergo a transition in
24 the coming years as a result of market forces, State
25 policies and the advent of the C.L.C.P.A. In 2016,

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2 the Public Service Commission initiated the clean
3 energy standard and adopted the goal of 50% renewable
4 electricity by 2030, which has been increased to 70%
5 through the C.L.C.P.A.

6 Also in 2016, Governor Cuomo committed
7 to eliminate all coal generation in New York State by
8 2020 and follow the adoption of regulations by the
9 Department of Environmental Conservation. The
10 State's remaining coal-fired power plants have
11 announced plans to shut down.

12 In addition to the above policies,
13 nuclear power plant owner Entergy announced its
14 intention to close each of the operating units of the
15 Indian Point nuclear power plant by 2020 and '21
16 respectively. The C.L.C.P.A. has further committed
17 the State to a zero-carbon electricity sector by
18 2040.

19 Power Plant host communities are able
20 to receive transitional support to alleviate
21 financial losses associated with the generator's
22 retirement through the State's electric generation
23 facility inflation mitigation program commonly known
24 as the mitigation program. This mitigation program
25 established in 2015, is expected to see additional

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2 demand following the passage of the C.L.C.P.A. and
3 other policy changes instituted after the mitigation
4 program's initial establishment.

5 Now this is the important thing that's
6 the directive to us. To account for the changes in
7 energy policy since the onset of the mitigation
8 program, the Public Service Commission will develop a
9 process to consider a mechanism that can provide a
10 stable source of funding for the mitigation program.

11 So I looked at that, looked at those,
12 but also at all of the comments. Most of the
13 comments from the folks in -- when there were --
14 staff had sent a notice of the state energy plan,
15 were really focused on wanting more funding into the
16 mitigation program.

17 They came from school districts, they
18 came from community members, frankly, mostly in the
19 Westchester area and mostly focused on, from what I
20 could see, on the closure of Indian Point. So it is
21 obviously a very significant and important aspect for
22 those folks. There also is a recognition that more
23 funding will necess -- be necessary.

24 There was actually one comment that
25 was a little different and it stated that the

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2 amendment should be postponed until the C.L.C.P.A.
3 final approved scope is available along with the 2020
4 reliability study. Also at issue is NYSERDA and the
5 New York D.E.C. not releasing the study identifying
6 the most rapid, cost effective, and responsible
7 pathway to reach 100% renewable energy statewide.

8 The energy planning board must analyze
9 and include the study in its decision-making process.
10 And the public is entitled to see the study on the
11 basis of New York's Freedom of Information Law. That
12 was one comment that was there.

13 When you go to actually the energy law
14 and you are in energy law 6-104 subdivision 4 A, I
15 believe, it states the senate State energy plan shall
16 provide guidance for energy-related decisions to be
17 made by the public and private sectors within the
18 State.

19 Further in the State Energy Law
20 Article 6, it also states State Energy Board
21 Commissioner authority may, not must, but may take
22 official notice of the most recent final State energy
23 plan adopted by the board prior to any final energy
24 related decision by such agency, board, commission or
25 authority.

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2 There has been a miscommunication in
3 that it is not a mandate that we are taking up
4 everything that isn't in the State energy plan. It
5 is actually something for us to look at as guidance
6 to what we're doing. And to the extent that we are
7 incorporating it, it is very important that we do so
8 and that we clearly lay out what we're doing. And if
9 we differ from that, in the State energy plan, that
10 we outline that.

11 Now I am not disputing that the Indian
12 point nuclear power plant may make amendments to the
13 State energy plan. The law is very clear that upon a
14 finding by the Board that there has been a material
15 and substantial change in fact or circumstances since
16 the most recent plan was adopted. And then they have
17 certain things that they have to do, they can as a
18 board decide to make changes and amend the State
19 energy plan.

20 What I am going to say is -- and I
21 feel very strongly about the -- about this is that
22 they do not, and they did not have the jurisdiction
23 to direct us to -- to look at this mitigation fund
24 and direct us to consider a mechanism that can
25 provide a stable source of funding for the mitigation

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2 program.

3 That directive does not come from even
4 an incorporation of the C.L.C.P.A. At the time that
5 the C.L.C.P.A. was adopted and enacted into law,
6 there was already from 2015 legislation specifically
7 related to the mitigation fund. It was done in the
8 budget.

9 And it is something that if the
10 legislature felt was important to change and make us
11 as a Commission now having to provide what the stable
12 source of funding for the mitigation program is, they
13 could have done that. They did not.

14 I do not believe that the State Energy
15 Planning Board can act as a mini legislature now and
16 write into the State energy plan an amendment
17 focusing on directing us to do something that is
18 clearly for the legislature to decide what should be
19 in that fund or whether they're going to direct us to
20 look at that.

21 Since there was no legislative
22 directive, since there was no change to that, doing
23 that now, I think is just not appropriate. Being
24 that what it is, we now need to look at what does
25 this mean. It is very important. We are going to

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2 see an increase of access to the funds especially now
3 with Indian Point. And so it is before us to look
4 at. I believe very strongly that we do not have to
5 take this up, nor should we since the State Energy
6 Planning Board did not have the jurisdiction
7 appropriately to do that.

8 However, for argument's sake, I will
9 go forward assuming that where it has -- it has come
10 before us. It was SAPA'd. We looked at whether or
11 not what -- what the appropriate mechanisms may need
12 to be to provide a stable source of funding for the
13 mitigation program.

14 My concern here goes to the next
15 level. I believe strongly that multiple interveners
16 raises an appropriate and very important point.
17 Multiple interveners notes that it doesn't agree that
18 captive electric customers should be responsible for
19 funding the mitigation program.

20 And multiple interveners stated that
21 the mitigation program is a cost unrelated to the
22 revision of the serve -- the utility service.
23 Nowhere in the draft order does it actually dispute
24 that -- that statement by multiple interveners.

25 If we were to now allow this to come

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2 to us through a directive from the State Energy
3 Planning Board, we would essentially be opening the
4 floodgates that the State Energy Planning Board can
5 direct us or frankly, any commission, board, or
6 agency to do something even if it's not within the
7 scope of their jurisdictional reach.

8 And even if it's not necessarily
9 appropriate for that agency board or commission to be
10 looking at. That is also of concern to me, since the
11 C.L.C.P.A. does have where the advisory -- the
12 climate action Advisory Council will be in 2021,
13 putting forth several recommendations to the State
14 Energy Planning Board for consideration.

15 It actually is teed up very nicely,
16 that if we were to follow the law and have now as
17 proper, a new State energy plan in 2023, if we're
18 going from the 2015 marker, then actually the timing
19 can work out very nicely for analysis and deciding
20 how to incorporate a lot of that into the State
21 energy plan.

22 However, I remind everyone that the
23 energy law does state that the energy plan is
24 guidance for other agencies and boards to look at and
25 incorporate. And so it is not necessarily a mandate.

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2 But we also do not want to see now, a lot of
3 different directives being issued, that really
4 frankly, will look to be getting around what the
5 legislative process should be and what a commission
6 or board's own independent jurisdiction and processes
7 may have to be as well.

8 I'm trying to do this --

9 CHAIRMAN RHODES: I'm sorry.

10 Commissioner Burman, I just lost you.

11 COMMISSIONER BURMAN: -- to do this.

12 Can you hear me now? Hear me?

13 CHAIRMAN RHODES: I can hear you again
14 now. We lost you for about 20 seconds, 30 seconds.

15 COMMISSIONER BURMAN: That was my most
16 brilliant point. I'm smiling. All right. In any
17 event I am wrapping up. And I am concerned when I
18 look at this, of the fact that we are now saying that
19 the stable source of funding is to raid uncommitted
20 funds of the ratepayers. We are looking at taking
21 \$12.5 million per year through '23, to create and I
22 put in quotes the stable source of funding for the
23 mitigation program. This will actually go beyond the
24 sunset of the law. The law goes to 2025.

25 Now the draft order does note that and

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2 states that assuming that the law is in place. I
3 don't know why we'd go beyond the sunset provision.
4 Again, it seems to me that then we would have a
5 difficulty in terms of saying, well, we -- we should
6 just continue it even though the legislature didn't,
7 it may have not decided not to re up this
8 legislation.

9 My concern here is that I don't see it
10 appropriate for the stable funding to be taken from
11 uncommitted funds. We have an ongoing proceeding on
12 what to do with COVID issues. There's concern that,
13 you know, in this draft order that we're doing that
14 because we understand we don't want to have a new
15 obligation imposed upon ratepayers especially as it
16 is not directly from utility service, totally
17 understand that.

18 I don't understand why we would not be
19 looking carefully at all of the uncommitted funds
20 that we have and looking at what we should do
21 holistically. We have a number of proceedings that
22 seems that time and time again we refer to taking
23 money from uncommitted funds of ratepayers and that
24 that's better than a new obligation, yes.

25 However, shouldn't we be looking at

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2 all of the different things that are out there
3 including the open COVID proceeding to decide what is
4 appropriate and have more of a say across the board.
5 My hat's off to Assemblywomen Galef. She wants an
6 independent funding stream and more accountability.

7 I totally agree, I totally understand
8 that. But her avenue to make this happen should be
9 through the legislative process. She should not,
10 just as her fellow legislatures should not, want to
11 have diluted their legislative power on the
12 mitigation fund itself and should really be carefully
13 looking at this and weighing in on what is
14 appropriate.

15 I'm going to be voting no on this. I
16 feel very strongly that these issues and how we're
17 handling them go beyond this mitigation program. We
18 really need to be careful stewards of the ratepayer
19 dollars. And we have an obligation to protect it and
20 to carefully look at what is all before us.

21 We will have many issues that will
22 come from the C.L.C.P.A. that will have huge cost
23 attached to them. And huge needs for us to refigure
24 out how we are doing things. This piecemeal process
25 here and this subverting the process, the legislative

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2 process is one that I don't feel comfortable with.

3 And what I would say is I would
4 actually, especially now as the budget process is
5 ongoing, have the legislature look at this and decide
6 what they want to do to provide a stable source of
7 funding for the mitigation program and weight in on
8 that. Thank you. I'm a no.

9 CHAIRMAN RHODES: Thank you very much.
10 Can I just for good order sake, Commissioner Burman
11 confirm that you are no on 262 I.E.D.R. and a no on
12 371 mitigations and the concur on 365 A.E.S. and on
13 374 the C.D.G.?

14 COMMISSIONER BURMAN: Correct.

15 CHAIRMAN RHODES: Thank you very much.
16 Commissioner Alesi, any comments or questions on
17 agenda items?

18 COMMISSIONER ALESI: No comments or
19 questions. Thank you.

20 CHAIRMAN RHODES: Sorry, I was on
21 mute. Commissioner Edwards, any comments or
22 questions on consent agenda items?

23 COMMISSIONER EDWARDS: Now I'm good
24 Chair Rhodes. Thank you.

25 CHAIRMAN RHODES: Thank you very much.

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2 And Commissioner Howard, any comments or questions on
3 consent agenda items?

4 COMMISSIONER HOWARD: Yes. There are
5 two items that I will be commenting on. One is first
6 is item 363 for the host benefit program for large
7 scale renewables. I do appreciate the challenge
8 confronted by staff on implementing this program.
9 How do you identify equitably those residential
10 property owners that are affected or could be
11 affected by the impact of large-scale renewables.

12 However, I do believe that this item
13 fails to acknowledge that geography and political
14 boundaries and project boundaries always don't align
15 perfectly. And I believe either currently or in the
16 very near future, we will see property owners who
17 live in adjacent municipalities to the project host
18 who will have border properties that could and
19 probably will be affected in the same criteria that
20 those properties within the host municipality are
21 being treated in this program, particularly visual
22 impacts and the like.

23 To that extent, I'm pleased that we
24 will take a look back in 2 years on this program and
25 its implementation, but in the interim, I would urge

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2 all municipalities that border host communities for
3 large scale renewables engage in the siting process
4 to ensure that any potential affected residences
5 receive compensation under this program.

6 Again, I certainly look again to the
7 good work of local governments in protecting their
8 own constituents. With that being said, I will be
9 voting yes.

10 My other item is item 371. I must say
11 I'm very troubled by this item for several reasons.
12 First is the use of RGGI funds to compensate
13 communities for loss of property tax revenues due to
14 power plant closures. I submit the use of these
15 funds for this purpose could have seemed
16 inappropriate.

17 Loss of large parcels and the impacts
18 on local property tax base is truly a difficult
19 position for local governments. Regardless of the
20 nature of the loss of the type of property that is no
21 longer a taxable. However, this item takes one kind
22 of property, in this case power plants, and treats
23 them differently than other large or industrial
24 commercial properties that go off the tax base.

25 The legislature has the power to

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2 compensate for the loss of tax revenue through a
3 variety of mechanisms. Direct municipal impact aid,
4 and larger and in most communities a much bigger bite
5 is school aid and the school aid formula. Both of
6 which provide a fairer and more sustainable source of
7 funding to the affected municipalities.

8 Also, this takes off any veil from the
9 fact that RGGI and other associated fees on emitters
10 or electric and energy ratepayers are in effect
11 taxes. That they are not only taxes, but they are
12 fungible and could be used for purposes other than
13 those originally stated when those fees or programs
14 were established.

15 Improving environmental -- the
16 environment and moving to a carbon free economy were
17 the overarching reasons that these funds were created
18 and to provide a fact -- funding mechanism to get us
19 to those goals.

20 And as we move forward and add
21 additional charges, potentially to customers, and
22 must insist that we treat these funds as what they
23 are taxes. Taxes that should be dedicated to a
24 specific purpose that they were intended and not to
25 be able to plug budget holes in either the State or

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2 local coffers.

3 Lastly, this is the perfect example of
4 our State's over reliance on property taxes to fund
5 essential local service. No State taxes energy
6 infrastructure to the extent that we do in New York.
7 And I suggest that this policy makes it look like
8 major -- that we need major changes in this system
9 and to break the reliance on "hidden taxes" in our
10 energy bill.

11 We understand that massive new cap
12 also -- we also need to understand that massive new
13 capital investments to meet the goals of the
14 C.L.C.P.A. and -- and carbon reduction will only
15 exacerbate this very flawed system. I submit that we
16 do need a very comprehensive approach to real
17 property taxes on our energy and utility systems.
18 They are unfair. They come from an era that no
19 longer exists.

20 And I submit that the legislature take
21 this issue very seriously moving forward.
22 Particularly as our new investments of hundreds of
23 billions of dollars in new capital could only
24 increase potentially these windfalls or this unfair
25 system.

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2 With that, Mr. Chairman, I'll be
3 voting no on item 371. And I will be concurring on
4 the balance of the agenda.

5 CHAIRMAN RHODES: Thank you very much.
6 With that, may I call for a vote on the consent
7 agenda? I, this is John Rhodes for the record, I am
8 voting yes on the items on the consent agenda.
9 Commissioner Burman acknowledging your no vote on 262
10 and 371, how do you vote?

11 COMMISSIONER BURMAN: I'm going to
12 vote no with John Howard who convinced me I think
13 that was important. So I'm going to support his no
14 vote.

15 CHAIRMAN RHODES: On 371 but also 262,
16 is that correct?

17 COMMISSIONER BURMAN: I'm voting no on
18 262 and 371. And I'm with John Howard on his no
19 vote.

20 CHAIRMAN RHODES: His no vote is on
21 371, is it not?

22 COMMISSIONER BURMAN: Yeah.

23 CHAIRMAN RHODES: Am I confused?
24 Okay. Thank you. Commissioner Alesi, how do you
25 vote on the consent agenda?

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2 COMMISSIONER ALESI: I vote yes.

3 CHAIRMAN RHODES: Thank you.

4 Commissioner Edwards. How do you vote on the consent
5 agenda?

6 COMMISSIONER EDWARDS: I vote yes.

7 CHAIRMAN RHODES: Thank you very much.

8 And Commissioner Howard, how do you vote on the
9 consent agenda? I believe you are a no, only on 374
10 although you made comment on 363.

11 COMMISSIONER HOWARD: 371.

12 CHAIRMAN RHODES: 371 excuse me.

13 COMMISSIONER HOWARD: I'm a no on 371.

14 And am I a yes on the balance of the agenda.

15 CHAIRMAN RHODES: Thank you very much.

16 With that the consent agenda -- go ahead if there is
17 a question.

18 COMMISSIONER BURMAN: I also was
19 voting no based on what John Howard said as well
20 because I thought it was very important so.

21 CHAIRMAN RHODES: I see. Okay. I
22 understand that. Thank you very much. So with those
23 votes, the consent agenda is approved. And now I
24 ask Secretary Phillips, do you have any other
25 business before we adjourn?

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2 SECRETARY PHILLIPS: Yes, Chair.

3 There is another matter that I would like to address
4 on behalf of staff and the other Commissioners.

5 Absent objection, there is a resolution that I'd like
6 to read into the record in recognition of the end of
7 your term at the Commission and in recognition of
8 your last session, so.

9 Whereas, John B Rhodes has served this
10 citizens of the State of New York as the Chair of the
11 Public Service Commission and Chief Executive Officer
12 of the Department of Public Service since June 27th,
13 2017 with great distinction and previously served as
14 President and C.E.O. of the New York State Energy
15 Research and Development Authority from September
16 2013 to June 2017.

17 And, Whereas, Chair Rhodes has put his
18 extensive expertise to work for New Yorkers, drawing
19 on more than three decades of experience in business
20 with a focus on the financial and energy industries.
21 And, Whereas the Commission under the leadership of
22 Chair Rhodes has issued over 3150 orders and guided
23 the Department in the expansion of clean energy
24 initiative.

25 Helping to set the State on a path to

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2 achieve its nation leading energy and climate goals
3 including authorization of programs designed to
4 achieve 70% renewable electricity by 2013. 9000
5 megawatts of offshore wind by 2035. 6000 megawatts
6 of distributed solar by 2015 and 3000 megawatts of
7 energy storage by 2030.

8 And, Whereas Chair Rhodes has
9 increased New Yorkers access to clean distributed
10 energy resources by establishing a compensation
11 system based on the value of the projects bring to
12 society, and the electronic grid updates to
13 standardize interconnection requirements to make it
14 easier for distributed generation to connect to the
15 State's electric grid, and implementation of
16 consolidated billing for community distributed
17 generation customers.

18 And, Whereas the New York State Board
19 on electric generation fighting in the environment
20 under the leadership of Chair Rhodes has granted
21 certificates for 11 large-scale renewable projects,
22 totaling over 1400 megawatts of wind and nearly 200
23 megawatts of solar.

24 And, Whereas Chair Rhodes has been
25 recognized for his leadership and commitment to clean

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2 energy and energy efficiency is evidenced by being
3 listed at the top of City and State 2020 Energy and
4 Environmental Power 100 for driving the energy debate
5 and environmental policies in New York.

6 And, Whereas Chair Rhodes has
7 demonstrated the utmost respect for his colleagues on
8 the Commission, the Staff of the Department, and the
9 utility ratepayers of New York State showing
10 compassion and humility in his leadership.

11 And, Whereas Chair Rhodes has
12 cultivated a culture of excellence, collegiality, and
13 care in the Department by valuing staff and
14 recognizing them for their positive contribution,
15 including through establishing the take-charge
16 guiding principles initiative and placing emphasis on
17 continuous improvement, employee recognition and
18 empowerment.

19 It is resolved that the New York State
20 Public Service Commission expresses its deepest
21 appreciation to Chair Rhodes for his leadership of
22 this Commission and of the Department and his
23 faithful service to the citizens of the State of New
24 York, as demonstrated by his unwavering commitment to
25 the mission of the Commission to ensure safe, secure,

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2 and reliable access to electric, gas, steam,
3 telecommunications, and water services for all New
4 York's residential and business customers. That
5 concludes my statement.

6 COMMISSIONER EDWARDS: Michelle?
7 Chair Rhodes?

8 SECRETARY PHILLIPS: Yes.

9 COMMISSIONER EDWARDS: Yeah, Michelle,
10 can I just, you know, say and I know other
11 Commissioners may speak too, so before you speak --
12 speak, Chair Rhodes, I just want to thank you for
13 everything that you have personally done for me over
14 the past year getting me assimilated into the -- the
15 -- the Commission.

16 You -- your grace, and humility, and
17 knowledge, and thoughtfulness is very much
18 appreciated, and your patience is second to none. So
19 I want to thank all of you for leading this great
20 team. We will miss you. Thank you.

21 SECRETARY PHILLIPS: That was
22 Commissioner Edwards for the record. I believe
23 Commissioner Alesi also wanted to make comments.
24 Commissioner Alesi, you may be on mute.

25 COMMISSIONER ALESI: Yes, I would like

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2 to make a few remarks. Can you hear me now? Hello?

3 SECRETARY PHILLIPS: Yes.

4 COMMISSIONER ALESI: Okay. Thank you.

5 Thank you. Well, needless to say it's -- IT'S
6 bittersweet because I think we will all miss John,
7 that goes without saying. And I think we can all go
8 down the long list of things that he has done, not
9 only for us on the Commission and not only for our
10 remarkable staff.

11 I call to your attention just the fact
12 that he's not only the Chair of the Commission, but
13 also the C.E.O. of the -- the Department with
14 hundreds and hundreds of incredibly talented people.
15 And I have no doubt that each and every one of them
16 look up to John, in the role that he has played for
17 them.

18 And for all of us, and for everybody
19 in New York State, because most people, most
20 citizens, probably don't think at all about how all
21 of this gets done. And we know it gets done because
22 of the people that work in the Department and on the
23 Commission. And out in the field it gets done, but
24 it doesn't get done without leadership.

25 And I can't think of a single person

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2 that I have known in my entire life, from all walks
3 of life, that have done their role, and whatever it
4 was, they were doing as superbly, as John Rhodes has
5 done in his role. You know, my -- I think of Thomas
6 Edison giving us the light bulb and that was quite a
7 thing in that day and age.

8 And yet today, we have made
9 advancements to make the Edison light bulb obsolete,
10 almost unappreciated, if we could believe that. But
11 you move on, you take a great idea, and you give it
12 to somebody that can deliver it to the future. And
13 we look at all of the things that surround the
14 concept of renewable energy and how we get to a
15 carbon- free future.

16 We have delivered that to a guy like
17 John Rhodes, to help us carry it under his leadership
18 into the future so that others will enjoy a better
19 world and more efficient energy. We light our homes,
20 we drive our cars, how we cook our food and all of
21 that.

22 You know, I was -- I was telling my
23 nephew the other day. He was talking about buying an
24 electric car. And whether -- he asked me whether he
25 should wait a while and see how things turn out. Or,

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2 you know, will it just be a passing fad. I said, let
3 me tell you about the work that we do on the Public
4 Service Commission and our attached organization, the
5 Department.

6 And let me tell you about the man that
7 has given us the guidance over the last few years.
8 And I include his time at NYSERDA, time on the siting
9 board, obviously his chairmanship here. A man with a
10 vision and the willingness to navigate the
11 treacherous waters of how we get to another shore.

12 And treacherous I mean, not only
13 opposition in the political world, the opposition in
14 the world of business, opposition from groups that
15 don't share the view of having a clean environment,
16 energized by smart sources of energy. But John
17 Rhodes I think, is the kind of man that history will
18 remember just like Thomas Edison.

19 He gave us something and he gave us
20 the opportunity to take it and move forward and
21 improve upon it. I told my nephew that -- think
22 about this world that he's going to inherit and all
23 these other young people by the time they're adults
24 in the year 2050. I said, David, I won't be around,
25 but because of this man I was telling you about, I'm

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2 sure I'll be up there smiling down to see how the
3 world turned out for you.

4 And my nephew said Uncle Jimmy, I
5 think it's more likely that you'll be looking up.
6 But in any event, we will have that because of John
7 Rhodes. And John, I want you to know that I will be
8 looking up. I will always look up to you. And I
9 will always be grateful for your friendship and your
10 leadership.

11 SECRETARY PHILLIPS: Commissioner
12 Burman?

13 COMMISSIONER BURMAN: Thank you.
14 Chair, I will miss you. You've been a very good
15 Chair. I've enjoyed our relationship, And I look
16 fondly upon the time that we've spent together,
17 including our 10-hour ride to Virginia together.

18 It is Thomas Edison's birthday and so
19 I'll just leave you with a quote, which is "The three
20 great essentials to achieve anything worthwhile are:
21 hard work, stick-to-it-iveness, and common sense".
22 You embody all of that and I look forward to your
23 future endeavors and working again with you. Thank
24 you.

25 SECRETARY PHILLIPS: And Commissioner

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2 Howard?

3 COMMISSIONER HOWARD: Yes. John, you
4 have taken, as many of us had, the role of public
5 service to its highest plateau, which is different
6 than being a legislature, different than being an
7 executive, but you are also a regulator. Where you
8 by definition, your job is to take A variety of
9 inputs, make fair decisions, and be just and
10 reasonable for the people of the state of New York.

11 And to that end, I think you fulfilled
12 your role magnificently. Best of luck in the future.
13 And I hope you're available on the phone for guidance
14 as I need it. Thank you very much. And we will miss
15 you.

16 SECRETARY PHILLIPS: And Chair Rhodes,
17 this is Secretary Phillips. I just personally want
18 to say thank you as well and give you the opportunity
19 to comment.

20 COMMISSIONER BURMAN: I think you have
21 to unmute yourself.

22 CHAIRMAN RHODES: There we go. Thank
23 you. I was only unmuted in one -- one insufficient
24 place. So thank you very much all of you for the
25 very kind and thoughtful -- thoughtful words. I'm

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2 not really sure how to respond to much was -- to much
3 of what was said, but I will embrace the words that
4 noticed -- that took note of our accomplishments as
5 long as, One, we would recognize that we did it
6 together.

7 And Two, that we recognize that
8 there's more to come. You know, Diane mentioned a
9 three-part recipe she attributed to -- to Thomas
10 Edison. I have my own magic, three part. It's not
11 mine, I'm borrowing it from other people. But it's
12 the one I believe in. My own three-part recipe --
13 magic recipe, which is that good, meaningful work
14 happens when you've got terrific colleagues -- 1, who
15 want to work together -- 2, on important stuff -- 3.
16 And you provided that in spades.

17 So that's the foundation for
18 everything that we've done together. Let's stay on
19 this mission. Let's stay in this fight. And thanks
20 in advance to all of you for doing that. Thanks for
21 these really appreciated remarks today. And thank
22 you for your years of work and collegueship, it
23 means the world to me. Thank you.

24 So perhaps on that note, shall I
25 adjourn? We are adjourned. Thank you very much.

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2 All -- all my colleagues.

3 THE COURT REPORTER: Okay were off the
4 record.

5 (Off the record, 12:55 p.m.)

6 (The meeting concluded.)

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2 STATE OF NEW YORK

3 I, JANET WALLRAVIN, do hereby certify that the foregoing
4 was reported by me, in the cause, at the time and place,
5 as stated in the caption hereto, at Page 1 hereof; that
6 the foregoing typewritten transcription consisting of
7 pages 1 through 107, is a true record of all proceedings
8 had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 15th day of February, 2021.

11

12

13 JANET WALLRAVIN, Reporter

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