

1 7-15-2021 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5 VIA WEBEX

6  
7 Thursday, July 15, 2021

8 10:30 a.m. until 12:45 a.m.

9  
10  
11 COMMISSIONERS:

12 JOHN B. HOWARD, Interim Chair

13 DIANE X. BURMAN

14 TRACEY A. EDWARDS

15 JOHN B. MAGGIORE

16 DAVID J. VALESKY

17 RORY M. CHRISTIAN

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

3 CHAIRMAN HOWARD: Welcome back. I  
4 call this session of the Public Service Commission to  
5 order. Secretary Phillips, are there any changes to  
6 the final agenda?

7 SECRETARY PHILLIPS: There are no  
8 changes to the final agenda.

9 CHAIRMAN HOWARD: Well, thank you.  
10 Well, today I have a unique pleasure of welcoming  
11 three brand new Commissioners to this Commission.  
12 And I look forward to their good work and their  
13 collaboration. First, John Maggiore, David Valesky  
14 and Rory Christian. I'd like to begin to note that  
15 Commissioner Alesi is excused.

16 And I would ask Secretary Philips to  
17 administer the oath to our new Commissioners.  
18 Commissioners, if you could please rise, please.

19 SECRETARY PHILLIPS: Thank you. Could  
20 you please raise your right hands? Commissioners  
21 Valesky, Maggiore and Christian, do you solemnly  
22 swear or affirm that you will support the  
23 Constitution of the United States and the  
24 Constitution of the State of New York, and that you  
25 will faithfully discharge the duties of a

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2 Commissioner of the Public Service Commission,  
3 according to the best of your abilities?

4 MR. CHRISTIAN: I do.

5 MR. VALESKY: I affirm.

6 MR. MAGGIORE: I do.

7 COMMISSIONERS; RORY CHRISTIAN, DAVID  
8 VALESKY AND JOHN MAGGIORE; Sworn

9 SECRETARY PHILLIPS: Thank you.

10 CHAIRMAN HOWARD: Thank you very much.  
11 Congratulations, gentlemen. Okay it's not on, okay.  
12 Can you hear me now?

13 SECRETARY PHILLIPS: Yeah.

14 CHAIRMAN HOWARD: Excellent. Thank  
15 you. And we begin our regular session. First, our  
16 first items for discussion, Item 201, which will be  
17 cases 20-E-0422 et al. Item 301, cases 20 -- 20-E-  
18 0641 et al. Item 501, cases 21-M-0042 et al. As  
19 they relate to the settlement agreements with the  
20 Consolidated Edison, Orange and Rockland Utilities,  
21 Frontier Communications -- and Frontier  
22 Communications presented by Joseph Suich, Director of  
23 the Office of Investigations and Enforcement, joined  
24 by Andrea Cerbin, Assistant Counsel, Nick Forst,  
25 Assistant Counsel. Kevin Wisely, Director of Office

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2 of Resiliency and Emergency Preparedness.

3 Tim Canty, Acting Director of the  
4 Office of Accounting Audits and Finance. Arpit  
5 Mehta, Utility Engineering Specialist 3. Gary  
6 Hildenbrandt, Utility Analyst 3, and Brian Ossias,  
7 Managing Attorney are all available for questions.  
8 Joe, will you please begin?

9 MR. SUICH: Good morning, Chair Howard  
10 and Commissioners. Item 201 is an order granting  
11 motion and adopting joint outage and regulatory  
12 settlement agreement between the Department of Public  
13 Service and the New York Electric Utilities  
14 Consolidated Edison of New York Incorporated, and  
15 its, affiliate Orange and Rockland Utilities  
16 Incorporated, which I wish to refer to individually  
17 as Department, Con Edison and O.&R. and together as  
18 the parties.

19 In short, the order does two things.  
20 First, the order adopts a \$82.05 million settlement  
21 agreement between the parties that resolve 6 Con  
22 Edison and O.&R. outage investigations. Second, the  
23 order grants the motion before you today. The  
24 Department recommends the adoption of the order.

25 By the settlement agreement addresses

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2 a number of outage settlements. By far, the most  
3 significant and impactful outage event addressed in  
4 the settlement agreement is Tropical Storm Isaias.  
5 As you may remember, on 4 August 2020, Tropical Storm  
6 Isaias struck New York State bringing strong winds  
7 and heavy rain, and a significant impact on among  
8 others, Con Edison's and O.&R.'s service territories.

9 Con Edison had 333,000 customer  
10 outages that took 8 days to fully restore. O.&R. had  
11 189,000 customer outages that took 7 days to fully  
12 restore. The day of the storm, the Department  
13 initiated an all-hands-on-deck investigation to  
14 understand the root causes and pushed for speedy  
15 restoration.

16 Department management conducted site  
17 visits of some of the worst hit areas. Department  
18 staff engaged in real time communications with  
19 utilities and municipal and regional leaders  
20 regarding the storm response.

21 Based on this initial investigation,  
22 on August 19th, 2020, the Department issued a Notice  
23 of Apparent Violation or N.O.A.V.s to among others,  
24 Con Edison and O. & R. regarding their preparation for  
25 and response to Tropical Storm Isaias.

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2 The notices also directed Con Edison  
3 and O.& R. to immediately implement a series of  
4 actions to prevent any similar failings in case  
5 another significant storm event occurred in 2020.  
6 Including adding storm crewing capacity, testing  
7 capacities at call, command, and data centers, and  
8 refining coordination plans and communication plans  
9 with municipalities.

10 Of note, the same directive is  
11 provided to all of the State's electric distribution  
12 utilities, each of which has implemented the  
13 corrective actions. Only two days after the  
14 Department issued the N.O.A.V.s, it began the second  
15 phase of its investigation with the legal and  
16 forensic support of the Department of Financial  
17 Services.

18 This next phase included but was not  
19 limited to 43 utility interviews and depositions  
20 ranging from 2 to 14 hours each, submitting document  
21 preservation notices, requesting reviewing tens of  
22 thousands of emails and technical documents, meeting  
23 with regional, city, and town officials. Reviewing  
24 hundreds of customer complaints submitted to the  
25 Department and analyzing utilities submitted E.R.P.

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2 scorecards and storm reports.

3 In short, we followed the facts. We  
4 note that Con Edison and O. & R. fully cooperated with  
5 the Department's information requests, producing  
6 within days thousands of pages of documents to review  
7 and making the senior staff available for interview  
8 and deposition.

9 On November 19th, 2020, the Commission  
10 issued a show-cause order alleging 33 violations of  
11 Con Edison's Emergency Response Plan, or E.R.P. And  
12 38 violations of O. & R.'s E.R.P. relating to, among  
13 other things, their alleged failure to reasonably  
14 comply with their storm classification and staffing  
15 mandates, communications with municipal officials and  
16 the media, and the failure to comply with metrics  
17 relating to contacts with life support equipment  
18 customers.

19 The show-cause order also directed Con  
20 Edison and O. & R. to respond to the Department's  
21 allegations and show cause why the Commission should  
22 not commence Civil and Administrative Penalty and  
23 Prudency actions.

24 On December 21st, 2020, Con Edison and  
25 O. & R. filed responses denying the Department's

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2           allegations and arguing why in their view, the  
3           Commission should not commence a penalty or prudency  
4           proceeding. On January 21st, 2021 the Commission  
5           directed the Office of Hearings and Mediation to hold  
6           the evidentiary hearing regarding the Department's  
7           allegations for Con Edison and for O. & R.

8                   The parties thereafter engaged in  
9           months of extensive pre-hearing discovery and motion  
10          practice. On May 7th, 2021, Con Edison and O. & R.  
11          filed a notice of impending settlement with the  
12          Secretary, which led to the settlement agreement  
13          before you today. This agreement also resolves the  
14          related Con Edison Rainey substation outage, which  
15          occurred as a result of Tropical Storm Isaias' salt  
16          deposits.

17                  In addition to Isaias, the settlement  
18          agreement also resolves three other smaller and  
19          unrelated Con Edison only outage events, the 2018  
20          Flatiron steam release, and the July 2019 Manhattan  
21          and Brooklyn summer outages, which I will quickly  
22          summarize for you now.

23                  As you may remember, on July 19th,  
24          2018, a Con Edison steam pipe ruptured in the  
25          Flatiron District of Manhattan. Con Edison personnel



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2 quickly arrived at the scene, initiated its emergency  
3 plan, and worked with firefighters to evaluate and  
4 secure the area. No one was significantly injured.

5 The Department immediately initiated  
6 an investigation into the impact and root causes of  
7 the incident. Both Con Edison's internal review and  
8 the Department's investigation concluded that the  
9 rupture was caused by a "water hammer" event,  
10 resulting from a break in a nearby customer-owned  
11 fire suppression waterline that flooded the steam  
12 pipe housing.

13 The Department also alleged however,  
14 that Con Ed has acted imprudently relating to the  
15 company's operation and maintenance of the associated  
16 steam plant and its impact on the water hammer event.  
17 The Department further made numerous remedial  
18 recommendations to avoid a repeat release.  
19 Exploratory settlement discussions between the  
20 Department and Con Edison occurred throughout 2020.

21 Thereafter, Con Edison filed a notice  
22 of impending settlement with the Secretary on June  
23 22nd, 2021. The settlement agreement before you  
24 resolves the prudence allegations surrounding the  
25 steam incident and requires Con Edison to implement

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2 the Department's recommended remedial measures.

3 Add to the two 2019 summer outages  
4 first, on July 13th, 2019, approximately 73,000 Con  
5 Edison customers on the west side of Manhattan lost  
6 electric service. The resulting outage temporarily  
7 impacted commercial activities including theaters,  
8 musicals, restaurants and transportation systems.  
9 Con Edison restored service to all customers in less  
10 than five hours the same day.

11 Similarly, on July 21st, 2019, the Con  
12 Edison Electric System that serves the Flatbush  
13 network in the -- in Brooklyn experienced a series of  
14 events that affected the network's reliability. The  
15 sequence of events started on July 20 and accelerated  
16 on July 21st, when 5 27 kV feeders and breakers  
17 failed. The loss of this equipment placed  
18 substantial stress on the 4 kV grid, which Con Edison  
19 then de-energized, resulting in 30,000 customers  
20 losing power.

21 The operator's decision protected the  
22 Flatbush Network from significant damage and kept  
23 power flowing to approximately 100,000 other Flatbush  
24 Network customers. Con Edison began to restore  
25 service immediately on July 21st and restored service

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2 to all customers on July 23, 2019.

3 The Department began a comprehensive  
4 investigation after each of the 2019 summer outages.  
5 With respect to the 2019 Manhattan outage, the  
6 Department determined that the outage resulted  
7 directly from Con Edison's omitting ground or neutral  
8 wires from certain relays. As such, the Department  
9 alleged that Con Edison missed three opportunities to  
10 remedy the relays and thus acted imprudently, in  
11 failing to detect the missing wires associated with  
12 the Manhattan outage.

13 The Department also alleged one  
14 violation of Con Edison's E.R.P. related to customer  
15 communications. As for the 2019 Brooklyn outage, the  
16 Department's investigation identified seven alleged  
17 violations of Con Ed's E.R.P. relating to municipal  
18 and customer communications, and four alleged  
19 violations of the Commission's outage notification  
20 incentive mechanism alert.

21 On November 19th, 2020, the Commission  
22 issued a show-cause order that directed Con Edison to  
23 respond to the Department's allegations and show  
24 cause why the Commission should not commence civil  
25 administrative penalty and prudency actions as to the

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2 summer outages.

3 On December 21st, 2020, Con Edison  
4 filed responses denying the Department's allegations  
5 as to the summer outages and arguing why, in its  
6 view, the Commission should not commence either penal  
7 -- prudency or penalty proceedings. After  
8 exploratory settlement discussions between the  
9 Department and Con Edison, Con Edison filed a  
10 subsequent notice of impending settlement with the  
11 Secretary on June 22nd, 2021, in both cases.

12 With the -- with this foundation, the  
13 universal settlement before you resolves the  
14 allegations in Con Edison's Tropical Storm Isaias,  
15 Rainey substation, the 2018 steam release, and 2019  
16 summer outages investigations, as well as the O. & R.  
17 Tropical Storm investigation.

18 Specifically, the total combined  
19 settlement amount is \$82,050,000 divided as follows.  
20 Con Edison \$75 million dollars -- \$75,050,000 and  
21 O. & R. \$7 million. The amounts were paid for by  
22 utility shareholders for the benefit of its  
23 ratepayers. And the utilities are required to file  
24 periodic status reports of action items with the  
25 Commission.

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2 The amounts can be more fully broken  
3 down as follows. \$25 million in foregoing debt and  
4 equity return on storm-hardening assets. Up to 2  
5 million for a storm preparedness audit of Con Ed and  
6 O. & R.'s weather forecasting, classification, and  
7 staffing program. 2 million in maintenance, repairs,  
8 storage, and availability of up to 100 additional  
9 trucks for storm recovery. 750,000 in customer  
10 undergrounding pilots.

11 7.5 million for Con Edison. And  
12 additional 1.6 million for O. & R. on customer food  
13 and medicine spoilage related to Tropical Storm  
14 Isaias without release from liability. 6 million for  
15 Con Edison, an additional 2.5 million for O. & R. over  
16 2021 and 2022 to guarantee additional storm  
17 restoration contractor availability.

18 4 million over 2021 and 2022 on  
19 existing utility truck operation and maintenance  
20 costs. 3.5 million in operation and maintenance  
21 expenses relating to the 2018 steam incident and 2019  
22 Manhattan outage, and the 2019 Brooklyn outage. 3.5  
23 million to replace steam pipe in the Flatiron section  
24 of New York City.

25 Up to 1.4 million insurance benefits

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2           regarding the steam release. Also outside of the  
3           82.05 million, if Con Edison receives insurance  
4           reimbursement for food and medicine spoilage costs  
5           paid to customers because of Tropical Storm Isaias,  
6           Con Edison agrees to place all such reimbursement in  
7           an interest-bearing account for the benefit of  
8           ratepayers.

9                   Further, Con Edison has paid or will  
10          pay back funds to customers in the form of negative  
11          revenue adjustments as follows. Rainey event, \$5  
12          million. Manhattan event, \$5 million. Brooklyn  
13          outage, \$10 million.

14                  The Department leaves -- believes the  
15          settlement agreement is consistent with the  
16          Commission settlement guidelines, is in the public  
17          interest, and importantly serves as an industry-wide  
18          deterrent for any similar future storm performance.  
19          The Department therefore recommends the adoption of  
20          the draft order by the Commission.

21                  I would like to close by personally  
22          thanking the women and men of the Department who have  
23          worked tirelessly over the past two years on these  
24          investigations and trials and given up countless  
25          weekends and vacation time to fully commit to these

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2 proceedings. Thank you for your consideration, and  
3 the team is available for questions.

4 SECRETARY PHILLIPS: Before we  
5 continue, can I please remind anyone who's speaking  
6 to please make sure your green light is on and to  
7 move your microphone close to you when you speak.  
8 Thank you.

9 MS. CERBIN: Good morning, Chair  
10 Howard and Commissioners. My name is Andrea Cerbin,  
11 I'm with the Office of Enforcement and  
12 Investigations. Item 301 is an order granting motion  
13 and adopting settlement agreement between the  
14 Department of Public Service and the New York  
15 Electric Utility, Central Hudson Gas and Electric  
16 Corporation, which I will refer to individually as  
17 the Department and Central Hudson and together as the  
18 parties.

19 In short, the order does two things.  
20 First, the order adopts a \$1.5 million settlement  
21 agreement. We've named the parties that resolves  
22 alleged violations relating to Central Hudson's  
23 preparation for and response to Tropical Storm  
24 Isaias. Second, the order grants a motion bringing  
25 the settlement agreement before you today at --

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2 before you at today's session. The Department  
3 recommends the Commission adopt the order.

4 As noted in Item 201 which I will not  
5 repeat in detail here, on August 4th, 2020, Tropical  
6 Storm Isaias struck New York State including Central  
7 Hudson service -- service territory causing 116,000  
8 customer outages. Central Hudson achieved full  
9 customer restoration four days later on August 8th,  
10 2020. On August 19th, 2020, the Department issued a  
11 Notice of Apparent Violation to Central Hudson  
12 regarding its preparation for and in response to  
13 Tropical Storm Isaias.

14 The notice also directed Central  
15 Hudson to immediately implement a series of  
16 corrective actions in case another significant storm  
17 event occurred in 2020, including adding storm crew  
18 and capacity, which Central Hudson has since  
19 implemented.

20 On November 19th, 2020, the Commission  
21 issued a show-cause order alleging 32 violations of  
22 Central Hudson's Emergency Response Plan or E.R.P.  
23 related to among other things, website updates and  
24 the failure to comply with metrics related to  
25 contacts with life support equipment customers.



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2 On December 21st, 2020, Central Hudson  
3 filed a response denying the Department's allegations  
4 and arguing why in its view the Commission should not  
5 commence a penalty or prudence proceeding. On  
6 January 21st, 2021, the Commission directed the  
7 Office of Hearings and Mediation to hold an  
8 evidentiary hearing regarding the Department's  
9 allegations for Central Hudson.

10 After exploratory settlement  
11 discussions on February 23rd, 2021, Central Hudson  
12 filed a notice of impending settlement. On July 7th,  
13 2021, the parties entered into a settlement agreement  
14 incorporated into the order before you resolving all  
15 issues as to the company relating to these  
16 proceedings.

17 The agreement in short requires  
18 Central Hudson to apply 1.5 million in storm  
19 hardening measures over the next three years above  
20 that and its rate case and at shareholder costs for  
21 the benefit of ratepayers. The Department believes  
22 the settlement is consistent with Commission  
23 settlement guidelines, is in the public interest, and  
24 importantly further serves as an industry wide  
25 deterrent for any similar future storm performance.

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2 The Department therefore recommends the adoption of  
3 the draft order by the Commission.

4 Thank you for your consideration and  
5 the team is available for questions.

6 MR. FORST: Good morning, Chair  
7 Howard. Good morning, Commissioners and welcome to  
8 the new Commissioners. My name is Nicholas Forst.  
9 I'm with the Office of General Counsel. Item 501,  
10 the draft order before you adopts the terms of a  
11 settlement agreement consists -- consisting of  
12 approximately \$2.7 million in remedial action items  
13 between Frontier Communications of New York  
14 Incorporated and the Department of Public Service  
15 resolving 10 alleged violations by Frontier  
16 Communications during Tropical Storm Isaias.

17 On August 4th, 2020, Tropical Storm  
18 Isaias made landfall across New York including within  
19 frontier service territories. Frontier encountered  
20 peak outages of 5880 customers and Frontier did not  
21 return to business as usual until August 11th, 2020.

22 Frontier experienced an elevated  
23 trouble load due to the storm and a failure of  
24 equipment to transfer to backup generators following  
25 the loss of commercial power at a critical Frontier

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2           Central Office in Orange County, causing a loss of  
3           communications to approximately 5800 customers served  
4           by the Central Office switch, as well as the  
5           selective router providing connectivity to the Orange  
6           County 911 center or Public Safety Answering Point or  
7           PSAP, from apox -- approximately 7:20 p.m. on August  
8           4th until approximately 8:30 a.m. on August 5th, when  
9           full restoration of the PSAP was completed.

10                   On August 28th, 2020, the Department's  
11           Office of Investigations and Enforcement provided  
12           notice to Frontier regarding its preparation for and  
13           response to Tropical Storm Isaias indicating the  
14           Department was investigating possible violations of  
15           the public service law, its regulations, and/or  
16           orders, and requiring Frontier to produce certain  
17           documentation relating to Tropical Storm Isaias and  
18           Frontier's pre-storm preparation and post-storm  
19           restoration efforts.

20                   As part of its continuing  
21           investigation, the Department later issued several  
22           sets of information requests to Frontier and held  
23           interviews with key Frontier personnel. Frontier  
24           responded to the Department's document and  
25           information request -- request providing narrative

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2 responses and over 7700 responsive documents and  
3 producing several Frontier employees for interviews.

4 On February 11th, 2021, the Department  
5 released its investigation report on Tropical Storm  
6 Isaias impact on telephone and cable television  
7 networks and services. The report presented the  
8 findings of the Department's investigation and stated  
9 that Frontier was in apparent violation of certain  
10 Commission regulations.

11 Specifically, the report alleged that  
12 Frontier one, did not implement procedures, test, or  
13 operate equipment at the central office located in  
14 Orange County in a manner that should have adequately  
15 insured its continuous operation in the event of a  
16 commercial power loss, an apparent violation of 16  
17 N.Y.C.R.R. Part 603.5A and 16 N.Y.C.R.R. Part 603.5  
18 B1.

19 Second, once the damaged battery is  
20 depleted in the central office and with it the  
21 selective router went out of service, Frontier did  
22 not timely notice the catastrophic outage to the  
23 Department in apparent violation of 16 N.Y.C.R.R.  
24 Part 603.5 B2.

25 And third and finally, Frontier did

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2 not timely and accurately notify the Department of  
3 other major service outages, including an outage  
4 impacting the Old Forge Area on August 8th, 2020.  
5 Outages affecting Sullivan County from August 4th  
6 through the 6th, 2020. Outages which impacted  
7 customers in Keeseville and Long Lake areas on August  
8 7th, 2020. And an outage to customers in Kiryas Joel  
9 from August 5th to 7th, 2020.

10 After the issuance of the report,  
11 Frontier filed a notice of impending settlement on  
12 February 12th, 2021. As a result of the Department  
13 settlement negotiations with Frontier held in  
14 compliance with 16 N.Y.C.R.R. 3.9, the settlement  
15 agreement provides for approximately \$2.7 million to  
16 pursue a series of action items over the next 5  
17 years, which specifically redress the issues  
18 identified during the Department's investigation.

19 The action items include approximately  
20 \$2.3 million in network upgrades and geographic  
21 diversity projects to establish E911 selective router  
22 and communication diversity in Orange, Hamilton,  
23 Fulton and Montgomery counties, which will increase  
24 the reliability and redundancy of the E911 Network in  
25 New York State.

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2 These items include ongoing support  
3 for the network and geographic diversity  
4 enhancements. Frontier will also pursue  
5 approximately \$375,000 in additional enhancements,  
6 which include implementation of a centralized  
7 preventative maintenance program to automate  
8 scheduling, a preventative maintenance for backup  
9 generators, central office batteries and transfer  
10 switches, enhanced communication notification and  
11 reporting protocols to be used in preparation for and  
12 during storms and other outage events. And  
13 replacement of the batteries and transfer switch at  
14 the Orange County Central Office that experienced the  
15 backup power failure.

16 The settlement agreement specifies  
17 that each of the action items is to be executed by  
18 date certain with final measures to be implemented  
19 within 5 years of entry into the settlement. To  
20 ensure Frontier's compliance with the terms of the  
21 settlement agreement, Frontier is required to report  
22 to the Department periodically on its spending and --  
23 and progress on action items.

24 The settlement agreement also requires  
25 Frontier to report to the Department in writing every

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2           6 months beginning December 31st, 2021, and ending  
3           December 31st, 2025, a summary of its spend and  
4           progress in completing the action items identified in  
5           the agreement, including supporting documentation.

6                   An important aspect of the settlement  
7           agreement, Frontier will ensure that the cost of the  
8           action items will not result in any increased cost to  
9           Frontier's and its affiliated New York company  
10          customers.

11                   As stated in the settlement agreement,  
12          Frontier demonstrated its commitment to these  
13          measures by already completing several of the  
14          measures prior to executing the settlement agreement.  
15          The Department acknowledges and supports Frontier's  
16          cooperation through the Department's investigation  
17          and Frontier's to -- commitment to a series of  
18          remedial actions that enhance redundancy and that  
19          will help Frontier better serve its customers and  
20          ensure continuous 911 service in New York State in  
21          connection with future severe weather events.

22                   In conclusion, Frontier's investment  
23          via the terms of the settlement agreement at no cost  
24          to its customers, redresses and improves Frontier's  
25          storm response capabilities, and does so without the

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2 risk and delay of further litigation.

3 I would also like to extend my  
4 appreciation to all the Department staff who's  
5 expended -- expended considerable effort to resolve  
6 this matter, including those in Counsel's Office, the  
7 Office of Investigations Enforcement, the Office of  
8 Resiliency and Emergency Response and the Office of  
9 Telecommunications as well as the Department of  
10 Financial Services during the investigation phase.

11 This concludes my presentation. Debra  
12 LaBelle, Brian Ossias, Joseph Suich, Gary  
13 Hildenbrandt and I are now available to answer any  
14 questions you may have. I appreciate the opportunity  
15 to present this item to the Commission. Thank you.

16 CHAIRMAN HOWARD: Thank you, everyone.  
17 I have two questions. First, regarding the Con Ed  
18 outages, particularly those related to the Brooklyn  
19 incident, and since those were defined as heat  
20 related incidences at the time. And I just want to  
21 know what our opinion is on where Con Ed is today.  
22 And have we seen improvement in their ability to  
23 handle these heat events, particularly in the outer  
24 boroughs?

25 MR. SUICH: Commissioners, I'll ask



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2 Kevin Wisely to address that question, please.

3 MR. WISELY: Thank you, Joe,  
4 Commissioners. Yes Chair, we have seen -- a noticed  
5 improvement. We have already had a few heat events,  
6 we're going into a couple of hot days in the next two  
7 days also. But Con Ed's use and implementation of  
8 voltage reductions when they go into a second  
9 contingency on their networks, in combination with  
10 the pre-deployment of generators to networks and  
11 stations and the, you know, positive outreach to  
12 consumers to conserve, and the partnership with the  
13 City of New York has really shown improvements. And  
14 they, no pun intended, weathered the last heat event  
15 two weeks ago very well.

16 CHAIRMAN HOWARD: Thank you. As you  
17 know, our continued vigilance will be necessary. My  
18 second question is relating to Frontier and just want  
19 to know that we are satisfied that Frontier's 911  
20 systems are fully operational and that folks that  
21 depend on them will be -- that they're going to work?

22 MR. FORST: Yes, Chair Howard. Yeah,  
23 I believe we are very confident in that. And the  
24 redundancies that are built in as part of the  
25 settlement agreement not only provide Frontier

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2 benefit, but also other 911 service providers.

3 CHAIRMAN HOWARD: Great, thank you.

4 Some comments. First, I want to sincerely thank  
5 staff for their hard work. It was thorough, it was  
6 aggressive, and it was timely. Utilities need to  
7 know that poor performance will be met with swift and  
8 effective regulatory action. Having the Isaias  
9 investigation and settlement being completed in under  
10 a year sets a new benchmark for how this Commission  
11 approaches its oversight role. While these  
12 settlements set new records for dollar amounts  
13 assessed in penalties, that fact alone is -- is not  
14 enough.

15 The basic premise of the measures and  
16 the penalties that we undertake are designed to  
17 improve future performance. And linking the findings  
18 of this case to improvements in utilities' emergency  
19 response plans, is the corrective action that we  
20 seek.

21 So again, I just would like to thank  
22 staff who brought this case to a just conclusion. We  
23 always should remember just and reasonable and I  
24 think these cases and these settlements are both.  
25 With that, I will turn it to my colleagues for their

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2 comments. Commissioner Burman.

3 COMMISSIONER BURMAN: Thank you so  
4 much. I very much agree with your comments. I just  
5 have a couple of questions really related to the next  
6 steps and how staff will be handling it especially as  
7 we look at the audit process, as well as some of the  
8 things in there like the pilot programs in Con Ed?

9 MR. SUICH: Commissioner, perhaps I  
10 can address some of those. And I can ask Kevin  
11 Wisely as well to further refine my -- my comments.  
12 So the -- the storm preparation and audit -- storm  
13 preparation audit really is to get to the root of how  
14 Con Edison and O. & R. forecast their storms. It was  
15 why -- is that so important? Well, you -- proper  
16 forecasting leads to proper classification, proper  
17 classification then leads to proper storm staffing,  
18 which then leads to appropriate restoration time.

19 With a big storm like Isaias, whether  
20 we like to say it or not, you're never going to have  
21 restoration completely done in the next day. These  
22 things take time. But really what we want to hold  
23 utilities to is that they have properly prepared for  
24 the storm and properly responded to the storm. And  
25 that's what the goal of the E.R.P. is all about.

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2 We want to dig deeper into Con Ed's  
3 forecasting and how they look at the weather, and how  
4 they turn that into classification. And that's what  
5 this audit will do. It's expected to happen over the  
6 next year. It will happen with Commission input. It  
7 will also happen with Commission briefings on the  
8 results.

9 And we really want to get to a point  
10 where if we have lessons learned, we can then apply  
11 them across other utilities as well. Con Ed is the  
12 only utility which actually uses meteorologist -- has  
13 two meteorologists on staff, the rest leverage  
14 National Weather Service -- while Con Ed leverages  
15 National Weather Service as well, it also had --  
16 tries to get a secret sauce with that, those two  
17 meteorologists.

18 And we think they got it wrong in this  
19 last storm. However, we think they have the  
20 resources to do much better. And that's what this  
21 audit is really going to do next. So it's going to  
22 happen over a year, Commission input, Department  
23 input. And hopefully we can leverage that  
24 throughout, including in the next round of E.R.P.s,  
25 which is -- we'll be starting in December. Kevin,

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2 any other thoughts on that, please?

3 MR. WISELY: Sure, Joe. Thank you.

4 Thank you, Commissioner. So as Joe was articulating,  
5 you know, weather forecasting is -- is a difficult  
6 premise at best. But you know, as we go forward and  
7 look at multiple events that are occurring the same  
8 time as last week was very representative of what  
9 we're seeing with Tropical Storm Elsa coming up from  
10 the Atlantic basin, as well as four or five straight  
11 days of pop-up thunderstorms that move from west to  
12 east across the state.

13 So the ability to look at those and  
14 how those are going to impact various utility service  
15 territory is very important. So that review and  
16 audit will help us look at those kinds of things. As  
17 you'll hear, in the subsequent order about the  
18 E.R.P.s and E. -- E.R.P. approvals, we've looked at  
19 those, enhanced the E.R.P.s and we continue to do  
20 that. We're also going to look to cooperatively work  
21 with utilities on -- on the way forward and how we  
22 look at that consistently across the service  
23 territories, across the utilities.

24 In regards to some of the resilience  
25 activities that was mentioned in settlement, things,

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2           you know, we -- we all recognize that we will  
3           continue to enhance E.R.P.s and ensure that the  
4           utilities are doing the right things for  
5           preparedness, and response, and repair, and  
6           restoration when we have these events. But the  
7           reality is these events are still going to occur and  
8           we will still have outages.

9                   So some of the activities and  
10          resilience in ensuring that we are enhancing the  
11          system you -- Con Ed is undertaking three  
12          undergrounding pilots where we're going to selective  
13          underground, some service -- some of their pieces of  
14          their service territory in -- in locations, all in an  
15          effort to help with that -- that resiliency in that  
16          effort.

17                   So they won't have impacts in those  
18          areas that they have, you know, previously. So those  
19          kinds of things as we look to the way forward, it's  
20          continuing to enhance the E.R.P. process for their  
21          preparedness, and response, and restoration. But  
22          also where we can continue to improve the system so  
23          that we can come back better, restore sooner, bring  
24          customers back to power when we have these events.

25                   COMMISSIONER BURMAN: Thank you. I

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2 think that's helpful. Joe, can you also talk a  
3 little bit about the global settlements and what you  
4 feel was important from a success perspective of  
5 packing in numerous different events into the global  
6 settlement?

7 MR. SUICH: Yes, ma'am. So universal  
8 type settlements are not uncommon in the enforcement  
9 world. We've used them in Riley Quinn, where we  
10 combined both the Con Ed and O.& R. settlement  
11 together. We've also done others in the past as this  
12 and -- and beyond the Commission, so it's not  
13 uncommon to have a universal settlement. I believe  
14 the settlement amount and the numbers that are there,  
15 in my opinion are right on.

16 You're always going to have critics,  
17 that is something should have been less, something  
18 should have been more, but it does a number of  
19 things. First of all, it shows that when you have  
20 \$82 million number, that's well beyond the cost of  
21 doing business.

22 Secondly, it has remedies within that  
23 money is being used for the specific issues that we  
24 found in the investigation. Steam pipe blew up, new  
25 steam pipe at no cost to the -- no cost to the

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2 ratepayers for instance. Not enough storm staffing,  
3 now to 6, 7, 8 million for storm staffing that'll be  
4 used at no cost to ratepayers.

5 There will be a -- at the next storm  
6 or right after we sign this, there will be an impact  
7 positive, impact to Con Ed and O.& R.'s ratepayers.  
8 And the last thing is, I think, the investigation as  
9 a whole and the -- the Commission's actions as a  
10 whole practical, tempered, driving toward compliance  
11 at all times.

12 That's what really enforcement is, to  
13 drive compliance, has had an effect, I believe,  
14 industry wide. Kevin can comment much better than I  
15 can on this. But we have seen more ramping up for  
16 storms in the past year since this investigation has  
17 started.

18 Now of course, that comes at a cost if  
19 I don't -- if I can just opine for a minute in my --  
20 my thoughts that you have a car, you may decide to  
21 have more or less insurance, the insurance costs more  
22 money. And it also, as we put more and more storm  
23 staffing for storms which may or may not occur, that  
24 it comes at a cost to -- to ratepayers.

25 But certainly we have seen a positive



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2 impact as a result of the storm. So I think it is a  
3 very good settlement on behalf of the ratepayers of  
4 New York.

5 COMMISSIONER BURMAN: Thank you,  
6 that's very helpful. I'm going to save a lot of my  
7 comments for when we look at the E.R.P. order.  
8 Because I do think that many of our system  
9 improvements in process from lessons learned and  
10 learning from the events can be folded into that.  
11 And so I will do that.

12 I do want to thank staff, I recognize  
13 the enormous workload with limited resources, as well  
14 as during the pandemic. And as well as also trying  
15 to do other important work, like rate cases are our  
16 bread and butter. This is our bread and butter as  
17 well. It's very important and critical.

18 I came on the Commission in 2013 and I  
19 brought with me my own personal reflections from  
20 having gone through Superstorm Sandy. But also --  
21 and as the anniversary of the blackout of 1977 was  
22 yesterday, July 13th and 14th. As well as the August  
23 14th, 2003, blackout that will be anniversary next  
24 month, really -- is really important for us to look  
25 at all of those past events and the continuing events

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2 and look at how we can help to focus on -- vigilant  
3 focus on reliability, safety and security of the  
4 grid.

5 And that our primary focus is also as  
6 economic regulators. And so we also need to balance  
7 the interests for our -- for the customers also with  
8 what that means from a cost perspective as well,  
9 never shirking in our responsibility on oversight of  
10 safety and reliability.

11 For me, I recognize that many of these  
12 investigations that were open, started frankly,  
13 fraught with a lot of rhetoric and tension between  
14 folks and how it got started and those process issues  
15 were something that we really do need to look at from  
16 a going forward perspective, because I don't believe  
17 that that actually helped to get us to what I see as  
18 reasonableness in discussing how to move forward.

19 And when we were frankly able to set  
20 those things aside and -- and, you know, look at it,  
21 it was very helpful to that. I do think that the  
22 global settlements was also helpful to try to look  
23 holistically at these things and I appreciate where  
24 we are. There's a lot in each of these in terms of  
25 future actions and future follow up, you know, not

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2 just with the audit but the API 1173, some pilots on  
3 undergrounding, as well as resiliency.

4 Those things will be really important  
5 for us to have a handle on, not just in the specific  
6 issues, but really how it may impact as we go forward  
7 in improvements in system reliability, and  
8 resiliency, and communication.

9 What I see, you know, from my tenure  
10 as a regulator is that an important aspect throughout  
11 all of these events is communication, communication  
12 with the staff, communication with the utilities,  
13 communication with the Commission, communication with  
14 the customers, communication with various  
15 stakeholders including the municipalities.

16 And that the more we can continuously  
17 improve, the more we can continuously recognize that  
18 there's -- is staff turnover at every level. And  
19 that it is -- and -- and figure those things out  
20 before the event. That was really very, very helpful  
21 for us to get right. So thank you.

22 CHAIRMAN HOWARD: Commissioner  
23 Edwards.

24 COMMISSIONER EDWARDS: Thank you. So  
25 as the Chair mentioned, this was a record turnaround

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2           with the investigation. And I really want to thank  
3           all of you for your hard work. I do have a question,  
4           though. When this investigation was commenced, there  
5           were two other open investigations, the 2019 summer  
6           one and the other one's 2018.

7                   So do you think that the changes that  
8           were made in this investigation are sustainable so we  
9           would be able to continue the speed of investigations  
10          as we did with this one?

11                   MR. SUICH: Each investigation,  
12          Commissioner, as you know, is different. Some are  
13          small and get wrapped up in a matter of weeks. Some  
14          take, like this one, a year. I think the speed which  
15          we initially started with may have been a little  
16          faster than we should have. But throughout, we  
17          stayed -- we stayed and followed the facts. And as  
18          we proceeded, we dug in.

19                   And when we dug in, we found some  
20          allegations we made were right. Some allegations we  
21          may need to be dropped because they just were not  
22          right. And some we needed further information on  
23          which is why it was going into trial. So I think the  
24          speed we -- we started with on this one is the speed  
25          which we wanted throughout, which we wanted to

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2 commence. I think a year on a major storm  
3 investigations is our new standard --

4 COMMISSIONER EDWARDS: Okay.

5 MR. SUICH: -- for sure.

6 COMMISSIONER EDWARDS: Great.

7 MR. SUICH: I don't think we need  
8 three years. But also to say I -- you know, if --  
9 you know, to say I want an order to show cause in one  
10 month, we can get you an order to show cause in one  
11 month, but we may be missing certain things. So I  
12 think providing the staff with the appropriate amount  
13 of flexibility, to conduct each -- each step is  
14 really the right way to go. I think the year is a  
15 good -- good calendar to use.

16 COMMISSIONER EDWARDS: Okay. Well  
17 then I'll hold you to it.

18 MR. SUICH: Okay.

19 COMMISSIONER EDWARDS: Do we have any  
20 other open investigations?

21 MR. SUICH: With Con Edison, no. What  
22 -- the nice thing about this, and I'll let Bob remark  
23 as well, please, is it kind of wraps it all up. And  
24 Con Edison also was looking for that same clean  
25 slate. I -- I do believe they -- they want to open

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2 up a new chapter there. The women and men of Con  
3 Edison that we've worked with aggressively defended  
4 themselves, but they did so in a respectful way. And  
5 I think they're also looking for a new chapter with  
6 the Commission. But --

7 COMMISSIONER EDWARDS: You know, I  
8 like --

9 MR. SUICH: -- I don't think that --

10 COMMISSIONER EDWARDS: I like the way  
11 you say women and men. I like that gesture.

12 MR. SUICH: Well I have an Italian  
13 wife, Commissioner so.

14 COMMISSIONER EDWARDS: I love it.

15 MR. SUICH: Yeah.

16 COMMISSIONER ROSENTHAL: The only  
17 thing that I'll add, I think the unique thing that we  
18 did in regards to this investigation, and I think Joe  
19 understated it. Within a week after the, you know,  
20 Con Ed and -- and the various services were restored  
21 at the various utilities, we were deposing people.

22 And the reason that's important and I  
23 think it needs to be replicated is because people's  
24 minds are fresh. They knew what had happened and  
25 they were already undertaking their own internal

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2 analysis about what had gone right and what had gone  
3 wrong.

4 And so on two -- on two sides of it,  
5 number one, we were able to get them when their minds  
6 were fresh and clear. And number two, people need to  
7 understand the utilities literally provided us with  
8 dozens of -- we -- we've deposed and interviewed  
9 dozens of witnesses within two or three weeks after  
10 that storm event.

11 When their minds were fresh, when they  
12 had just completed, you know, they had their own  
13 documents that we were able to show them and to get  
14 an understanding of what they meant before they  
15 forgot, you know, forgot exactly, you know, what had  
16 happened, what the various communications were.

17 So that's something I personally think  
18 we will replicate moving forward.

19 COMMISSIONER EDWARDS: Thank you.  
20 Thank you.

21 CHAIRMAN HOWARD: Commissioner  
22 Valesky.

23 COMMISSIONER VALESKY: Thank you,  
24 Chairman Howard. First, I just want to make a brief  
25 comment to state on the record how -- how pleased I

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2 am to be able to continue my own career in public  
3 service here in the Public Service Commission. And  
4 in that regard, I certainly look forward to working  
5 with all of my fellow Commissioners, and each and  
6 every one of you and -- and the staff that -- that  
7 you all supervise in the months and years ahead. So  
8 I just want to make that -- that statement.

9 In regard to the items before us, I  
10 don't have any questions, I did, but some have  
11 already been -- been asked. So I appreciate the  
12 answers to those. I'd just make a general comment or  
13 two on -- on the -- the work that you all have done  
14 and the work that you've presented to us for  
15 ratification. And -- and I would use a comment, Joe,  
16 that you made in your -- in your presentation. And  
17 you said and -- and it sounds simple, but I think  
18 it's -- it's critically important.

19 You said Joe, in regard to these  
20 investigations. In short, we followed the facts. In  
21 short, we follow the facts. Those facts lead in to -  
22 - to this settlement in under a year \$86,250,000  
23 overall of the settlements combined. Awful lot of  
24 hard work, time, effort on the part of -- of so many  
25 people here at the -- at the Department. But you



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2 followed the facts.

3 And the reason why I think that is so  
4 important. We're all here in a professional  
5 capacity. Some of us Commissioners, others  
6 directors, others staff. But first and foremost,  
7 we're all ratepayers. We're all customers of  
8 whatever utility that serves our particular region of  
9 the State.

10 We all get frustrated when we lose  
11 power. We all are concerned when storms approach as  
12 to, are we prepared for that storm from a family  
13 perspective? Are we prepared for power outages? And  
14 when we do lose power, I don't know about you, but I  
15 haven't met very many ratepayers who are patient with  
16 the return of that power, right?

17 So there's a lot of emotion that --  
18 that we all -- that we all deal with. But each and  
19 every one of you, through these investigations and  
20 through the tireless effort that you put in, have  
21 been able to sort of accept that and understand that  
22 as ratepayers that you all are, but also sort of set  
23 that aside. Diane -- Commissioner Burman talked  
24 about rhetoric, setting aside emotion and following  
25 the facts. And that is what leads us here today.

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2 And I'm very pleased to be able to,  
3 once the Chair calls on us to actually vote, pleased  
4 that this would be the -- the first items that would  
5 come before this Commission from a personal  
6 perspective as -- as a new Commissioner. So thank  
7 you each and every one of you. And job incredibly  
8 well done. Thank you, Chair.

9 CHAIRMAN HOWARD: Thank you,  
10 Commissioner. Commissioner Maggiore.

11 COMMISSIONER MAGGIORE: Thank you,  
12 Chair Howard. So I'd like to join in my colleagues  
13 in thanking you for the work that went into this.  
14 This work was done before I was on the Commission.  
15 But I recognize the enormous amount of work, not just  
16 the speed of the work, but also the sequence Bob, I -  
17 - I recognize the importance of what you said about  
18 deposing witnesses while their memories were still  
19 fresh.

20 The quality of the outcome, Joe, you  
21 said that this was a settlement with more than the  
22 cost of doing business and that, therefore will  
23 change behavior. That's incredibly important. Chair  
24 Howard mentioned that the settlement -- the \$82  
25 million settlement was a record. I just -- you know,

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2 you could correct me if I'm wrong. I believe that  
3 that is the largest storm related settlement ever.

4 MR. SUICH: That -- that's correct,  
5 Commissioner. If you add up all the Isaias  
6 penalties, I think we're about \$160 million for the  
7 storm. And if you add in the work that was on PSEG  
8 Long Island, with LIPA, I think that would add  
9 another 30 million on top, I mean this is -- it's a  
10 lot of money.

11 COMMISSIONER MAGGIORE: Yeah. So you  
12 know, we throw around the word historic quite a bit.  
13 But I mean, I think that that's historic. And the  
14 outcome, not just the penalty, but the behavioral  
15 differences in what those -- what that penalty will  
16 go to pay for will make a positive difference in  
17 people's lives as a result as -- as you indicated.  
18 And I want to just recognize that and, you know, say  
19 job well done.

20 And you know, duly impressed and just,  
21 you know, you had mentioned that the one year of  
22 investigation is the new standard, and I also want to  
23 acknowledge that -- that that itself is an  
24 accomplishment. So thank you very much for your  
25 great work.

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2 CHAIRMAN HOWARD: Thank you,  
3 Commissioner Christian.

4 COMMISSIONER CHRISTIAN: Thank you,  
5 Chairman. My questions have been asked and answered  
6 by the other Commissioners. So I want to thank you  
7 for your time and energy in putting this together. I  
8 just have a brief statement. You know, the  
9 settlement's before us. There were great not just  
10 for ratepayers, but also for shareholders.

11 When we consider the incidence, and  
12 the cases, each represents a learning opportunity,  
13 and you've all articulated very well what those  
14 opportunities can be. There are opportunities to do  
15 better, to change the way that we can improve  
16 reliability, safety, and resiliency within the  
17 system.

18 And without exception, all the  
19 settlements do just that. They make the system  
20 better. These settlements are all investments in  
21 infrastructure. Investments that are going to make  
22 the system more resilient in the face of increasingly  
23 severe storms and operating conditions. And we're  
24 going to provide the services as needed by ratepayers  
25 when needed most during these events as a result.

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2 So I wish to commend staff for  
3 bringing these settlements about both in the speed  
4 with which they come about and the amount. And thank  
5 everyone for the hard work and dedication working  
6 weekends, nights, evenings, et cetera. So thank you  
7 all, and I appreciate your efforts.

8 CHAIRMAN HOWARD: Thank you,  
9 Commissioner. With that, I will call for a vote. My  
10 vote is in favor of the recommendations to adopt the  
11 terms of the settlement agreements as discussed.  
12 Commissioner Burman, how do you vote?

13 COMMISSIONER BURMAN: Yes.

14 CHAIRMAN HOWARD: Commissioner  
15 Edwards, how do you vote?

16 COMMISSIONER EDWARDS: Yes.

17 CHAIRMAN HOWARD: Commissioner  
18 Valesky?

19 COMMISSIONER VALESKY: Yes.

20 CHAIRMAN HOWARD: Commissioner  
21 Maggiore?

22 COMMISSIONER MAGGIORE: Yes.

23 CHAIRMAN HOWARD: Commissioner  
24 Christian?

25 COMMISSIONER CHRISTIAN: Yes.

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2 CHAIRMAN HOWARD: These items are  
3 approved, and the recommendations are adopted. Thank  
4 you very much. Now, we'll go to our second item for  
5 discussion today, Item 302. Wait a moment as we  
6 change players. Item 302, Case 20-E 0619, which is  
7 the Electric Emergency Response Plan Review,  
8 presented by Laurie Cornelius, Emergency Preparedness  
9 Supervisor, Kevin Wisely, Christian Bowvin, Deputy  
10 Director of Office Resilience and Emergency  
11 Preparedness. Steve Kramer, Assistant Counsel, and  
12 they're all available for questions. Laurie, when  
13 you're ready, you can proceed.

14 MS. CORNELIUS: Thank you, Chair  
15 Howard. Good morning, Chair Howard. Good morning,  
16 Commissioners. Emergency Response Plans, or E.R.P.s  
17 as we call them are an integral -- sorry about that.  
18 Emergency Response Plans are an integral part of a  
19 utility company's strategy to be prepared to for --  
20 sorry, and effectively respond to electric emergency  
21 events.

22 Each electric utility is required to  
23 develop, update, and file with the Commission a  
24 detailed Emergency Response Plan that describes the  
25 utilities' restoration procedures and processes for

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2 emergencies. The plans must comply with Section 66  
3 of the Public Service Law and Title 16 New York  
4 Codes, Rules, and Regulations Part 105.

5 As noted in Public Service Law Section  
6 6621, all Electric Emergency Response Plans must be  
7 updated annually and filed on or before December 15th  
8 of each year. Following staff's review, the plans  
9 are submitted to the Commission for approval. While  
10 not the subject of the order in front of you today, I  
11 would like to note the PSEG Long Island as LIPA  
12 service provider also filed its E.R.P. in December  
13 2020 and refiled its plan in May of 2021.

14 The review process for PSEG Long  
15 Island was the same as with the I.O.U.s with one  
16 exception. The LIPA Board of Trustees, not the  
17 Commission, must vote to adopt the plan after the  
18 D.P.S. C.E.O. sends a letter to the Board that  
19 includes staff's recommendations. The Emergency  
20 Response Plans strike a balance between detailed  
21 technical procedures and processes necessary to  
22 restore service and the practices required to  
23 facilitate transparent, accurate, and timely  
24 communications with customers, the public, and other  
25 external stakeholders before, during, and after

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2 emergency events.

3 As you recently heard, Tropical Storm  
4 Isaias significantly impacted New York on August 4th,  
5 2020, and prompted the Department to take action and  
6 investigate the major electric utilities preparation  
7 and response to the event. The Department sent  
8 letters to each utility including PSEG Long Island on  
9 August 19th, 2020, that contained directives to  
10 perform immediate corrective actions such as seeking  
11 contractor agreements for additional contractor  
12 resources and stress testing critical IT systems.

13 The utilities performed the tasks  
14 identified in these corrective action letters. Staff  
15 also provided its investigation report on Tropical  
16 Storm Isaias on November 19th, 2020, in Case Number  
17 20-E-0586. Staff's report highlighted several areas  
18 in need of improvement within the utilities'  
19 Emergency Response Plans that were also incorporated  
20 into the E.R.P.s this year.

21 This year's comprehensive review  
22 included incorporating, and in some instances  
23 expanding, the immediate corrective actions that I  
24 mentioned earlier. The plans before you today for  
25 approval are the culmination of multiple rounds of



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2           review by staff in the Office of Resilience and  
3           Emergency Preparedness and Consumer Services. And  
4           they reflect the collaborative efforts between the  
5           utilities and staff.

6                   The initial review was conducted  
7           immediately following the plan filings on December  
8           15th, 2020, and was done concurrent with staff's  
9           investigation into the utilities preparation and  
10          response to Tropical Storm Isaias. During this  
11          review, staff focused on practices to secure  
12          additional mutual assistance, stressed head -- stress  
13          test outage management systems, having manual  
14          processes in place should a catastrophic failure  
15          occur rendering critical systems unusable, as was the  
16          case with PSEG Long Island, and further clarifying  
17          storm roles and responsibilities just to name a few.  
18          I will now highlight some of the improvements in the  
19          amended plans.

20                   With respect to securing additional  
21          mutual assistance resources through contractor  
22          agreements, the utilities have been and are fully  
23          engaged in this process. The utilities have  
24          activated these agreements multiple times since the  
25          issuance of Isaias corrective actions based on

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2 weather systems that were predicted to impact their  
3 service territories. The plans also recognize these  
4 avenues, and we fully expect the utilities to exhaust  
5 all means to obtain the resources necessary to  
6 restore service in a timely manner.

7 Following PSEG Long Island's  
8 experience losing its outage management system, it  
9 was apparent that improvements were needed not only  
10 on a technical level, but perhaps more importantly on  
11 a process level by enhancing visibility and  
12 responsibility by the utilities I.T. organizations.  
13 The plans now include titles of who was responsible  
14 to carefully monitor critical I.T. applications and  
15 provide immediate response to issues as they arise  
16 during a main -- a major event.

17 In addition, the plans also include  
18 specific stress test parameters, including 90% of  
19 total customers out over a 24-hour period. The plans  
20 also require the utilities to stress test the O.M.S.  
21 twice each year and report the detailed results to  
22 D.P.S. in a timely manner and include remedial  
23 measures to be taken if a failure occurs.

24 The plans also include manual  
25 processes to ensure tasks like damage assessment and

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2           wire guarding will continue if I.T.S. -- I.T.  
3           systems, pardon me, are compromised. These processes  
4           are also included in the utilities' trainings as well  
5           as their exercises to ensure employees are able to  
6           make a seamless transition quickly in future events  
7           should the need arise.

8                   While substantial progress has been  
9           made in the way utilities have been preparing for and  
10          responding to events since Tropical Storm Isaias.  
11          The opportunity exists for further improvements to be  
12          made to the plans before you today. Accordingly, the  
13          order directs the utilities to participate in  
14          collaborative meetings with staff this fall to  
15          discuss additional topics such as developing  
16          consistent event classifications across the utilities  
17          and improvements to the E.T.R. protocol.

18                   It is anticipated that practices  
19          identified during these collaborative meetings will  
20          be incorporated in the December 2021 E.R.P. filings.  
21          The also -- I'm sorry, the order also directs Con  
22          Edison to put back language that was approved in its  
23          2020 E.R.P. regarding incident classifications and  
24          notifications and refile its entire E.R.P. within 30  
25          days.

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2 This concludes my presentation, and we  
3 will be happy to answer any questions you may have.

4 CHAIRMAN HOWARD: Thank you. You  
5 know, the utilities Emergency Response Plans are the  
6 foundational documents for storm response by all our  
7 utilities, both energy and telecom, for that matter.  
8 The evolving circumstances and we are dealing with  
9 including continued severe and often unpredictable  
10 weather throughout New York State. We're going to  
11 require new and heightened vigilance and enhanced  
12 actions to deal with prolonged service outages.

13 The Commission stands firmly by behind  
14 the public's demand to improve utility response at  
15 all levels. From adequate resources, both physical  
16 and the personnel to improved communications with  
17 customers, elected officials, and the media.  
18 Utilities' E.R.P.s are living documents that require  
19 fresh eyes each year that they are followed to file,  
20 pardon me.

21 Collaboration with all parties, both  
22 from the public and private sectors to utilities,  
23 emergency response personnel, and staff at this  
24 Commission and other agencies is necessary for New  
25 York to continue in the approach to improve service.

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2 That is always our goal. How do we get better?

3 Clearly, instances and particularly I  
4 won't need to elaborate about the failures of PSEG  
5 Long Island during this -- Isaias was just wholly  
6 unacceptable, and in many cases, it was viewed as  
7 abusive by customers. And while we cannot fully  
8 prevent storm related outages, we can insist that  
9 systems are in place to minimize restorable time --  
10 restoral times along with providing and I think  
11 equally important, providing accurate and up to date  
12 information to everyone involved.

13 And I would like to also acknowledge  
14 that these filings now represent filings statewide.  
15 We do not separate Long Island from the rest of the  
16 State in our staffs investigation and vigilance going  
17 forward. And I look, really do look forward to  
18 December's E.R.P. filings with an eye to universal  
19 commitment to improve service.

20 And again, thank you very much. And  
21 it is rare that we get to see a cause and a response  
22 in such a brief period of time that reflects real  
23 world data in a timely manner. Again, the delay  
24 between event and action only causes more inaction.  
25 So with that I, again, I thank you very much. And

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2 with that, I will turn it over to Commissioner  
3 Burman.

4 COMMISSIONER BURMAN: Thank you so  
5 much, Chair. So my focus really is on continuous  
6 improvement dedicated to public service and ensuring  
7 that we do all that we can as economic regulators to  
8 ensure that the system is secure, and reliable, and  
9 resilient.

10 And that we also are focused on the  
11 impacts on customers, not just to the outages, but  
12 also the costs to try to prevent those outages and  
13 needing to understand what that may mean from an  
14 impact perspective. This order also lays out that  
15 there will be a process to look at that system  
16 improvement. That is really important to me.

17 We do and, you know, I've spoken about  
18 this for quite a number of years now on the need for  
19 us to really drill down and holistically look at how  
20 we can improve. We've seen recently that there is  
21 now more of a focus on rapid enforcement or rapid  
22 resolution on issues and events. I think that's  
23 really important.

24 But we also want to be very mindful  
25 and careful that doing that does not make us, you

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2 know, follow again the rhetoric and follow the -- the  
3 issues that wind up not actually helping us to  
4 continuously improve, and to have change in behavior  
5 that will actually help in what we're doing.

6 I'm also very mindful that we have a  
7 resource deficiency. It is significant. The staff  
8 that have been involved in the investigations are  
9 also trying to deal with the ongoing work, not just  
10 in the E.R.P.s, but in all other things. We need to  
11 recognize that and so we cannot allow our staff to  
12 feel that they must drop everything in their life, to  
13 address something that does not need to be addressed  
14 in that fashion.

15 There are times when we will have to,  
16 but I really want us to make sure that we are focused  
17 on checking the burnout rate in a way that helps us  
18 better perform for the long term as well. I look at  
19 the collaborative meetings as important. But I also  
20 caution, we need to be very careful when we talk  
21 about collaboration, that it does not disenfranchise  
22 folks.

23 We do not need to, for everything,  
24 bring everyone to the table. There are certain  
25 things, certain issues, we will need to have

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2 important stakeholders have a voice. But we cannot  
3 wind up siloing people who should be in those  
4 meetings, in those conversations or also doing it in  
5 a way that we just have everybody in and we're  
6 actually not drilling down on the important issue.

7 We also need to be careful that we  
8 don't try to please everyone. And everybody's good  
9 idea, however, well-intentioned may be a really bad  
10 idea. And we need to be able to tell them, and we  
11 need to be able to discount it if it's not worth our  
12 accounting.

13 For me, the issue I see is the  
14 opportunity now, for all of us in this next process  
15 to really be focused on the history behind how we got  
16 here, the current situation, and what we need to do  
17 for the future. That also means looking at what that  
18 means impacting other things, you know, other system  
19 resiliency issues, other things that may come in rate  
20 cases or pilots, you know, in some of the  
21 settlements, we looked at A.P.I. 1173, really  
22 important, and how we need to make sure that we are  
23 incorporating that in a way that has a broader base  
24 of people involved. And in the policy and the  
25 technical discussions that may need to happen.



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2 I also want to make sure that we are  
3 not micromanaging the utilities operations. It is  
4 really important that we do not sit here in Albany  
5 and try to act like we know how to do everything on  
6 the ground. I feel very strongly about that. We  
7 need to be aware, we need to have proper oversight.  
8 But we need to also not tie their hands in a way that  
9 they say, okay, we have to do X because the  
10 regulator's told us.

11 Even though X isn't going to get us to  
12 the solution. But because we're going to get dinged  
13 on X, we're going to do X, and it's going to take  
14 possibly longer, but we can't go off of the script  
15 that's being given to us in doing that. That's not  
16 helpful to anyone.

17 It's really important for us then to  
18 be able to have open communication, and staff to be  
19 able to have open communication with the utilities,  
20 which is not inappropriate if done in a way that is  
21 professional and explained in the importance of that.  
22 And so from my perspective, that's why this roadmap  
23 on the process going forward is really, really vital.

24 Again, we have been fraught with  
25 issues on how we handle things. There's a lot of

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2           tension in my being concerned about things. What I  
3           see is our continuous improvement is really important  
4           now because I think that we have a lot of good  
5           insight at the staff level, at the utility level, at  
6           the stakeholder level and at the Commission level to  
7           be able to now kind of look at it, and make sure that  
8           our process improvements are articulated in a way  
9           that is allowing us to move forward and ensure that  
10          we are improving the system.

11                   With that, it's important for us to  
12          look at what hasn't worked. What hasn't worked is  
13          the rhetoric. What hasn't worked is the focus on  
14          lack of clarity with who is doing what, whose role is  
15          -- is first, who comes after. We need to examine the  
16          Special Counsel's role on ratepayer protection and  
17          figure out exactly what that is. Is the Special  
18          Counsel involved in enforcement, is he a separate  
19          party? Those types of things can help us in a way  
20          that makes it clearer and establishes the roles and  
21          responsibilities.

22                   It's the very thing that we asked the  
23          utilities to do in establishing who's on first, we  
24          need to look at that. Part of the issues that  
25          happened also related to our knee-jerk reaction to

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2 establishing an immediate order to show cause and  
3 immediately saying in 30 days you have to come up  
4 with the solution to all of this and moving forward  
5 on a prudence proceeding.

6 As I see that, I don't think our role  
7 as a Commission was helpful in that, because then the  
8 staff, the Counsel, the A.L.J.'s office could not  
9 delink things. They could not also stop things. So  
10 it was back to well, the order says. The order made  
11 no sense, and the order did not help us to actually  
12 help staff and the utilities move forward.

13 I am really, really excited about the  
14 opportunity to look at what may make sense, looking  
15 at how the settlement guidelines can now be overlaid,  
16 or morphed in some fashion, as it relates to the  
17 Public Service Law in Section 25 A. Those settlement  
18 guidelines were there before 25 A.

19 And frankly, the history of the  
20 Commission has not been an enforcement entity itself.  
21 And so for us that 25 A, while we try to maneuver it  
22 in a way that worked within the system we had, I give  
23 a great deal of credit to the enforcement agents,  
24 enforcement folks, as well as Bob, in working with  
25 something that just was not necessarily perfect.

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2 And trying to figure it out, we now  
3 have had experience in that. We see the focus now on  
4 settlements that are reasonable, or just, or fair,  
5 and also linking the improvements directly to things  
6 that are related to what we were concerned about.  
7 Some of the things that we have to look at in this  
8 E.R.P. is if we were to micromanaging, if this is  
9 something that is not just a guide but are complete  
10 mandates, what will happen then is that we will not  
11 be allowing flexibility.

12 And sometimes flexibility is  
13 appropriate. I want to make sure that we're focused  
14 very much on the communication aspects, because I  
15 think that helps everybody, as well as the E.T.R.s.  
16 Because that seems to be a huge trigger, as  
17 Commissioner Valesky talked about, about people not  
18 being happy.

19 One of the issues is they want to know  
20 when their power is going to be back. And so being  
21 told it'll be back up in an hour and then that's not  
22 accurate, and it's five hours. And then by the way,  
23 it's three -- it's three days. And by the way, it  
24 may be a week, and they leave, they get a hotel room,  
25 and then they find out that by the way, if they had

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2 just stayed another hour, it would have been back on.

3 There needs to be some way of us  
4 helping system improvement with those E.T.R.s and  
5 measuring that. The issue for me is also what are  
6 the metrics and what are we looking at for success.  
7 As Joe said, we have to be realistic about some of  
8 this. And so it may take a few days for the system  
9 to be back up, if it's a massive outage, and a  
10 massive outage. Those are things that we need to be  
11 mindful of and look at the reasonableness of what  
12 we're asking the utilities to do.

13 From my perspective, mutual aid is  
14 really, really, really important, but we, as  
15 government, should not be micromanaging that mutual  
16 aid. We also need to be mindful about some of the  
17 things that may happen if we are forcing folks to  
18 have staff and have resources all of the time. We  
19 cannot afford to have people coming because they're  
20 afraid of the penalty actions afterwards.

21 So what they're going to do is have  
22 large amounts of people coming in and sitting around  
23 when there is no need. And if they keep them  
24 overnight, they got to let them go the next day. And  
25 that may be when we actually need them. And some may

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2 not come because they don't want to get stuck here in  
3 New York.

4 So we can't drive the behavior to the  
5 fact that now we're going to have a problem with  
6 resources and getting the workforce that we need, nor  
7 should we have them have to staff up so much, that it  
8 makes no sense from a cost perspective. And again,  
9 we're actually not helping the situation.

10 So as I look at it, I'm really excited  
11 for this opportunity. And I really want all of us to  
12 be a part of it, and to look carefully at, are we  
13 clearly articulating what we're doing, and how can we  
14 look at doing it better, and maybe delinking the  
15 prudent stuff from the enforcement.

16 Maybe having the enforcement focus  
17 come to us only if there's, you know, some  
18 determination of imprudent actions that need to come.  
19 And look at this more as, not just collaboration in  
20 getting to a better E.R.P. that we have to adopt, but  
21 collaboration overall, entirely, and continuously  
22 throughout in a way that gets us to all be focused on  
23 making sure that we're doing the right thing. So  
24 with that, I look forward to it, and I am engaged.  
25 Thank you.

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2 CHAIRMAN HOWARD: Thank you.

3 Commissioner Edwards.

4 COMMISSIONER EDWARDS: Thank you. I  
5 am grateful that you're going to have collaborative  
6 meetings this fall. I'd like you to just focus on  
7 two things if you're not already doing it. Number  
8 one is the coordination with the municipalities.

9 Because the areas and the back and  
10 forth of who owns the street in order to ensure that  
11 the street is safe, so that tree removal can be made  
12 was disastrous in a lot of the storms and the  
13 pointing fingers on who should be going in first. So  
14 I would ask that you make the coordination between  
15 the municipalities on your agenda for the fall  
16 meeting.

17 Secondly, there has been a lot of  
18 turnover and a lot of staff. And as Commissioner  
19 Burman just articulated, you know, when your power is  
20 out, you're making plans based on what you believe  
21 your estimated time of restoral is. The worst thing  
22 that can happen is if you can't get an answer, if you  
23 get a change of your time or if you miss the  
24 deadline.

25 You know, people have elderly parents,

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2           they have children, they have food in the freezer,  
3           they have to continue on with -- with life. And when  
4           any of those three things happen, you then start to  
5           call any and everybody to get an answer. And that  
6           includes all of you, it includes the municipalities,  
7           it includes your local elected officials, you're  
8           calling everybody.

9                   And then those people are then making  
10          calls. The officials are making calls, the  
11          municipality are making calls. I think that there  
12          really has to be a very good contact list that I do  
13          not believe exists today. And I think that that  
14          should be a conversation of who is going to be  
15          notified, when are they going to be notified, and the  
16          back and forth of the ownership of who is the contact  
17          person on both sides so that the utilities know who  
18          to call and then those elected officials and  
19          municipalities know who to call.

20                   Everyone sets up all of these war  
21          rooms, there is boards all over the place, but the  
22          contact lists, everyone is chasing who it is. And  
23          then the name on the list has already retired last  
24          year or won lotto and left. So I really think that  
25          that should be a real time discussion and included in



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2 the E.R.P. yearly so that there are really good  
3 contact numbers so that we can get this information  
4 timely, so that we can help all of the consumers.

5 Consumers, people are reasonable, as  
6 long as you tell them what to expect. But if you  
7 start giving a whole lot of nonsense answers, or no  
8 answers, the frustration gets hot and heavy and then  
9 everybody is calling everyone, including us. You'll  
10 find that out. So I would -- I would appreciate it  
11 if you could make that as part of your ongoing  
12 discussions with all utilities, okay. Thank you.

13 CHAIRMAN HOWARD: Thank you.  
14 Commissioner Valesky.

15 COMMISSIONER VALESKY: Thank you,  
16 Chair. Certainly, I'm going to second everything  
17 that Commissioner Edwards just said and I know  
18 exactly what you mean. I happened to be a former  
19 elected official, not at the municipal level, but I  
20 had been spending 14 years in the State Senate  
21 representing Central New York and worked closely with  
22 you, Kevin, during your days in Onondaga County.

23 It's critically important that all  
24 levels of government be included as part of these  
25 Emergency Response Plans. I remember them,

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2 certainly, one of the most dramatic examples of  
3 changing weather patterns during my time in office in  
4 Central New York, tornado touching down in Madison  
5 County, the governor himself being there the next  
6 day. So communications between all levels of  
7 government, critically important.

8 So I second your comments and thoughts  
9 Commissioner Edwards and ask that you keep that at  
10 the forefront of your discussions going forward.  
11 Laurie, thanks for your presentation. I do have one  
12 question. And it relates to, and you refer to it at  
13 the end of your presentation. It refers to the order  
14 that's before us.

15 And the order itself, Point Number 3  
16 talks about the utilities being directed to  
17 participate in the collaborative meetings that  
18 previous Commissioners have talked about. One way of  
19 reading that is that if we're not directing them to  
20 participate in collaborative meetings, they're not  
21 going to participate, or they're uninterested in  
22 participating, or have a hesitancy in participating.

23 So my question Laurie, or Steve, or  
24 Kevin, or anyone would be, this previous round of  
25 work that you've done, did you find any hesitancy on

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2 the part of utilities, any reluctance, any evidence  
3 to suggest how important it is that we as a  
4 Commission, going forward, make these collaborative  
5 meetings a directive?

6 MS. CORNELIUS: I would say, for the  
7 most part, the E.R.P. review process is generally  
8 speaking, very collegial. We have good relationships  
9 with the emergency management folks at the utilities,  
10 and I think this speaks to Commissioner Burman's  
11 point on rhetoric that this year because we had an  
12 ongoing investigation with several of the utilities,  
13 there was a little extra tension.

14 Reluctance, I wouldn't say reluctance.  
15 Obviously, from the utilities perspective, what we  
16 were trying to do is to really tighten up some areas  
17 that also speaks to Commissioner Burman. The E.R.P.s  
18 historically have flexibility built into them for a  
19 reason because we're not telling a utility, this is  
20 what you have to do during restoration. It's a  
21 business decision for them.

22 So I would -- I would say that, you  
23 know, I would not use the word reluctance, I would  
24 not.

25 COMMISSIONER VALESKY: That's good.

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2 MS. CORNELIUS: We're all in a kind of  
3 a different position this year.

4 COMMISSIONER VALESKY: Sure.

5 MS. CORNELIUS: And just because it's  
6 -- the order is directing, it's really a formal way  
7 of, you know, us all getting together. Go ahead.

8 MR. ROSENTHAL: Yeah. I would just  
9 add, you're going to see a lot of orders that direct  
10 the utilities do a lot of things. And it's just a  
11 very formalistic way of communicating, you know,  
12 between -- communication between the Commission and  
13 the utilities.

14 So I wouldn't see that as any  
15 different than any of the other directives that we've  
16 made, in other words, and I would see, you know, in  
17 this particular instance, I would surmise that they  
18 would be very open and willing to -- they would have  
19 been open and willing to cooperate with D.P.S. staff  
20 on these issues anyway.

21 COMMISSIONER VALESKY: Good to hear.  
22 Thank you.

23 CHAIRMAN HOWARD: Commissioner  
24 Maggiore.

25 COMMISSIONER MAGGIORE: Thank you. I

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2 don't have much to add. Commissioner Edwards'  
3 comments made me think of my own past role in the  
4 State's response, as well as my own experiences as a  
5 ratepayer during power outages. And I just want to  
6 acknowledge, again, you're doing great work, and then  
7 I'm heartened to see a forward motion in this area.

8 So other than that, my colleagues have  
9 said many things that I agree with. Thank you.

10 CHAIRMAN HOWARD: Thank you.  
11 Commissioner Christian.

12 MR. CHRISTIAN: Thank you, Chair. I  
13 echo the comments of the other Commissioners. And on  
14 the subject of communication, I want to add, having  
15 recently gone through a very minor blackout myself,  
16 you know, understanding when the power would be  
17 restored, I noticed something that's critically  
18 important. And I think that is definitely a part of  
19 communication that should be explored and further  
20 enhanced.

21 But I also believe as to the points  
22 made earlier, communication between municipalities  
23 and organizations to ensure there is a clear  
24 understanding of whose responsibility it is to do  
25 what, what resources are available for whatever needs

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2 there may be. So I want to just reinforce the need  
3 for open, clear communications, lines of  
4 communications between companies and individuals in  
5 the field to make sure things can be done quickly.  
6 So thank you.

7 CHAIRMAN HOWARD: Thank you. With  
8 that, I will call for a vote. My vote is in favor of  
9 the recommendation to approve the revised Emergency  
10 Response Plans as discussed. Commissioner Burman,  
11 how do you vote?

12 COMMISSIONER BURMAN: Yes.

13 CHAIRMAN HOWARD: Commissioner  
14 Edwards?

15 COMMISSIONER EDWARDS: Yes.

16 COMMISSIONER HOWARD: Commissioner  
17 Valesky?

18 MR. VALESKY: Yes.

19 CHAIRMAN HOWARD: Commissioner  
20 Maggiore?

21 COMMISSIONER MAGGIORE: Yes.

22 CHAIRMAN HOWARD: Commissioner  
23 Christian?

24 COMMISSIONER CHRISTIAN: Yes.

25 CHAIRMAN HOWARD: The item is

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2           approved, and the recommendation is adopted. Thank  
3           you very much. Our third item for discussion is a  
4           non-voting informational item. It's an update on the  
5           utility shutoff moratorium programs, presented by  
6           Alex Karman, Acting Deputy Director Office of  
7           Consumer Services. Aric Rider, Acting Deputy  
8           Director of Office of Consumer Services is also  
9           available for questions.

10                   Alex, when you're ready, please begin.

11                   MR. KARMAN: Thank you. All right.  
12           Good morning, Chair Howard and Commissioners. First,  
13           I want to briefly summarize the history of the  
14           utility shutoff moratorium. Then I'll share how  
15           utilities are notifying their customers of these  
16           protections and what actions customers can take to  
17           protect their accounts.

18                   On March 7th, 2020, Governor Cuomo  
19           issued Executive Order 202, declaring a state  
20           disaster emergency to address the Covid-19 pandemic.  
21           Concurrent with the Executive Order, Department's  
22           staff negotiated a voluntary shutoff moratorium with  
23           New York's large investor-owned utilities to address  
24           the immediate crisis.

25                   On June 17th, 2020, the Governor

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2 signed the first in the nation utility shutoff  
3 moratorium law. While many states directed similar  
4 moratoria through their Public Utility Commission's,  
5 New York took the additional step of codifying these  
6 protections into statute.

7 This first moratorium law prohibiting  
8 utilities and municipalities from shutting off  
9 residential customers for non-payment of their  
10 energy, water, and telephone bills, while the COVID  
11 state of emergency was in effect. The law also  
12 required utilities to offer affordable deferred  
13 payment agreements to help customers pay down their  
14 arrears in manageable monthly installments.

15 Finally, the law provided that  
16 customers who experienced a change in financial  
17 circumstances due to the COVID-19 state of emergency,  
18 as defined by the Department may avail themselves of  
19 up to an additional 180 days of protection from  
20 shutoff once the state of emergency ends.

21 On May 11th, 2021, Governor Cuomo  
22 signed an extension and expansion of the utility  
23 shutoff moratorium law. This second moratorium law  
24 expanded these important protections to small  
25 business customers, as well as to cable television



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2           and broadband services. The law also limited the  
3           ability of municipalities to place, sell, or enforce  
4           a lien on a customer's real property for unpaid water  
5           bills.

6                   On June 24th, 2021, the Governor  
7           lifted the COVID state of emergency, thus triggering  
8           the 180 day provision in the law for customers  
9           financially affected by COVID. The moratorium law  
10          directs utilities and municipalities to notify their  
11          customers of these protections in writing to be  
12          included in their bill.

13                   The bill inserts, or bill messaging  
14          requirement is the minimum standard. However, many  
15          utilities and municipalities have reported using  
16          other channels to engage their customers and make  
17          them aware of these protections. For example, large  
18          utility companies have, in addition to bill inserts  
19          and bill messaging, used social media, targeted ad  
20          campaigns and out -- and outbound calls to engage  
21          their customers.

22                   Likewise, small municipal -- small  
23          municipalities have reported going door to door to  
24          knock on their neighbor's homes and using town  
25          newsletters and social media to engage with affected

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2           customers. Department staff has encouraged utilities  
3           and municipalities to -- to use whatever media are  
4           available to broadcast messaging about their  
5           customers' rights.

6                   The moratorium protections are best  
7           understood as a grace period, and I'll say that  
8           again, a grace period for customers to pay their  
9           utility bills. It is an opportunity for utilities  
10          and municipalities to directly engage their customers  
11          and for customers to pay down their arrears without  
12          the threat of shut off.

13                   Residential and small business  
14          customers with arrears are strongly encouraged to  
15          contact their utility or municipality to self-certify  
16          that they experienced a change in financial  
17          circumstances due to COVID. Utilities and  
18          municipalities must accept the customer self-  
19          certification and offer the customer an affordable  
20          deferred payment agreement for their arrears with no  
21          money down, late fees, or penalties.

22                   The moratorium is not an arrears  
23          forgiveness program. It is a grace period for  
24          customers to pay down their arrears or obtain  
25          financial assistance. For example, the Home Energy

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2 Assistance Program or HEAP, and the Emergency Rental  
3 Assistance Program or ERAP, both administered by the  
4 Office of Temporary and Disability Assistance will  
5 offer financial help to income eligible households.

6 HEAP, which this year is funded at  
7 \$908 million, helps low and middle income New Yorkers  
8 keep their homes warm in the winter. HEAP is open  
9 this year until August 31st, and then will reopen in  
10 the fall. While the moratorium is in effect or was  
11 in effect, energy utilities continued to send  
12 disconnection and termination notices to their  
13 customers to make them eligible for HEAP.

14 ERAP, which is now open, makes  
15 available \$2.7 billion dollars for -- to help  
16 struggling New Yorkers pay up to 12 months of rental  
17 and utility arrears. In addition, the Commission is  
18 considering changes to its low income program,  
19 including an arrears management plan in the energy  
20 affordability proceeding cases 14-M-0565 and 20-M-  
21 0266.

22 The 180-day period will end on  
23 December 21st, 2021, which coincides with the  
24 beginning of the two week holiday moratorium on  
25 shutoffs for residential energy customers. The

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2 Department expects all service providers to comply  
3 with the shutoff moratorium law.

4 However, if a service provider were to  
5 shut off a customer for non-payment in violation of  
6 the moratorium, the Department would investigate the  
7 complaint and take whatever action is necessary to  
8 address the violation and enforce the law.

9 However, I am pleased to report that  
10 the Office of Consumer Services has, to date,  
11 received only a scant few complaints from customers  
12 alleging violations of the moratorium law.

13 Department staff will continue to work with its  
14 partners and stakeholders to ensure that affected  
15 customers are aware of these protections, convey the  
16 message that the moratorium is a grace period for  
17 paying bills and investigate all consumer complaints  
18 alleging violations of the shutoff moratorium law.  
19 This concludes my presentation.

20 CHAIRMAN HOWARD: Thank you. And  
21 thank you for emphasizing that moratoriums are not  
22 forgiveness. Can you just describe how a typical  
23 customer will apply for whatever benefit may be  
24 necessary -- may be eligible for from the program  
25 dealing with utility arrearage?

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2 MR. KARMAN: Sure. Customers can  
3 contact their local or county D.S.S., Department of  
4 Social Services to apply for HEAP. The State also  
5 has a -- has a website that allows individuals to  
6 directly apply for HEAP benefits.

7 Likewise, ERAP, the Office of  
8 Temporary and Disability Assistance has a website for  
9 applications. I know many social services agencies  
10 and housing agencies are assisting tenants with  
11 applications for ERAP, you know, one of the  
12 requirements is that tenants have an email address,  
13 and not every tenant has an email address, of course.

14 So there are plenty of groups out  
15 there that can assist renters apply for ERAP  
16 benefits.

17 MR. RIDER: Chair Howard, I would just  
18 add that if a customer is in trouble and does call  
19 their utility, the utility is directing those  
20 customers to O.T.D.A. for assistance.

21 CHAIRMAN HOWARD: You did noted --  
22 make note of the utilities posture through this  
23 pandemic period of being not hyper aggressive in  
24 regarding shutoffs and collections. And do you  
25 believe they have the caring capacity when a customer

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2 gets their notice that they have adequate staff and  
3 ability to communicate to customers effectively, to  
4 actually get them through what I view as a relatively  
5 complicated mechanism to get relief?

6 MR. KARMAN: Sure. So we've heard  
7 time and time again is that the utilities and  
8 municipalities want to work with their customers,  
9 they want to engage their customers, they want the  
10 customers to engage the company, or the municipality  
11 to work with them to -- to pay down their arrears or  
12 come up with an affordable payment plan. So I do  
13 believe that utilities have that capacity and do want  
14 to work with their customers.

15 MR. RIDER: I concur. From what I've  
16 -- when I'm working with the utilities, I -- that's  
17 my understanding as well.

18 CHAIRMAN HOWARD: I'll just comment  
19 that I have grave concerns about how we administer  
20 this program going forward. We have tens of  
21 thousands of New Yorkers in desperate need of  
22 assistance, many of whom have not worked for over a  
23 year and have had a whole variety of other incidences  
24 in their lives.

25 I just hope going forward that we

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2 continue to refine and make a process of helping low  
3 income and customers with special circumstances, a  
4 far easier way to access benefits going forward. And  
5 I do think that our two proceedings, dealing with  
6 energy affordability, and how arrearage collections  
7 are, will be critical.

8 And I look forward to doing them later  
9 this year with an eye and -- and -- and I think a --  
10 a real good examination of what currently is  
11 happening, and particularly reviewing not always  
12 what's going right, but more importantly, what's  
13 going wrong.

14 And again, like I said, this -- I  
15 don't think we do much stuff that's anymore vital to  
16 the New Yorkers than the issues we're talking about  
17 today. But again, with that, I will turn it over to  
18 Commissioner Burman.

19 COMMISSIONER BURMAN: Thank you, I  
20 couldn't agree more, Chair. But I also do want to  
21 say like, I don't care how compassionate the utility  
22 is, when someone is going to not be able to pay and  
23 is now being told that the grace period is over, and  
24 this wasn't a arrearage forgiveness program. They're  
25 not going to be able to be understanding as they

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2 shouldn't, and they're also going to be very  
3 stressed.

4 If they can't pay, they're also  
5 probably not going to be able to pay a lot of other  
6 things. And now they're going to have a huge bill  
7 that they have to figure out and they're not going to  
8 be in the necessarily the frame of mind. And we're  
9 not talking just about, you know, a couple of people.

10 We're talking about a lot of people  
11 whose circumstances may have changed. We're talking  
12 about residential, we're talking about small  
13 commercial, you know, there's a lot there that we  
14 have to address and understand the impacts on.

15 Frankly, I don't think our processes  
16 as a State is set up in a way that we could properly  
17 handle this. There has been a lot of talk, rhetoric  
18 at, you know, the Federal level on legislation to  
19 address moratorium, the State legislation now that,  
20 you know, that that is there.

21 We have to be really careful because  
22 as regulators and as utility, as -- and as the  
23 utilities know, there is a process, we have to work  
24 through it, but we have to also understand that  
25 there's going to be a bucket of people who will never



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2 be able to pay, people who will be able to pay and  
3 won't be happy, and people who will struggle to pay,  
4 and how we deal with that now in this new reality.

5 And then if we do do something where  
6 we do some type of, you know, larger arrear  
7 forgiveness program that has cost implications when  
8 we come back from a rate payer perspective, that has  
9 cost implications, that has credit rate implications  
10 for the utilities. And so it is not that we can now  
11 look at it and take it from this to that the same way  
12 we did.

13 And frankly, and I will be a little  
14 bit more bold than I normally am, OTADA is not  
15 helpful in this situation. And we need all of us  
16 working together to figure it out from a technical  
17 perspective, from a compassionate perspective, and  
18 from an economic perspective, and we need to get it  
19 right.

20 And we also need to not do what  
21 happens, which is we'll go to this one, go to that  
22 one, go to this agency, and people trying to shop  
23 around to figure out how to deal with the situation.  
24 And frankly, I'm concerned that what is going to  
25 happen is we're going to have an article that has a

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2 big thing on someone with their shutoff notice and  
3 then the utility is going to be blasted for not being  
4 compassionate.

5 But maybe the reason they gave that  
6 shutoff notice is because they need that -- the  
7 customer needs that to be able to go to the right  
8 agency to get HEAP, to get emergency HEAP. And so  
9 the disconnect issue --

10 COMMISSIONER BURMAN: -- that we have  
11 aren't necessarily about the disconnect for shutoff.  
12 It's the disconnect among the various entities, even  
13 if they're well-meaning. And so from my perspective  
14 is, this is very, very important.

15 And we have an opportunity before it  
16 starts the grace period ends to figure it out, make  
17 sure we're communicating not just to the utilities,  
18 not just to the customers, not just to the other  
19 State entities, not just to the Federal entities, but  
20 also the various helpful neighborhood programs and  
21 folks who are on the ground who can help us through  
22 that.

23 And then the ones who are now not the  
24 traditional ones we would normally have gone to  
25 because there are people who have never experienced

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2 this before. There are people who wouldn't  
3 necessarily utilize those services. And so we have  
4 to figure it out. Because we're going to have  
5 issues. We have to also look at and say, did we  
6 actually have a dip in people using HEAP because they  
7 had this grace period?

8 And so part of that, have we -- we  
9 need to make sure that we, in New York, get as much  
10 as we can for the -- for the folks in New York, to  
11 utilize the HEAP benefits. And now, with the Federal  
12 legislation that also has now water in there. How  
13 does that impact? And how does New York deal with  
14 that? And what are the -- what are the machinations  
15 we're looking at from an economic perspective?

16 And are there things that we could do  
17 that are not helpful to the folks who are going to  
18 need this that winds up, then they get call here,  
19 call here, call here, go here, go here, go here, go  
20 here. And at the end of the day, they're frustrated,  
21 and then it just becomes the big, here's the shutoff  
22 notice, and the utility was mean. And that's not  
23 exactly, it maybe, and we'll address that.

24 But generally, there's a lot of other  
25 stories that's going on behind that of the utility

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2           trying to work with their customers and the whole  
3           thing becomes a problem. And I would say we need to  
4           get it right, and I am tired of the OTADA and  
5           everybody else working, and at the end of the day, I  
6           don't necessarily see that we can point to system  
7           improvement.

8                   However, I will say, our Office of  
9           Consumer Services is top notch in trying to work  
10          through these issues and the challenges that are  
11          there. And so I feel very comfortable that you can  
12          also hear what I'm saying and help in looking at some  
13          of those issues. Thanks.

14                   CHAIRMAN HOWARD: Thank you.  
15          Commissioner Edwards.

16                   COMMISSIONER EDWARDS: So none of you  
17          are going to be surprised at my comments because I've  
18          had challenges with the OTADA system pre-pandemic.  
19          We had thousands of people who are not eligible for  
20          the low income program, because they are not in the  
21          OTADA database.

22                   So the utilities, OTADA can align and  
23          who's not eligible and this is -- this is not a good  
24          situation that we are in. And I'm not comfortable  
25          with this at all. Because we have issues with

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2 identification, validation, connection. There are  
3 going to be thousands and thousands of people who are  
4 not going to be qualified for D.S.S.

5 They're going to be sent to D.S.S.  
6 And then they're going to come back. I really would  
7 like to get in the weeds on this one with the Office  
8 of Temporary and Disability Assistance, so that I  
9 could thoroughly understand with your help how this  
10 is going to work. I don't get the self-  
11 certification. How is that going to be?

12 Then January of 2022 is going to be,  
13 everything is off, and people are still suffering at  
14 every level. There are so many people that are not  
15 cared for, I don't think, in this bucket, small  
16 businesses to -- to your point. And I understand  
17 that the office is working hard, but they didn't get  
18 it right pre-pandemic. And now, we have so many more  
19 people that need help with a broken process already.

20 So I think putting more stress on a  
21 broken process, if they're using the existing process  
22 to fix this, it's not going to work. So I truly, I  
23 can see this coming to all of your points, we see  
24 this coming. And I think we have an obligation to  
25 raise the flag now and say, no, we really need to

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2 work with you. I personally, would like to work with  
3 you, and have the Office of -- OTADA, is it? Is it  
4 OTADA?

5 CHAIRMAN HOWARD: Uh-huh.

6 COMMISSIONER EDWARDS: We need to  
7 understand how they're -- how they're working this.  
8 How -- how are they working this with an already  
9 stressed, in my opinion, broken process? Because all  
10 we're doing, I think, is just adding volumes of  
11 people, which is -- it's not going to work. If -- if  
12 they had something that is, we're going to do this  
13 new and this is how we're going to correct the  
14 existing system.

15 And this is how we identified what was  
16 broken before and how we're going to fix it. But all  
17 we're doing is just throwing people there. And this  
18 is going to be, as my mother would say, a hot mess.  
19 So I -- I'd like to get in the weeds with you on this  
20 before the train hits the station. Okay. All right.  
21 Thank you.

22 CHAIRMAN HOWARD: Thank you very much.  
23 Commissioner Valesky.

24 COMMISSIONER VALESKY: Well, I'm not  
25 sure I have much to add.

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2 COMMISSIONER EDWARDS: Hot mess.

3 COMMISSIONER VALESKY: You follow

4 that.

5 COMMISSIONER EDWARDS: Pretty much

6 sums that.

7 COMMISSIONER VALESKY: Thank you for  
8 the update. Obviously, my colleagues critically  
9 important issue, I would just highlight a couple of  
10 quick points, though that I think were important to  
11 raise. You had indicated that many utilities and  
12 many municipalities have been going far above the  
13 minimum standard in terms of compliance with the live  
14 and that's really important, going door to door, for  
15 example, to -- to neighbor's houses and some -- some  
16 communities around the State.

17 That's -- that's good to see.  
18 Obviously, we certainly have encouraged that to  
19 happen. And the other thing is also good to see that  
20 you've not been receiving many complaints for alleged  
21 violations of the law that certainly by -- by one  
22 measurement of the success of the statute, that's a  
23 good thing -- that's a good thing to see.

24 Again, lots of work that we all need  
25 to continue to do around this issue and look forward

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2 to -- to doing it moving forward. Thank you.

3 CHAIRMAN HOWARD: Commissioner  
4 Maggiore.

5 COMMISSIONER MAGGIORE: Thank you.  
6 Thank you for the presentation. Thank you for your  
7 work. Just listening to some of the comments, I -- I  
8 strongly suspect that despite outreach efforts,  
9 there's going to be some significant number of people  
10 who are going to find out that they are in arrears  
11 and that they're going to owe money, that they didn't  
12 think that they had or they're going to receive  
13 shutoff notices, despite everyone's best efforts.

14 In situations like this in the past,  
15 it's often the case that affected parties go to  
16 elected officials, town councilman, State  
17 legislators, county legislators and the elected  
18 officials don't necessarily have a clear roadmap of  
19 what they're supposed to do. So there will often be  
20 calls to utilities, you know, calls to D.P.S., maybe  
21 some calls to OTADA.

22 I suspect that won't be the first  
23 place that, you know, a town supervisor might call,  
24 some calls to us. And I think the extent to which we  
25 could see that coming ahead of time. And there could



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2 be some kind of outreach to elected officials on all  
3 levels just anticipating that they're going to be  
4 getting this type of call, that -- that might be  
5 prudent. But that's -- that's all I have to add.  
6 Thank you very much.

7 CHAIRMAN HOWARD: Thank you.  
8 Commissioner Christian.

9 COMMISSIONER CHRISTIAN: Thank you,  
10 Chair. I want to echo and amplify Commissioner  
11 Maggiore's said and add to that list of  
12 organizations, in addition to elected officials,  
13 community organizations. There's a wide array of  
14 community groups, environmental justice groups and  
15 others that advocate on behalf of individuals who are  
16 likely going to be impacted by this. And I think  
17 that's an amazing resource for doing outreach.

18 They already have the voice of the  
19 community, they already have the trust of the  
20 community, and they can aid the utilities in getting  
21 this message out and ensuring that it's well-received  
22 and understood. So I want to add that.

23 I -- I -- I also want to ask a  
24 question regarding the number of individuals and --  
25 and kind of, and this need not be answered now. But

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2 at some point in the future, you know, I'd very much  
3 like to work with Commissioner Edwards and you on  
4 understanding the program better and making sure we  
5 can operate it more effectively, particularly given  
6 the timeliness of the situation.

7 I'd like to understand the number of  
8 customers by region who have taken advantage of, or  
9 in the situation where they may be experiencing a  
10 shutoff. And what the characteristics of that look  
11 like compared to normal shutoff. I'm concerned that  
12 the number of shutoffs plan may be significantly  
13 higher than what would be normally considered. And I  
14 wonder what impact that can have on operations in  
15 other ways.

16 So just understanding the magnitude of  
17 the problem, I think would be very helpful.

18 MR. KARMAW: Sure, so Aric, maybe  
19 speak to the numbers and the reporting that already  
20 exists for shutoffs, so.

21 MR. RIDER: We can provide that to  
22 you.

23 MR. KARMAW: Yeah.

24 COMMISSIONER CHRISTIAN: Thank you.

25 CHAIRMAN HOWARD: Thank you. With

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2 that, I will move that we move to the consent agenda.  
3 Do any Commissioners wish to comment or recuse from  
4 voting on any items on the consent agenda, beginning  
5 with Commissioner Burman?

6 MS. BURMAN: Thank you so much, Chair.  
7 So I -- I do have a few items that I'm going to talk  
8 on. Regarding items 161, 162, and 163. I'm going to  
9 group them together, the gas utility demand-side  
10 programs, Non-Pipe Alternatives and I have a few  
11 observations to explain my vote. We have an  
12 obligation to really look very carefully at what  
13 we're doing.

14 There is a long history on how we have  
15 handled our gas policy in these areas, Westchester,  
16 Lansing and others. And there are still moratoriums  
17 in place despite people's need for gas and desire for  
18 gas. And despite the solutions, or lack of solutions  
19 that has persisted. Millions of New Yorkers rely on  
20 natural gas for heating and cooking. And many  
21 industries employing millions of New Yorkers rely on  
22 natural gas for operating their businesses.

23 There are many economic development  
24 programs that are existing, are in planning stages,  
25 and are in development that will need access to gas

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2 or access to other fuels paired with that. And that  
3 will have an impact if they are not able to have  
4 these economic development projects, due to the  
5 concerns on the constraint on the system and the  
6 impact that may mean.

7 While many advocates are pushing for  
8 the end of fossil fuel consumption, it cannot be done  
9 overnight, or even risk -- realistically over many  
10 years. And in fact, the logic and planning analysis  
11 behind the how, the why, the what, the when, and the  
12 technical and innovative thinking needs to be sound  
13 and reasonable.

14 And as long as gas is still being used  
15 in the State, the P.S.C. has a responsibility to  
16 ensure that this gas is delivered safely to  
17 consumers. And to the extent that gas  
18 infrastructure, in whatever way, can be viable and an  
19 important partner in helping to achieve our energy of  
20 the future solutions we have an obligation to explore  
21 that.

22 I have expressed concerns when gas  
23 demand-side programs and Non-Pipe Alternatives have  
24 come before the Commission in the past, but they are  
25 not by themselves, the answer to ensuring the safe

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2 and reliable operation of the gas systems in the  
3 State. And in fact, still leave the grid vulnerable  
4 and customers without access or having limited access  
5 to the energy they need and/or want.

6 In order to assure a gas system can  
7 safely and reliably serve its customers with adequate  
8 supply and pressure, demand-side programs and Non-  
9 Pipe Alternatives can present and do present more  
10 uncertainty, and therefore, more risk to the system  
11 than traditional infrastructure investment. That is  
12 because utility controls the infrastructure  
13 investment, but they do not directly control end-use  
14 consumer behavior.

15 I appreciate the urgency of addressing  
16 climate change. And I appreciate the urgency of  
17 reviewing legal mandates of the Climate Leadership  
18 and Community Protection Act to dramatically reduce  
19 greenhouse gas emissions across all sectors. I  
20 believe this Agency and this Commission, as a body,  
21 has an important role in all of it.

22 In fact, we have been at the forefront  
23 of adopting policies to transition to a clean energy  
24 future. And I believe my fellow Commissioners are  
25 committed to leaning in to doing all we can in that

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2 endeavor. But I also know that this Commission takes  
3 very seriously our role in ensuring safety and  
4 reliability of our energy systems during this  
5 transition.

6 And I strongly believe we cannot, in  
7 our zest to move faster towards more renewables,  
8 shirk our responsibilities in safety, reliability and  
9 being good stewards of ratepayer dollars. The  
10 consequences of grid safety and reliability failures  
11 are very serious.

12 A gas outage during a multi-day polar  
13 vortex, for example, could present a humanitarian  
14 crisis and public safety nightmare that would  
15 disproportionately affect our most vulnerable  
16 customers -- consumers. This very serious  
17 responsibility to ensure the safety and reliability  
18 of our gas systems is why, in my opinion, we need to  
19 move beyond the pilot-type programs represented in  
20 items 161, 162, and 163.

21 And we need as a body to more  
22 carefully articulate our policy positions. And also,  
23 when we can and must, support traditional  
24 infrastructure, if viable and economical alternatives  
25 to such infrastructure, just are not going to solve

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2 the problem or not going to do it in a realistic way  
3 and in a time sensitive way.

4 Continuing to deny the needed  
5 infrastructure upgrades or new infrastructure is just  
6 not sound if we still can't afford to lift  
7 moratoriums, or appropriately are still worried about  
8 the risk to the system from the constraints. And we  
9 need to make more progress in developing a more  
10 comprehensive natural gas policy to put these types  
11 of programs into -- into a more holistic approach to  
12 meeting the gas utility system needs.

13 In my opinion, this holistic approach  
14 needs to allow for continued investment when  
15 necessary in utility infrastructure, such as leak-  
16 prone pipe replacement and an increased focus on  
17 pairing gas with other things like hydrogen and  
18 renewable natural gas to ensure safety and  
19 reliability. And I hope our stakeholders in our  
20 proceedings and outside our proceedings will  
21 recognize and support us in the need to do this.

22 Frankly, it disheartens me as someone  
23 who truly believes in working and facilitating as a  
24 natural facilitator, a natural collaborator, that  
25 we're not able to get more consensus among parties

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2 and it seems to be getting more entrenched, and we're  
3 not able to compromise, and somehow, we are being  
4 pitted against each other. We are all in this  
5 together.

6 Today's gas demand and the Non-Pipe  
7 Alternatives orders were adopted by One Commissioner  
8 Order last month, so that they would be in place and  
9 produce benefits before the upcoming heating season.  
10 I have great respect for Chair Howard. I also  
11 believe he was left with having to clean up a lot of  
12 this. And frankly, that concerns me, we should have  
13 addressed this a long time ago.

14 The Lansing moratorium has been in  
15 existence since at least 2015. And there are still  
16 others. In my view, these are band-aids and we  
17 should not be in the position of having to adopt  
18 these kinds of emergency orders to preserve the  
19 reliability of the system in the upcoming winter.

20 We need a better approach. And I hope  
21 a broader gas policy can move forward in a way that  
22 balances the need to meet clean energy targets with  
23 the uncompromising need for safety, reliability,  
24 economic viability, and cost containment. We do not  
25 have a coherent policy laid out in these orders or



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2 anywhere else.

3 We even go out of our way in some of  
4 these orders to recognize that it's unique. And we  
5 recognize that we shouldn't be looking at doing this  
6 more holistically, some of the things that are in  
7 there. That's a problem. It's a problem if we are  
8 being told, say no to gas, despite what that means  
9 for customers, even if gas offsets much more carbon-  
10 intensive fuels like oil and diesel.

11 I'm going to be voting no on these  
12 orders because I think it's important that we send a  
13 message that we have to be addressing it. I have  
14 great faith that we will. And I have great faith  
15 that if we come together collectively and cohab --  
16 collaboratively in a way that helps us, we can get  
17 there. And we must. Thank you. That's that from  
18 161, 162, and 163. For the record, I'm a no on  
19 those.

20 On item 265, I will be voting in  
21 favor. But I do just want to point out, this is the  
22 item that is here, the -- the petitioner was -- made  
23 a declaratory ruling asking us to clarify the  
24 requirements for offering opt-out community  
25 distributed generation as an additional product

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2           offering to Community Choice Program and also asking  
3           for other relief, which we are denying.

4                   There are several other Community  
5           Choice Aggregation petitions before us that are not  
6           here today. It's really important that we look at  
7           the Community Choice Aggregation issues. There is a  
8           whole host of history on this, I won't go into  
9           detail.

10                   But we do need to look and see, are  
11           these working? What's happening? How is it being  
12           done? And frankly, how is it also being sold to the  
13           municipalities as a good thing? And is it? And what  
14           are the lessons that we're learning from that? And  
15           how can we improve it?

16                   We also need to make sure that the  
17           information that is being conveyed from a  
18           communication perspective by those who are interested  
19           in being a part of Community Choice Aggregation, are  
20           realistic and actually, accurate and true. And to  
21           the extent that they also have other interests that  
22           may be self-serving, we need that to be very clear  
23           and articulated.

24                   Because at the end of the day, this is  
25           supposed to help the municipalities and their

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2 residents. And in some fashion, I'm not sure it  
3 actually does that. But yet, it's -- it's there.  
4 And the opt-out issues are -- are significant. So I  
5 look forward to addressing that.

6 Item 270, I just want to flag, because  
7 it does get to the Cyber Mutual Assistance issues. I  
8 think it's something we need to look very carefully  
9 at, again, not micromanaging the utilities, but also  
10 looking at the good work that the utilities are doing  
11 in the Cyber Mutual Assistance space.

12 They are utilizing their industry  
13 organization. And they are working with ISAC and  
14 others on a lot of that, and it's something that we  
15 should be very focused on, and making sure that we  
16 have the resources now, especially now that John  
17 Senate and his team has gone. For me, it's important  
18 for us to look carefully at the cyber issues.

19 Item 398, I just want to flag because  
20 on the -- on the final agenda, it lists the case  
21 number and the title, which is somewhat misleading.  
22 And I -- I want folks to -- to kind of be cognizant  
23 of that. The title is, the petition of New York  
24 State Energy Research and Development Authority  
25 requesting additional New York Sun program funding

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2 and extension of program through 2025. That's not  
3 what this order is.

4 Even though that's the title, this is  
5 the generic one. There's a number of different  
6 petitions that are in that. And there's also a  
7 petition from NYSERDA and National Grid, that I  
8 believe was brought in, perhaps, it was April or  
9 June, that there has been a number of comments from  
10 municipalities opposing that. And it is something  
11 that we will, after the SAPA period and as  
12 appropriate wind up coming before us.

13 But that's not being decided today.  
14 It's petition on the Remote Net -- Net Crediting  
15 issues. So I just want to flag that. And again,  
16 that petition that's coming for NYSERDA and National  
17 Grid also has some impact and the municipalities who  
18 are opposed to it are raising some concerns about how  
19 this impacts them and their residents and may relate  
20 to Community Choice Aggregation as well. Thank you  
21 very much.

22 CHAIRMAN HOWARD: Thank you.  
23 Commissioner Edwards.

24 COMMISSIONER EDWARDS: I have nothing.  
25 Thank you.

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2 CHAIRMAN HOWARD: Thank you.

3 Commissioner Valesky.

4 COMMISSIONER VALESKY: I have no  
5 comments on the consent agenda.

6 CHAIRMAN HOWARD: Commissioner  
7 Maggiore.

8 COMMISSIONER MAGGIORE: Thank you. I  
9 have comments on two items, starting with item 262.  
10 So this is obviously my first session as a new  
11 Commissioner and hesitant to comment on many items  
12 that have been in the works long before I joined the  
13 P.S.C. I can say that, as I've been reviewing the  
14 orders that appear on today's schedule, that I found  
15 many to be fascinating and important, but by and  
16 large, not surprising to me.

17 I was expecting to see most of these  
18 types of orders. But on this item 262, this is an  
19 exception. I found this item to be genuinely  
20 shocking. So the item has to do with a bribery  
21 scheme allegedly perpetrated by former employees of  
22 National Grid, quoting from the order, "The  
23 allegations presented in this complaint raised  
24 significant concerns related to the internal controls  
25 established and implemented by National Grid U.S.A.

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2 and affiliated entities."

3 To which I say -- I'll say. I think  
4 it's worth taking a moment to note what this order is  
5 designed to do. And again, I'm going to quote from  
6 it. "The proceeding will examine National Grid's  
7 justification for the expenditures associated with  
8 the work awarded to the contractor and an appropriate  
9 remedy will be fashioned if the expenditures are  
10 found to be unjustified." So I trust the National  
11 Grid will have every motivation to carry out its  
12 responsibility as a result of this proceeding.

13 As a regulated entity, when a utility  
14 comes to the regulator and says, this is what it  
15 costs to do X, that had better be right. There's no  
16 room for corruption inflation. So I'll be looking on  
17 with interest in the results of National Grid's  
18 evaluation. I don't see this as simply a matter  
19 relevant to National Grid alone.

20 I suppose corruption can exist within  
21 any institution. But I hope the message that  
22 resonates from this action is that other regulated  
23 entities assess their own internal controls before  
24 there's another problem. That was my comments on  
25 that item. I'd like to also comment on item 368,

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2 which has to do with battery storage facility and in  
3 Astoria.

4 And I want to just explain why I'll be  
5 particularly happy to vote yes, on this item, by way  
6 of explanation let me quote from comments proffered  
7 by the City of New York to, again, "This proposed  
8 facility repurposed as a brownfield site that  
9 contributes to air quality improvement in greenhouse  
10 gas emissions reductions by offsetting more carbon  
11 intensive on-peak generation, and has the potential  
12 to provide many benefits to the City of New York and  
13 the State."

14 So back in 2018, when I was Governor  
15 Cuomo's Policy Director, the Governor announced the  
16 State's plan to jumpstart the development of energy  
17 storage in New York State. In response, the P.S.C.  
18 adopted a strategy to accelerate the deployment of  
19 energy storage projects. I know this order is not  
20 the first manifestation of this goal. But it is the  
21 first to come before the P.S.C. since I became  
22 Commissioner.

23 And I just wanted to take a moment to  
24 acknowledge this is an example of policy coming to  
25 life. And I view it as an encouraging development.

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2 Thank you. Those are my comments.

3 CHAIRMAN HOWARD: Thank you very much.  
4 Commissioner Christian.

5 COMMISSIONER CHRISTIAN: Thank you,  
6 Chair. I too have comments regarding items 161, 162,  
7 163. Regarding item 161, I too, like Commissioner  
8 Burman, was surprised at the length of time between  
9 the moratorium and the enactment of this bringing  
10 forth of this order. I do believe we need to move  
11 more quickly to provide the services needed to  
12 customers. And I hope in the future, similar  
13 proposals can move forward with greater speed.

14 With respect to items 161, 162, and  
15 163, collectively, ultimately, I view them all as  
16 favorable. The -- the history behind them is not  
17 entirely clear to me, this being my first meeting  
18 with the Commission. But I see the purpose of them  
19 as important towards helping move us forward to  
20 achieve the State's goals while maintaining the  
21 mandate set before the Public Service Commission of  
22 safe, affordable and reliable service.

23 I agree with Commissioner Burman, that  
24 we do need a more holistic natural gas policy, and  
25 that such a policy does not currently exist.



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2 However, I believe that these three items  
3 collectively will give us the tools with which we can  
4 then develop said policy with greater certainty of  
5 what the results will be. Thank you.

6 CHAIRMAN HOWARD: Thank you. With  
7 that, I will move to a vote on the consent agenda.  
8 Commissioner Burman, how do you vote?

9 COMMISSIONER BURMAN: Except for item  
10 161, 162, and 163, where I voted no, all others I'm  
11 voting in favor. Thank you.

12 CHAIRMAN HOWARD: Thank you very much.  
13 Commissioner Edwards.

14 COMMISSIONER EDWARDS: I'm voting,  
15 yes.

16 CHAIRMAN HOWARD: Commissioner  
17 Valesky.

18 COMMISSIONER VALESKY: I vote, yes.

19 CHAIRMAN HOWARD: Commissioner  
20 Maggiore.

21 COMMISSIONER MAGGIORE: I vote, yes.

22 CHAIRMAN HOWARD: Commissioner  
23 Christian.

24 COMMISSIONER CHRISTIAN: I vote, yes.

25 CHAIRMAN HOWARD: Secretary Phillips.

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2 SECRETARY PHILLIPS: I'd like your  
3 vote as well, please.

4 CHAIRMAN HOWARD: Oh, excuse me. I  
5 vote as, yes, as well. I apologize. With that,  
6 Secretary Phillips, is there any further items to  
7 come before us today?

8 SECRETARY PHILLIPS: There's nothing  
9 further. Thank you.

10 CHAIRMAN HOWARD: Again, thank you  
11 very much. And again, I just want to welcome  
12 everybody back. And I look forward to seeing you  
13 next month. Thank you.

14 (Off the record, 12:45 p.m.)

15 (The proceeding concluded.)

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2 STATE OF NEW YORK

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

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 19th day of July, 2021.

11

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13 ANDREW BELAIR, Reporter

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