

1 7-16-2020 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4

5

6 MONTHLY MEETING OF THE

7 PUBLIC SERVICE COMMISSION

8 VIA WEBEX CONNECTION

9

10 Thursday, July 16, 2020,

11 10:30 a.m. until 12:37 p.m.

12

13

14

15 COMMISSIONERS:

16 JOHN B. RHODES, Chair

17 DIANE X. BURMAN

18 JAMES S. ALESİ

19 TRACEY A. EDWARDS

20 JOHN B. HOWARD

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2 (On the record, 10:30 a.m.)

3 CHAIR RHODES: Good morning. This is
4 John Rhodes, Chair of the Public Service Commission.
5 I call this session of the Public Service Commission
6 to order. Secretary Phillips, are there any changes
7 to the final agenda? I'm sorry, can you folks hear
8 me?

9 COURT REPORTER: I can hear you.

10 CHAIR RHODES: Okay. so --

11 COMMISSIONER BURMAN: Michelle, I
12 believe was muted.

13 CHAIR RHODES: Okay. Well, Michelle
14 or Secretary Phillips, are there any changes to the
15 final agenda? Okay Michelle, why don't we give it a
16 few minutes.

17 SECRETARY PHILLIPS: Just testing, can
18 you hear me?

19 CHAIR RHODES: We can hear you now.

20 SECRETARY PHILLIPS: Okay. Thank you.
21 I got disconnected.

22 CHAIR RHODES: We couldn't hear you
23 until now. Okay. Well, let's start over. Good
24 morning. This is John Rhodes. Chair of the Public
25 Service Commission, and I call this session as a

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2 Public Service Commission to order. Secretary
3 Phillips, are there any changes to the final agenda?

4 SECRETARY PHILLIPS: There are no
5 changes to the final agenda.

6 CHAIR RHODES: Thank you very much.
7 Before we get started, I would like to note our
8 arrangements for our session today. In line with the
9 guidelines concerning social distancing and
10 minimizing large gatherings. And in light of
11 executive orders that suspend provisions of the Open
12 Meetings Law on an emergency basis, we are conducting
13 today's session remotely.

14 I'd like to remind those who are
15 participating by phone, to please mute your lines
16 except when you're speaking. The public will have
17 the opportunity to listen to this session on the
18 Department's webcast page and we'll also record and
19 transcribe the session as has been our practice.

20 These arrangements have been reviewed
21 -- reviewed by our general counsel and he has found
22 that these meet the requirements of executive orders
23 and also that they meet my own expectations of
24 honoring the intent of the Open Meetings Law to the
25 maximum -- to the maximum extent permitted by our

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2 duty to protect the health -- public health of New
3 Yorkers.

4 With that, we will get started and
5 dive into the regular agenda. The first item for
6 discussion is Item 301. Case 18-E-0138 which is
7 regarding electric vehicle supply equipment and
8 infrastructure presented by Zeryai Hagos, Deputy
9 Director, Clean Energy Markets. Robert Rosenthal,
10 General Counsel, Mary Ann Sorrentino, Chief Upstate
11 Rates and Tariffs, Chris Graves, Chief of Utility
12 Programs and Jeremy Routhier, Utility Supervisor are
13 available for questions. Zeryai, please begin.

14 MR. HAGOS: Good morning, Chair
15 Rhodes, and Commissioners. Today I will be
16 presenting Item 301 in Case 18-E-0138 Proceeding On
17 The Motion Of The Commision Regarding Electric
18 Vehicle Supply Equipment Infrastructure.

19 The draft order before you authorizes
20 a light-duty electric vehicle make-ready program to
21 support the build-out of enough electric vehicle
22 charging stations across New York State to power up
23 to 850,000 electric vehicles by 2025. The draft
24 order also authorizes several PILOTS and price
25 programs intended to provide targeted support towards

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2 electric vehicle infrastructure build-out for medium
3 and heavy-duty vehicles in disadvantaged
4 communities.

5 In April of 2018, the Commission
6 initiated this proceeding to remove obstacles to
7 electric vehicle adoption in New York State and
8 directed the Department of Public Service staff to
9 expeditiously issue a white paper addressing issues
10 pertaining to the light-duty sector.

11 In July of 2019, Governor Cuomo signed
12 the historic Climate Leadership and Community
13 Protection Act codifying into law nation leading and
14 clean energy goals that include an economy wide 40%
15 reduction in greenhouse gas emissions by 2030, and
16 net zero greenhouse gas emissions by 2050.

17 As the largest source of New York's
18 greenhouse gas emissions, our transportation sector
19 will have to achieve rapid de-carbonization in the
20 years ahead in the 2025 target of 850,000 zero
21 emissions vehicles, places New York on the path to
22 meet our longer-term climate goals.

23 In January of 2020, the Department of
24 Public Service released the white paper regarding
25 electric vehicle supply equipment and infrastructure

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2 deployment. Following an extensive stakeholder
3 process which recommended several actions, including
4 the creation of a light-duty, make-ready program.

5 Department of Public Service staff
6 convened a virtual technical conference between April
7 1st and April 7th, 2020 to gather stakeholder
8 feedback and discussion regarding the proposal. A
9 notice was issued seeking comments on the white paper
10 by April 6th, 2020.

11 In response to the COVID-19 pandemic,
12 the comment period was extended until May 11th, 2020
13 to allow stakeholders additional time to prepare
14 feedback for this substantial proposal. In total, 42
15 sets of comments received representing 45 entities.

16 Please advance to the next slide.

17 Under the make-ready program proposal
18 in the white paper, infrastructure costs required to
19 make sites ready for E.V. charging, which I'll refer
20 to as make-ready will be eligible for ratepayer-
21 funded support. The diagram on the slide identifies
22 the infrastructure that is considered make-ready in
23 this proposal.

24 Some of the make-ready infrastructure
25 including a transformer or transformers for large

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2 charging stations, as well as the meters are owned by
3 the utility. The panel board, conduit, or conductor,
4 are equipment owned by the customer and the costs
5 associated with any trenching or boring required to
6 bring the conduit to the E.V. charger are also the
7 responsibility of the utility customer.

8 Utility-owned and customer-owned,
9 make-ready equipment as well as associated
10 construction costs are eligible for ratepayer support
11 in the proposed make-ready program. As indicated in
12 the table, the E.V. charger itself is the
13 responsibility of the site host and is not eligible
14 for support in the proposed make-ready program.

15 Utility upgrades that are upstream of
16 the transformer also fall outside of the scope of
17 eligible make-ready costs in the proposed make-ready
18 program.

19 Staff also proposes a number of
20 program design components, tools and other
21 initiatives that will incentivize utilities and
22 station developers to pursue projects in the most
23 beneficial areas.

24 The Commission would establish a
25 statewide make-ready program that provides up to \$582

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2 million in incentives to developers and site hosts
3 for both level 2 and D.C. fast-charging stations.
4 Level 2 chargers operate at 240 volts have fixed
5 cables that connect to an electric vehicle and are at
6 least two times faster than a standard wall outlet.

7 D.C. fast chargers, also known as
8 level 3 chargers, operate at the highest power levels
9 and are the fastest charging option for battery
10 electric vehicles. D.C. fast-charging speeds vary
11 based on a number of factors including the battery
12 size of the vehicle, the vehicle's state of charge,
13 the time of charging, and the charger itself.

14 Please move away from this slide.

15 Under staff's proposal, publicly
16 accessible sites using standard plug types will be
17 eligible for the full incentive level of up to 90% of
18 eligible make-ready costs. Stations that use
19 proprietary plug types, or stations that are not
20 publicly accessible would receive up to 50% incentive
21 level for eligible make-ready costs.

22 The white paper proposal would --
23 would make each site subject to a maximum incentive
24 level based on average development costs within the
25 utility service territory. Utilities would recover

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2 the make-ready program costs through a combination of
3 rate base and surcharges.

4 Site identification would be led by
5 developers based on their knowledge of the electric
6 vehicle market and business objectives. Developers
7 will be responsible for funding the charging
8 equipment itself, as well as at least 10% of the
9 make-ready costs, totaling over 50% of the overall
10 station costs.

11 Utilities would aid developers in site
12 identification by identifying low-cost locations on
13 the grid suitable for E.V. charging station
14 development and providing targeted education and
15 outreach in locations identified during their
16 planning process, which has the greatest benefits to
17 consumers.

18 In line with New York's reforming the
19 energy -- energy vision of competitive market
20 principle, staff recommended program participation at
21 public sites be limited to private developers. Staff
22 identified that the key market conditions for the
23 largest fast-charging stations with plug sizes over
24 150 kilowatts in upstate New York are challenging,
25 even after accounting for the make-ready incentives.

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2 To ensure upstate drivers have access
3 to a minimum level of fast-charging stations, the
4 seven Upstate Regional Economic Development Councils
5 would be designated as strategic locations where four
6 D.C. fast charger -- charging stations per region
7 would be procured during competitive solicitation,
8 supported by an additional \$5 million in ratepayer
9 support beyond the make-ready incentive.

10 20% of each utility's publicly
11 accessible D.C. fast-charging, make-ready program
12 budget would be directed towards stations within 10
13 miles of disadvantaged communities. The program
14 designed and budgets would be reconsidered in
15 parallel with the D.C.F.C. per plug incentive program
16 midpoint review.

17 In response to the staff white paper,
18 the vast majority of comments supported significant
19 action to incentivize E.V. infrastructure
20 development, including the development of a make-
21 ready program. Noting the critical role of
22 decarbonization of the transportation sector must
23 play in meeting the state's climate policy
24 objectives.

25 Parties supported a make-ready

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2 program, but generally believe the program should be
3 more flexible than a white paper proposal given the
4 state of the market. Many commenters requested more
5 flexibility in the eligibility criteria, including a
6 relaxation of public accessibility criteria of the --
7 of the -- based on the realities downstate where many
8 multi-unit dwellings and workplace charges are --
9 charging is needed, and there are many pay for
10 parking spots that are owned by municipalities.

11 Many commenters thought the maximum
12 incentive level approach proposed in the white paper
13 was too restrictive and could have unintended
14 consequences. Many commenters argue that utility
15 ownership of customer equipment may be needed,
16 although others like the joint utilities argue that
17 staff -- the staff white paper proposal restrict --
18 restricting such an ownership is appropriate.

19 Commenters generally argued that
20 utilities could provide useful information to
21 potential developers particularly around promoting
22 certain circuits to avoid additional constraints but
23 warned against requiring strict adherence. Many
24 commenters argued that the New York Power Authority
25 should be allowed to participate in the program.

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2 Commenters generally support the
3 staff's proposal to allow for a set-aside budget for
4 disadvantaged communities. Several commenters
5 suggested reducing the 10-mile radius around
6 potential environmental justice areas in urban and
7 suburban areas, in order for the higher incentive
8 level for disadvantaged communities to apply.

9 Several commenters encouraged the
10 condition to address the medium- and heavy-duty
11 sector expeditiously particularly given its impact on
12 environmental justice communities, including transit
13 authorities.

14 Please move to the next slide.

15 The draft order recommends approving
16 white paper proposal including the make-ready program
17 with modifications. Specific modifications to the
18 white paper proposal include a modification to the
19 overall program budget to \$701 million to support
20 53,773 level 2 charging ports and 100 -- and 1,500
21 D.C. fast-charging ports.

22 The final budget was increased to
23 account for program implementation costs, future
24 proofing investments, and an additional \$110 million
25 for programs that will provide targeted benefits to

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2 disadvantaged communities through the electrification
3 of transportation.

4 The draft order establishes utility
5 specific budgets of \$290.4 million at Con Edison, \$26
6 million at Central Hudson, 78.4 million at NYSEG, 143
7 million at National Grid, 23.7 million at Orange and
8 Rockland, and 39.5 million at Rochester Gas and
9 Electric.

10 The draft order establishes a \$38.4
11 million budget dedicated to future proofing sites,
12 limiting future proofing incentives to no more than
13 10% of the site's eligible costs, with the objective
14 of minimizing future expenses and avoiding rework for
15 expected site expansion in situations where doing so
16 can be accomplished with nominal incremental costs to
17 the work performed today.

18 Please move away from this slide.

19 Regarding incentive levels, the draft
20 order maintains the full incentive level for publicly
21 cited E.V. charging stations using -- using standard
22 plug types of up to 90% of eligible make-ready costs
23 and a lower 50% incentive level for sites with
24 restricted access or that use proprietary plug types.

25 As evidenced by the tiered incentive

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2 levels, public accessibility remains a principal goal
3 of the proposed make-ready program. The draft order
4 acknowledges commenters who expressed concern with
5 metered parking spots and municipal parking lots that
6 charge parking fees be classified as having a
7 restricted access, making them ineligible for the
8 full incentive level.

9 The draft order has, therefore,
10 clarified that municipal parking spaces will be
11 considered publicly accessible in the make-ready
12 program. Even if parking fees apply. Charging
13 stations that commenced construction after the
14 issuance of this order will be eligible for the make-
15 ready program incentives.

16 The draft order rejects staff proposal
17 for service territory specific maximum incentive
18 levels acknowledging commenters who point out the
19 potential for significant cost differences within the
20 utility service territory and the need to make
21 charging infrastructure available to all customers,
22 not just to those who happen to live in areas with
23 excess capacity, which maximum incentive level could
24 inadvertently favor.

25 To compensate for removing the site-

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2 specific maximum incentive level, the draft order
3 authorizes share-the-savings earnings adjustment
4 mechanisms that reward utilities for achieving lower
5 program costs than budgeted on a dollar per kilowatt,
6 basic -- install basis for D.C. fast chargers and a
7 dollar per plug basis for level 2 charges.

8 The earnings adjustment mechanisms
9 would be calculated and paid once on midpoint review,
10 the second time at the end of the program. While
11 commenters expressed concern with the frequency of
12 the reporting requirements in the white paper
13 proposal, the information is critical to the
14 commission maintaining continued oversight of the
15 program performance, including infrastructure costs,
16 issue utilization budgets, as well as customer
17 experience.

18 The draft order, therefore, adopts the
19 staff proposal for utilities and program participants
20 to provide quarterly reports to be aggregated and
21 anonymized by a third-party vendor prior to
22 publication. Utilities are also required to file
23 more comprehensive annual reports, which are to be
24 combined with the annual report required by the D.C.
25 Fast Charger Frame Recorder issued in the same

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2 proceeding.

3 The draft order dedicates 20% of each
4 utility make-ready program incentive budget of \$95.9
5 million in total, to stations in disadvantaged
6 communities. The white paper proposal dedicated 20%
7 of the D.C. fast-charger make-ready budget to
8 disadvantaged communities.

9 However, commenters and working group
10 participants point out that level 2 charging stations
11 can also help improve access to mobility and reduce
12 harmful vehicle emissions in these communities. A
13 draft order, therefore, includes 20% of the level 2
14 incentive budget and funds dedicated to disadvantaged
15 communities and level 2 charging stations developed
16 in eligible locations will too be eligible for up to
17 100% make-ready support.

18 Additionally, staff agrees with
19 commenters that a 10-mile radius is too broad to
20 ensure that the benefits of E.V. charging flow
21 through to the disadvantaged communities that the
22 higher incentive level seeks to address. The draft
23 order, therefore, modifies the area-based eligibility
24 criteria for disadvantaged communities, to charging
25 stations within a one-mile radius of disadvantaged

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2 communities in Con Edison, Orange and Rockland,
3 Central Hudson and Rochester Gas and Electric Service
4 territories.

5 And within a 2-mile radius in National
6 Grid and NYSEG service territories to qualify for the
7 higher incentive levels of up to 100% of eligible
8 costs. Staff agrees with commenters who point out
9 the urgent need to reduce harmful air pollution in
10 environmental justice areas, primarily driven by
11 diesel fueled medium and heavy-duty traffic.

12 The draft order, therefore, directs
13 utilities to develop a make-ready PILOT program for
14 medium- and heavy-duty fleets in environ --
15 environmental justice communities, with an additional
16 15 million in funding. The draft order also
17 dedicates a \$10 million budget to four Upstate
18 Transit Authorities; Capital District Transportation
19 Authority, Niagara Frontier Transportation Authority,
20 Rochester-Genesee Regional Transit Authority, and
21 Westchester County Beeline Bus System, providing
22 make-ready infrastructure to support their commitment
23 to electrify 25% of their bus fleets by 2025.

24 Additionally, the draft order directs
25 NYSERDA to work with D.P.S. to file within 90 days of

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2 the order, implementations for three prize
3 competitions. The Environmental Justice Community
4 Clean Vehicle transport -- Transformation prize, a
5 \$40 million program focused on reducing harmful air
6 pollution in frontline communities across New York
7 State.

8 The Clean Personal Mobility prize, a
9 \$25 million program soliciting innovation and high --
10 innovative and high impact approaches that enable
11 access to clean transportation services for
12 disadvantaged and underserved communities. And
13 finally, the Clean Medium and Heavy Duty Innovation
14 prize, a \$20 million program designed to achieve
15 direct benefits, allow concrete investigation of
16 opportunities, costs, and benefits, and to provide --
17 and to prove out approaches to electrify medium- and
18 heavy-duty vehicles that can be replicated at scale.

19 The draft order directs utilities to
20 create a fleet assessment service to accelerate the
21 electrification of light, medium, and heavy-duty
22 vehicle fleet to New York. The fleet assessment
23 service includes site feasibility and rate analysis
24 to aid fleet owners in identifying cost and time
25 saving synergies, both during the planning and

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2 operations of depots made ready for electric vehicle
3 charging.

4 Shortly after staff's white paper
5 proposal, the New York Power Authority and NYSERDA
6 announced plans to develop up to 10 D.C. fast-
7 charging stations in each of the 10 Regional Economic
8 Development Councils, most of which staff had
9 identified as strategic locations in the white paper.

10 So and recommended an additional \$5
11 million incremental ratepayer funds to be paired with
12 these, with the make-ready support in order to ensure
13 that a comprehensive network of fast-charging
14 stations is available and accessible to all New
15 Yorkers.

16 While the make-ready program is
17 designed principally to support investment in private
18 developers, staff finds that developing the charging
19 network in areas where E.V. demand will not
20 immediately draw private investment is a task
21 suitable for a public entity like the New York Power
22 Authority.

23 The draft order therefore finds that
24 the New York Power Authority is eligible to access
25 the make-ready incentives subject to the eligibility

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2 criteria of the program to support the development of
3 fast-charging networks through their evolving New
4 York, and Regional Economic Development Council
5 initiatives, in locations where the private market is
6 not yet ready to proceed.

7 The New York Power Authority's overall
8 access is capped at 30 million or approximately 6% of
9 the incentive budget. In addition to the reporting
10 requirements, staff will work to form an E.V.
11 charging customer experience working group and
12 technical standards working group to monitor progress
13 and identify best practices, which will be reviewed
14 by the Commission during the program's midpoint
15 review.

16 The draft order requires that the
17 program midpoint review begin no later than October
18 1st, 2020, with a report to the Commission by January
19 4th, 2023, at which time the Commission can consider
20 any necessary changes to the program budget's
21 targets, additional program design elements based on
22 a comprehensive review of the program results to
23 date, and stakeholder feedback.

24 This concludes my presentation. Bob
25 Rosenthal, Mary Ann Sorrentino, Chris Graves, Jeremy

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2 Routhier, and I are available to answer any of your
3 questions. Thank you.

4 CHAIR RHODES: Thank you very much,
5 Zeryai. This is John Rhodes, with my comments and
6 reactions. This draft order, in my view, thoroughly
7 examines and properly concludes some very important
8 points that relate to the need for charging
9 infrastructure for E.V.s and the proper approach to
10 those.

11 It's a mission matter for light duty
12 electric vehicles, defined to make-ready investments
13 by utilities can support and complement charge in
14 that sense, by private developers, so as to be able
15 to jointly complete the investments required.

16 And then I also find that it includes
17 properly that such make-ready investments are that's
18 aligned with utility strengths and responsibilities.
19 I think that it's smart that it places the incentives
20 on site location choice, mainly up for developers who
21 have skin in the game to pick locations and
22 configurations that best promise good utilization and
23 good economics.

24 I think that the estimated need to be
25 quantity and mix of these investments have been

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2 soundly estimate, and I find that the cost of the
3 deployment is subject to effective cost containment
4 approaches.

5 This Order takes, good steps
6 to ensure best access to charge and clean
7 transportation for all New Yorkers, including
8 communities that would otherwise be underserved for
9 location rules and other smart investments it
10 comprises. We also protect consumers as we must.

11 In total, the investments offer
12 compelling cost benefit results, and they also
13 generate good, fair paying jobs. And I like the fact
14 that -- that the strategy taken in this order
15 incorporates an important midterm review, as well as
16 thorough and ongoing tracking reporting results and
17 benefits of results and performance.

18 It's just factual objectively true
19 that this item has benefited from active and highly
20 engaged comments and other input by stakeholders.
21 And in my view, the result is a proposal that is
22 clearly in the public interest of New Yorkers and in
23 the interest of customers, I will be in favor.
24 Commissioner Burman, any comments, or questions from
25 you?

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2 COMMISSIONER BURMAN: Thank you. Can
3 everyone hear me?

4 CHAIR RHODES: Yes.

5 COMMISSIONER BURMAN: Okay. Thanks.
6 I have a number of questions for staff to facilitate
7 sort of the thoughts that I have and want to make
8 sure that even though it was somewhat stated in the
9 different speaking points from staff that it -- it's
10 further highlighted. Can -- someone share with me
11 exactly what NYPA's role will be in the program now?

12 MR. HAGOS: Hi Commissioner Burman,
13 this is Zeryai Hagos. I'll respond to that question.
14 On this proposed program is, as I mentioned earlier,
15 a private market-driven program primarily to drive
16 light duty charging infrastructure throughout the
17 State of New York.

18 As we can all recognize the market can
19 be very efficient. However, it can in some instances
20 overlook underserved areas and in the case of E.V. --
21 E.V. charging locations where E.V. adoption is low.
22 So NYPA in their Evolve New York and Regional
23 Economic Development Council initiatives have a
24 slightly different mission of building out a
25 comprehensive network that ensures access throughout

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2 the program or throughout the state, to all
3 communities.

4 And so really, the staff recommended a
5 very small portion of the incentive budget, which is
6 capped at about 6% of the overall budget be dedicated
7 to support this mission. So the majority of the
8 investment in this program we envision will go to
9 where the charging stations are going to be most
10 heavily utilized and NYPA's role will be slightly
11 different to ensure that they're -- they're making
12 investments in places where the private sector is
13 not.

14 COMMISSIONER BURMAN: And who will
15 determine where the -- who will determine what areas
16 NYPA should serve based on where the private sector
17 is not -- is not or is not willing to go?

18 MR. HAGOS: NYPA's current practice
19 is, you know, expected to continue is that they will
20 publish all of their planned development activity on
21 the Evolve New York website. And you can go to the
22 website and identify charging stations that they
23 currently have under contract, as well as regions or
24 areas that they are planning to develop the future
25 charging stations in.

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2 And developers, in the private sector,
3 will have an opportunity to review the website on an
4 ongoing basis to identify areas where they may have
5 common interests and in cases where -- where both the
6 private sector developer and NYPA are pursuing the
7 same site or location. NYPA -- NYPA has no interest
8 in developing those locations.

9 And, in fact, they've already in two
10 separate instances moved away from perspective areas
11 because the developers have demonstrated that they're
12 willing to make the investment. If that answers your
13 question, Commissioner Burman.

14 COMMISSIONER BURMAN: Thank you. What
15 about -- what about the accountability of NYPA in
16 terms of making sure that they are truly working with
17 the stakeholders under the Evolve New York program,
18 they are truly not stepping into either, without
19 meaning to or meaning to, areas that could possibly
20 be served by the market and also ensuring that as the
21 market evolves, that NYPA is properly planning for
22 the divestment as the order envisions?

23 MR. HAGOS: In response to the first
24 part of your question. At this point, there isn't a
25 specific requirement that -- or a mechanism that

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2 staff has proposed in the order to facilitate the --
3 the current practice for NYPA to move away when a
4 private sector developer is pursuing the same
5 location.

6 But we do note that the process
7 already is working as demonstrated by -- by two --
8 two such instances where NYPA did move away from a
9 site when a developer demonstrated they will be going
10 to move forward with an investment.

11 We also recognize that, you know, by
12 January 4th, 2023, the Commission will have an
13 opportunity to review the performance of the entire
14 program. And -- and which would include the specific
15 area that NYPA is involved. And we can propose
16 accommodations or modifications if we discover that,
17 you know, there are unintended cons -- consequences
18 to the proposed program.

19 COMMISSIONER BURMAN: Okay. And what
20 about the Regional Economic Development Council's
21 role? I think it is the first time that I've seen in
22 a Commission order, reference to the use of the
23 R.E.D.C. So I'm really trying to understand, I'm not
24 necessarily looking to embrace R.E.D.C.'s except to
25 the extent that, you know, we fully understand what

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2 we're asking them to do or why we're engaging in in
3 looking to them.

4 MR. HAGOS: Thank you, Commissioner
5 Burman for that question. As a matter of just
6 clarification for everyone, the Regional Economic
7 Development Councils, as you know, referenced in the
8 proposed order, that we're not delegating any
9 responsibility to those entities.

10 We are using the Regional Economic
11 Development Councils as geographic definitions of
12 where we think different kinds of charging networks
13 are required. On the staff white paper proposal, it
14 was the seven Upstate R.E.D.C.s.

15 And so really, it's a way of framing
16 geographic requirements for network rather than, you
17 know, delegating any sort of administration of the
18 make-ready program. So that's just to clarify what
19 was intended in the order.

20 COMMISSIONER BURMAN: Okay. Thank
21 you. As -- in 2013 when there was an E.V. initiating
22 order, the -- it came on the heels of a statewide
23 M.O.U. related to -- with other states with other
24 folks on E.V.s, and it's not lost on me that today,
25 we are again, looking at an order that comes on the

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2 heels of another State M.O.U. with other states
3 related to E.V.s.

4 As I read the press releases on that
5 M.O.U. I am cognizant of the fact that this order is
6 really more focused on the light duty vehicles where
7 the M.O.U. is really geared towards a medium and
8 heavy duty vehicles. However, we do have a lot of
9 thoughts and interest from the regulatory perspective
10 in our medium and heavy duty vehicles and the
11 regulatory structure around that, in fact, the order
12 does look to developing that out further.

13 The M.O.U., as again as I read it,
14 from press releases, not from actually seeing the
15 M.O.U., talks about developing a plan within six
16 months to identify barriers and propose solutions to
17 support widespread electrification, including
18 potential financial incentives and ways -- ways to
19 boost E.V. infrastructure.

20 I think it's really important for me
21 to state publicly, as I had done before, that I
22 really would like to see more engagement with D.P.S.
23 and the Commission itself on issues that we are
24 having come before us. Our order doesn't even
25 reference this M.O.U.

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2 And to the extent that they will be
3 developing a plan within six months to identify
4 barriers, and propose solutions, I think it's really
5 incumbent upon us to be very mindful of the large
6 role we play and should be playing, and not to be,
7 you know, trying to read the tea leaves after the
8 fact.

9 But rather, to the extent that there
10 are many stakeholders who are engaged in working with
11 us. We see through the comment period, even the
12 amount of stakeholders who are really looking for
13 more input from us on the medium and heavy-duty
14 programs. I think it's really incumbent that we, you
15 know, not just sort of align ourselves after the fact
16 with whatever is done through those processes.

17 It's something that I've -- I've
18 shared before my concern, it doesn't just go to E.V.,
19 but in general and I think it's something that I want
20 to make sure that folks understand where I come from,
21 and that I hope that we have more engagement on that.
22 Before I go to the next aspects of the order, I just
23 want to pause for a moment in case there's any
24 comment to that.

25 MR. ROSENTHAL: Commissioner, this is

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2 Bob Rosenthal. We hear you. We understand that the
3 Commission wants to, you know, be engaged on, you
4 know, the aspects of the M.O.U., which are really
5 about states working toward a comprehensive, in a
6 regionwide, countrywide, solution.

7 What you see in the order before you
8 is sort of pilot programs that NYSERDA would
9 implement to help, you know, animate some markets.
10 And so, you know, we see the two items separately,
11 but we understand you know what your concern is, and
12 we will address those issues as they arise.

13 COMMISSIONER BURMAN: Thank you. And
14 it's not so much about being involved in the M.O.U.,
15 but it is about my regulatory obligation to look at
16 the full approach and the full picture. And
17 especially when there are things that may happen
18 outside of the Commission that will directly and
19 indirectly impact what we're doing, especially as it
20 includes barriers and solutions to support widespread
21 electrification.

22 And also financial incentives and ways
23 to boost E.V. infrastructure that has an impact on
24 our regulatory structure and potentially a need to
25 ensure that the ratepayers and utilities and others

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2 that are involved in what we're doing with our --
3 with these programs, or have a voice, and that we are
4 setting up the right regulatory framework and -- and
5 making sure that it works.

6 Especially as we look towards more
7 widespread electrification, that impacts reliability
8 and resiliency and the impact on increased demand on
9 the grid really needs to be looked at, you know, and
10 carefully evaluated and relevant forecasting done.
11 Thank you for that.

12 The other question I have is, the
13 order talks about disadvantaged communities and
14 environmental justice and the definition of
15 environmental justice. As I read the draft order, it
16 appears that the order is saying that if the
17 definition of environmental justice is taken up under
18 the C.L.C.P.A. by the Climate Council as it's
19 envisioned to be, and if the definition changes at
20 the D.E.C. level or at the NYSERDA level, because
21 there are already some definitions that are being
22 utilized.

23 That those definitions will get
24 incorporated into our understanding of environmental
25 justice communities for this order, is that a fair

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2 statement and is that -- is there anything else to
3 add to that?

4 MR. HAGOS: Commissioner Burman, this
5 is Zeryai. I would say that is a fair description.
6 Staff recommended that the program incorporate kind
7 of future definitions of disadvantaged communities
8 made by the Climate Action Council and the other
9 C.L.C.P.A. working groups in panels in an effort to
10 better align with state policy.

11 And, you know, as you referenced,
12 there's a -- there's a number of different ways of
13 defining those populations today. We also, you know,
14 similar to the NYPA question earlier, or, you know,
15 recognize that there's a program midpoint review
16 occurring no later than January 4th, 2023 where the
17 Commission can modify this requirement if we observe
18 it has unintended consequences and it can be
19 improved.

20 COMMISSIONER BURMAN: Thank you.
21 Before we go on to the next aspects, I am not in
22 support of having that in the order. I think it is
23 showing our regulatory oversight. While I am mindful
24 of the Climate Leadership and Community Protection
25 Act and to the extent that the -- it looks to the

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2 Climate Council for identifying environmental justice
3 and in fact has a separate working group that will be
4 looking at that.

5 And I'm very excited about hearing
6 more about that and seeing it as it may or may not
7 affect the utilities and others that we regulate and
8 what we are doing from a financial perspective for
9 access to ratepayer dollars.

10 It is really premature and
11 inappropriate for us to say whatever they decide on
12 the environmental justice definition is good by us.
13 I have no idea what they will or will not decide.
14 And I do not want to be limited to and sending
15 regulatory signals that whatever is decided under
16 that we will adopt.

17 I think it's important for us to
18 recognize that this is a definition that will be
19 evolving and may have a different connotation
20 depending on the specific areas and as the energy
21 sector and others that we will be looking at, and the
22 impact on that.

23 And the definition itself may be
24 really important technically, and also to the
25 communities themselves to make sure that we fully

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2 understand the impact as it relates to the rollout of
3 these programs. And therefore, for me, I think that
4 is problematic in the order to be sending that signal
5 that it's not the Commission itself that will
6 carefully take into account that.

7 And -- and the way the legislation is
8 written does not seem to indicate that we're more of
9 a check the box on that and in fact, we have other
10 processes and proceedings that we will be pursuing on
11 the Climate Leadership and Community Protection Act.

12 And this is one aspect that's very
13 important, and we need to get it right but I wouldn't
14 want the takeaway to be that whatever the Climate
15 Council decides, we're just going to adopt because
16 that's not the -- that's not the proper takeaway from
17 the legislation, at least in my mind.

18 The other aspect is moving forward on
19 this is the order identifies several prize
20 competitions, that -- and programs that will be set
21 up. Zeryai, can you sort of walk through the three
22 different, four different programs that will be done
23 or envisioned under this order, this draft order?

24 MR. HAGOS: Sure, Commissioner
25 Burman. The three prizes that we've directed NYSERDA

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2 to administer in consultation with D.P.S. staff are
3 the Environmental Justice Community Clean Vehicle
4 Transformation prize, the Clean Personal Mobility
5 prize and the Clean, Medium and Heavy Duty Innovation
6 prize, and they total funding of \$85 million.

7 The first, the Environmental Justice
8 Community Clean Vehicle Transformation prize is
9 really focused on collaborative proposals that would
10 target environmental justice communities through the
11 electrification of transportation and so really
12 trying to find creative and innovative ways of
13 bringing programs that reduce harmful vehicle
14 emissions in frontline communities throughout New
15 York State.

16 And -- and so, you know, this is just
17 -- that -- that would be the primary focus, would be
18 open to those medium, heavy duty and light duty
19 vehicle emission use cases. And -- and they would
20 also be looking for, I guess, creative use --
21 creative implementation strategies for reducing
22 emissions beyond simply covering up percentage of the
23 make-ready support.

24 As you know, the remain -- the
25 majority of the -- the incentive dollars in the

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2 proposed order are envisioned doing. The Clean
3 Person Mobility prize is different in that this is
4 much more focused on bringing access to clean
5 transportation, to disadvantaged communities, low
6 income communities.

7 So this could be in the form of car
8 share or ride share programs or other, you know,
9 innovative approaches to making sure that, you know,
10 disadvantaged communities have actual access to the
11 mobility investment that -- that's, you know, taking
12 place across the state.

13 Then the final, the Clean Medium and
14 Heavy Duty Innovation prize is really just looking
15 for ways to demonstrate medium and heavy duty
16 electrification. Again, in ways beyond simply making
17 a portion of the infrastructure investment
18 subsidized, which, you know, I think is a lot of, you
19 know, keeping the C.L.C.P.A. greenhouse gas emissions
20 reduction targets in mind.

21 At some point, we're going to have to
22 consider a broader statewide policy for the medium
23 and heavy duty sectors. The investment in this prize
24 would be a way of showcasing and initiating
25 investment in this important sector, so that we have

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2 some evidence to build upon, as we, you know, we move
3 into the future, and are required to consider
4 additional policies to electrify transport.

5 COMMISSIONER BURMAN: Thank you. I
6 thought -- I think that's a very good summary of what
7 the draft order is intending to do. I think it's
8 really important that we look carefully at the
9 specific substantive issues. This is a -- these are
10 sectors that we really want to make sure have some
11 access to the E.V. program, et cetera.

12 My concern is that the NYSERDA
13 program, these programs are going to be administered
14 by NYSERDA in accordance with their implementation
15 plan, and D.P.S. staff and NYSERDA will work
16 collaboratively to determine the appropriate cost
17 allocation for these pilots under the framework, the
18 cost will generally be allocated to all customers
19 within the service territory and the list goes on.

20 I have not been a supporter of
21 allowing NYSERDA as well as NYPA or frankly any
22 stakeholder that we are allowing to administer a
23 program to get a free pass for our review of their
24 substantive implementation plan. This is a -- these
25 are new programs that weren't in the white paper.

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2 So it was not even something that we
3 can look to for comments to say whether this is a
4 good thing or a bad thing. And it is setting up a
5 prize competition similar to other statewide prize
6 competitions. Some have been successful; some have
7 frankly been failures, and some have not gotten off
8 the ground.

9 I am not supportive of allowing an
10 order that is going forward on prize competitions
11 that are really important for the sectors we're
12 trying to target without a fuller understanding of
13 what will be done. Merely filing the implementation
14 plan is not enough, it really needs to come back to
15 the Commission, have an opportunity for other
16 stakeholders to weigh in, and for us to really
17 understand exactly what's being done. Too often
18 NYSERDA's programs, while well-meaning, have fallen
19 flat in many of the sectors including the low-income
20 community, and I am very cognizant of that.
21 Moreover, there are a lot of challenges with setting
22 up these programs that will involve the need to work
23 collaboratively, not just with D.P.S. staff, but with
24 other external stakeholders.

25 And we need to really have more of a

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2 handle on the appropriate transparency and the
3 appropriate engagement, especially when it is about
4 picking winners and losers in this area and
5 accountability for that program activity.

6 The mid-year route -- the midpoint
7 review that has been talked about really is not until
8 2023. And that's just for me, for many of these
9 things, it's too long to wait. And things will get
10 too far down the road, to be able to -- to stop.

11 Whoever is not muted, could they mute
12 themselves, at this time, while I'm talking. I hear
13 people in the background. Thank you.

14 So I'm very concerned about that. Is
15 there anything that we're looking at in the
16 implementation plans that NYSERDA is doing that can
17 alleviate my concerns right now on this issue?

18 MR. HAGOS: Well, I think the
19 implementation plans have not been drafted yet and so
20 it's hard to say specifically what we are looking at,
21 or what we will look at, but I can say that, you
22 know, staff, as you mentioned earlier, Commissioner
23 Burman, will be working collaboratively with NYSERDA
24 to form the implementation plans.

25 I think, you know, the issue of cost

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2 containment, and I guess, you know, making sure that
3 these benefits actually accrue to the communities
4 that need them are of, you know, of highest
5 importance to staff. It's something we work very
6 hard on to make sure it's, you know, in existence in
7 the other areas of the order, and we'll maintain as
8 we develop the implementation plans with NYSERDA.

9 COMMISSIONER BURMAN: Right.

10 MR. HAGOS: Is that helpful?

11 COMMISSIONER BURMAN: Thank you.

12 Yeah, it does. Thank you, it is helpful. It doesn't
13 alleviate my concerns. I think it's inappropriate
14 for us to pass this off to NYSERDA without fully
15 understanding what will be done and have more
16 accountability and more say in what works or what
17 doesn't work and allow appropriate stakeholders that.
18 However, I do recognize, that it does have good
19 intentions.

20 But I personally think it's not
21 something we -- and I've spoken before on this, on my
22 regulatory oversight, I would not give a major new
23 program to a utility without first looking more
24 closely on exactly what that program will do and
25 having ensured that we properly are approving the

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2 right -- the right program and in sending the right
3 regulatory certainty here, this just seems like where
4 we've -- this wasn't in the white paper, it came out,
5 it's in the order now, and we don't have really any
6 more teeth to it, it sounds good.

7 But it's too important of an issue for
8 me to feel comfortable just allowing these programs
9 to be shaped outside of the Commission itself, with
10 our processes. From my perspective, the other issues
11 that I look at are, you know, related to what we are
12 doing to maintain the reliability and resiliency of
13 the grid and the opportunity for economic growth with
14 -- as we go forward with electrification.

15 The order does seem somewhat lacking
16 in looking at the resiliency issues and demand
17 impacts. Can you speak on that a little bit?

18 MR. HAGOS: Sure. So as you are
19 aware, resiliency was referenced in the white paper
20 and received comments and stakeholder feedback on
21 this topic. Where -- where the draft order landed
22 was well, you know, this is absolutely an important
23 consideration where the E.V. charging market is right
24 now today, it's still in a very early stage.

25 And again, based on stakeholder's

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2 feedback and our own analysis, feel adding explicit
3 eligibility requirements that address, you know,
4 resiliency conditions or, you know, storm hardening
5 measures is simply premature at this time, given that
6 the, you know, the E.V. market is still just in
7 extremely early stages.

8 But it's something that, you know,
9 staff and the Commission will have kind of access to
10 -- to monitor in the first half of the program and
11 reevaluate at the midpoint review certainly.

12 COMMISSIONER BURMAN: Okay. Thank
13 you. Then the other two issues. The Commission
14 order, or the draft order, recognizes the comments
15 that were raised by the New York Association of
16 Public Power. And the New York A.P.P. really has
17 been interested in its members being involved in E.V.
18 infrastructure and deployment of charging
19 infrastructure.

20 We do not at -- at this point allow
21 that -- rather we in the draft order, states that, we
22 are directing staff to continue to engage with New
23 York Association Public Power and other non-
24 jurisdictional entities throughout New York on this.
25 Can you explain that a little bit?

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2 MR. HAGOS: Sure. So I believe we're
3 talking about municipal cooperative non-
4 jurisdictional utilities, as well as Long Island
5 territory served by the Long Island Power Authority.
6 So, right, this -- this -- this program is to support
7 a statewide goal of greenhouse gas emissions
8 reductions, and E.V. deployments.

9 And so while the six jurisdictional
10 investor owned utilities cover a great majority of
11 the state, it's not a full -- it's not the full
12 state. And so I think primarily, we want to make
13 sure we're well-engaged with these other entities to
14 ensure that our efforts in total meet the statewide
15 policy and -- and deliver benefits to all New
16 Yorkers.

17 And so we want to make sure we share
18 all of our analysis, we want to make sure that our
19 regulate -- regulatory and policy recommendations are
20 consistent so that we can have the combined effect of
21 achieving the statewide goal.

22 COMMISSIONER BURMAN: Okay. Thank
23 you. It does sit a little wrong with me that we are
24 moving forward on allowing New York Power Authority
25 to have more of a role, but that we are not looking

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2 at the New York Association of Public Power and their
3 member's role at the same time.

4 So I'm hesitant on the New York Power
5 Authority having a broader role. Especially since I
6 don't see that the order gives much in the way of
7 accountability and I would say that we need a lot
8 more prescriptive in that. The -- the -- the way I
9 look at it is 94% of this order and what we're doing
10 is outside of NYPA's role.

11 NYPA has a small role but a
12 significant role in 6% here than I am uncomfortable
13 with even that small of a percentage being given to
14 NYPA and the same -- some of the same rationale made
15 to -- for others could also be applied if we're going
16 to extend it and in fact, I would rather see NYPA
17 engaged with staff and others, working with entities
18 like the New York Association of Public Power and
19 other municipalities and market -- potential market
20 participants on how to better open up the market for
21 the underserved areas that does not necessarily have
22 to involve NYPA taking on more of a developer role.

23 And that, if that was not able to done
24 -- get to be done that then maybe NYPA could insert
25 itself for a short period of time until the market is

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2 more robust. But I hesitate to see that we're giving
3 NYPA this larger role and then telling them that once
4 the market is more fully developed that it needs to
5 divest.

6 I just think it's a little bit, we
7 should be -- we should be looking a little bit more
8 about how to achieve the goals without giving NYPA
9 the role. I do support the staff's white paper that
10 had said no to NYPA taking on that larger role. I
11 think that was the right thing for -- for us to do
12 rather than the draft order that is different from
13 that.

14 Overall, I recognize that we are
15 trying to move forward in a positive way on an
16 opportunity to support our broader target here.
17 There is a need for us to include E.V.s in our
18 cleaner energy targets, as well as other
19 technologies. This does try to be reasonable and
20 pragmatic in our approach to building out.

21 I am overall, I can see the -- the
22 clear work of the staff having worked very hard to
23 try to help to shape this. The things that I am
24 concerned about I've already mentioned, which is the
25 NYPA role, the prize competition, the lack of any

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2 detailed discussion on resiliency on the definition
3 of environmental justice.

4 And for me in also looking at how we
5 look at other things, and other proceedings that will
6 impact this. It is significant from a financial
7 standpoint.

8 COMMISSIONER BURMAN: We have to make
9 sure that the adoption of these programs are also
10 carefully evaluated on the impact of -- of these
11 ambitious goals and targets, but then what happens
12 with ho -- how we make those -- or try to make those
13 from a cost perspective and also the need for the
14 necessary infrastructure.

15 Issues like interruptability and --
16 and other technical issues are really important. We
17 do have working groups that will be looking at that,
18 but those are really a lot of important issues that
19 we also need to get under-the-hood on.

20 So I thank you for sharing the summary
21 and answering my questions as we go forward, thank
22 you.

23 CHAIR RHODES: Thank you very much,
24 Ms. Burman. Now, over to you Commissioner Alesi, for
25 questions and/or comments?

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2 COMMISSIONER ALESI: Thank you, Mr.
3 Chairman. No questions, but just some brief
4 comments. I find this to be an exciting plan which
5 will help us reach our long-term climate goals.

6 I think the plan prudently includes
7 public, private and agency partners and assures
8 availability to Upstate as well as disadvantaged
9 areas.

10 It's very encouraging to see how
11 quickly we are moving with this critical component of
12 enhancing our environmental economic,
13 responsibility, thank you.

14 CHAIR RHODES: Thank you very much.
15 Commissioner Edwards?

16 COMMISSIONER EDWARDS: Yes, hi, thank
17 you very much. I am going to be voting in favor and
18 I'm glad to see the incentive levels, the work in the
19 disadvantaged communities.

20 I want to thank the staff for working
21 diligently and also putting in all of the reporting
22 because I think that it's important that we track the
23 performance levels and the, you know, the cost and --
24 I'm glad to see so much oversight in that regard and
25 I am excited to see that this continues to move

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2 forward towards our clients, thank you.

3 CHAIR RHODES: Thank you.

4 Commissioner Howard, any comments, or questions?

5 COMMISSIONER HOWARD: Thank you, Mr.
6 Chairman. This is Commissioner Howard. You know,
7 this is the first case in my term where I've been
8 able to observe from the publishing of the -- a white
9 paper to the final order process and it's been quite
10 illuminating.

11 I want to thank staff for -- for --
12 for be -- for broadening the discussion and including
13 more outreach really from vehicle manufacturers and
14 whatever and I do echo Commissioner Burman's comments
15 about the need for continued diligence in this.

16 In deciding this and future cases
17 regarding the realization of the goals of massive
18 increase in E.V. adoption. In this case, an
19 additional 800,000 new vehicles in four years and
20 millions by 2040.

21 We must focus on one of the best
22 incentives that will be necessary for New York State
23 to meet these goals. The goal is not more E.V.
24 infrastructure, but rather the goal is more E.V.s and
25 while this initiative is important, and big in scale,

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2 it is just a component of a larger electric
3 transportation policy that needs to be built out in
4 its entirety because certain aspects of this, of
5 moving towards an electrified transportation system
6 will impact other aspects of the sys -- the system.

7 All of the case participants from the
8 original manufacturing equipment to -- to the utility
9 planners, all agree that in the near term 80% to 90%
10 of E.V. charging will be done at home or at
11 convenient workplace locations.

12 And given that E.V. technology is
13 changing rapidly, I want to emphasize to all who are
14 listening that this is an enormously dynamic
15 technology and technologies that we are confronting.

16 And particularly in regard to range
17 of -- of light duty E.V.s, both in a 100% electrified
18 vehicles which will many -- in the next 18 to 24
19 months will have many many offerings with vehicles,
20 with range in excess of 250 miles, plus plugins E.V.
21 -- plugin hybrids which will have a 100% E.V. range
22 well in excess of 50 miles.

23 So I believe that the issue of range
24 anxiety which was one of the drivers in this
25 particular case will be greatly reduced in the near

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2 term. The one area that I agree where range anxiety
3 and range enhancement is necessary, is along heavily
4 travelled corridors, interstates, parkways, and
5 destinations to tourist destinations.

6 Many of these investments are underway
7 and should continue at pace. In heavily congested
8 urban areas, land -- I believe, land use will be the
9 primary factor in developing sites, making sure these
10 sites are truly viable in terms of not only ease of
11 construction, but utilization is critical.

12 I will commend the staff for focusing
13 on the cost effectiveness of these programs, again
14 echoing Commissioner Burman. Many times well
15 intentioned programs don't always live up to their
16 desired outcome and many millions of dollars may be
17 held in the balance, but by requiring more formal
18 reporting as well as commitment to closely monitored
19 develop -- development interest -- developer interest
20 is -- is the vitally important and I can assure you
21 as a member of this Commission, I will be very
22 anxious to see these interim reports and whatever
23 information may be garnered during this proceeding.

24 And while most of the State's previous
25 E.V. incentive programs have largely focused on

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2 smaller "pilot programs", this is the first truly
3 major initiative to develop an E.V. infrastructure at
4 scale.

5 I believe this program and others in
6 the E.V. incentive realm will need to be monitored
7 closely to ensure that the goals of E.V. deployment
8 are met and that we can avoid the build-it-and-they-
9 won't-come scenario.

10 In my mind, one of the biggest
11 unresolved issues confronting the future of E.V.
12 remote charging is how we deal with the commerce, the
13 actual purchase of energy, at remote charging
14 stations. Currently, the Department of Ag and
15 Markets oversees the regulation of devices that
16 depends on fuel for vehicles.

17 However, unlike liquid fuels, which
18 are physically measurable as the exact quantity and
19 quality of the fuel purchased, electric sales offer
20 an unique technical challenges. I have spoken to
21 Commissioner Ball on this subject and he agrees that
22 these challenges do exist.

23 In addition to the actual inspectment
24 -- enforcement, I would di -- of this program is a
25 derived authority that is given to Counties in the

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2 City of New York. I believe that we will need to
3 spend a great deal of time bringing those entities up
4 to speed to match the commerce that we expect, you
5 know, we are intending to install tens of thousands
6 of new places of commerce that will need to be
7 inspected and monitored.

8 To that extent, I do appreciate the
9 inclusion of a multi-agency working group to review
10 the current practices and giving guidance to the
11 Commission on future actions regarding commerce.

12 Now, I believe now is the time to
13 tackle these difficult issues where the goal of
14 hundreds of thousands of new E.V.s on the road by
15 2025 and millions by 2024 we need to move from a form
16 of boutique pilot approach, to one that covers the
17 mass market.

18 Until all issues are addressed in this
19 area, I am pleased that the order requires full price
20 transparency at the point of purchase. Without this
21 information, consumers will be unable to make
22 rational judgements unto how, when, and where to
23 recharge their vehicles.

24 One aspect of this, I am very
25 concerned that this order does not mandate a single

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2 technology for plug types, two competing technology
3 is not an effective system. If Westinghouse, Edison,
4 and Phillips could all agree on a single light bulb
5 socket so can the E.V. industry.

6 I just want to give you a brief thing
7 of what happens when you have multiple technology in
8 the same platform. I was able to travel with the
9 Governor Cuomo to Cuba and where we secured a variety
10 of locations to do our business.

11 One such location a -- a hotel and
12 conference center had two separate types of electric
13 systems. One with a 220 50 cycle, for part of the
14 building and another with 110 60 cycle on another
15 part of the building.

16 Quite honestly it really didn't work,
17 and I think going forward it is very important that
18 we focus on inter-operability in a single -- in
19 single technologies.

20 Also, in my opinion the fleet
21 development holds one of the best avenues to get
22 hundreds of thousands of vehicles on the road. I'm
23 pleased that the fleet activity is part of this
24 order.

25 I strongly encourage for the

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2 distribution utilities to seize the moment and begin
3 outreach to fleet operators both in the public and
4 private sector to jumpstart fleet E.V. deployment.

5 I would hope that the utilities
6 themselves will start electrifying these fleets
7 expeditiously. Zero emission vehicles hold one of
8 the keys to providing real long-term improvement in
9 air quality particularly for disadvantaged
10 communities.

11 However, light duty vehicles are
12 nowhere near as harmful as heavy and medium duty
13 vehicles on these communities. Diesel transit buses,
14 delivery vehicles, sanitation, and construction
15 vehicles all are major sources of noxious fumes as
16 well as fine particulars.

17 If we are very interested in cleaning
18 up these utilities, this must be our priority and to
19 that end I know with great interest as Commissioner
20 Burman noted, that on Tuesday, this week New York
21 joined fourteen other states in sending incentives
22 for large and medium duty E.V.s.

23 I look forward to the State's analysis
24 on this and which is due in the next six months. And
25 in terms of disadvantaged communities, again, the

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2 goal is improving environmental quality and economic
3 stimulus.

4 Again, tangible real-world
5 achievements are necessary, not window dressing.
6 Priorities must be given to projects that provide the
7 most effect evidence and positive impact on
8 communities.

9 My last concern on this order is in
10 the area of the labor component of this and other,
11 quite honestly, clean energy programs effectuated by
12 this Commission.

13 I believe that all work associated
14 with Commission orders, this one in particular, even
15 if you have mandate some utilities or through NYSERDA
16 guaranteed program should be subject to the payment
17 of prevailing wage to workers, employed by developers
18 and contractors.

19 I see no distinction between these man
20 -- mandated activities and those controlled by other
21 aspects of the prevailing wage statute.

22 My understanding on the current law,
23 the Commission cannot mandate prevailing wage
24 requirements as our orders, it is still in critical
25 importance to this State of New York to insist on the

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2 payment -- of family supporting wages and the
3 development of train -- and a trained and viable
4 workforce including prospective careers in the new
5 energy future.

6 To that end, I would strongly
7 encourage my colleagues and legislature to adopt
8 legislation that makes it clear that clean -- makes
9 it clear that Commission-mandated programs are in
10 fact public work, and -- to me it makes no difference
11 what the sources or funds that are involved, either
12 paid through utility bills or through direct
13 taxation.

14 To that end I will be supporting this
15 order. It is a great challenge and I believe that
16 the most effective role for this Commission on a
17 going forward basis is to clean -- keep a click --
18 close eye on these programs and to make sure that
19 they are develop -- delivering the promises that they
20 make. Thank you, Mr. Chairman.

21 CHAIR RHODES: Thank you very much,
22 Commissioner Howard. We will now proceed to call --
23 I will now proceed to call for a vote.

24 My own vote is in favor of the
25 recommendation to adopt staff's white paper proposal

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2 with modifications that were discussed. Commissioner
3 Burman, how do you vote?

4 COMMISSIONER BURMAN: A concurrent
5 part and a dissenting part.

6 CHAIR RHODES: Thank you.
7 Commissioner Alesi, how do you vote?

8 COMMISSIONER ALESI: I vote, yes.

9 CHAIR RHODES: Thank you.
10 Commissioner Edwards, how do you vote?

11 COMMISSIONER EDWARDS: I vote, yes.

12 CHAIR RHODES: Thank you, Commissioner
13 Howard, how do you vote?

14 COMMISSIONER HOWARD: Yes.

15 CHAIR RHODES: Thank you. The item is
16 approved, and the recommendation is adopted. We will
17 now move to the second item for discussion which is
18 Item 401, case 19-W-0168 et al, which is a SUEZ Water
19 rates proceeding and merger petition presented by
20 Administrative Law Judges, Erika Bergen and Tony
21 Belsito, Mike Rieder, Deputy Director of Rates and
22 Tariffs, Tim Canty, Chief of Water and Policy and
23 Aric Rider, Chief of Consumer Advocacy are available
24 for questions. Ms. Bergen, please begin.

25 MS. BERGEN: Thank you. Good morning,

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2 Chair Rhodes, and Commissioners. You have before you
3 a draft order approving the terms of a joint proposal
4 that merges SUEZ Water Westchester and SUEZ Water
5 Owego-Nichols with and into SUEZ Water New York and
6 establishes a multi-year rate plan for SUEZ Water New
7 York.

8 Before turning to the terms of the
9 merger and the multi-year plans that are outlined in
10 the draft order, I would briefly provide the
11 procedural history of those cases.

12 On March 4th, 2019, the companies
13 filed a one-year rate plan that would establish new
14 rates as of February 1st, 2020. In this initial
15 submission SUEZ sought an additional, an annual base
16 revenue increase of \$31.5 million or a 19.8% increase
17 for the rate year ending January 31st, 2021.

18 The proposed rate increases would
19 affect only the SUEZ Water Westchester and the SUEZ
20 Water New York service territories. The current
21 filing was premised on SUEZ Water New York, SUEZ
22 Water Westchester and SUEZ Water Owego-Nichols filing
23 a petition seeking authorization to merge SUEZ Water
24 Westchester and SUEZ Water Owego-Nichols with and
25 into SUEZ Water New York.

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2 On April 10th, 2019, the companies
3 filed a verified joint petition requesting that the
4 Commission approve the merger of SUEZ Water
5 Westchester and SUEZ Water Owego-Nichols into SUEZ
6 Water New York with SUEZ new water -- SUEZ Water New
7 York as the surviving corporation.

8 As part of the proposed merger the
9 company sought to consolidate the rules and
10 regulations under one parent with the goal of
11 harmonizing rates and charges across the service
12 territories. Public statement hearings were noticed
13 in May 2019 and were held in three locations in June
14 2019 to receive comments regarding the company's
15 proposals.

16 In July 2019, several parties
17 including D.P.S. trial staff file testimonies and
18 exhibits responding to the company's filings. In its
19 filing staff proposed adjusting the company's revenue
20 requirement and recommended the Commission authorize
21 a one-year rate plan with an increase for the
22 combined company of approximately \$14.1 million.

23 Settlement negotiations were noticed
24 in August and ensued thereafter. On January 21st,
25 2020 the joint proposal was filed. The joint

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2 proposal was signed by the SUEZ companies. The New
3 York State Department of Public Service trial staff,
4 Heritage Hills Water Works Corporation, the City of
5 New Rochelle, and the Westchester Municipal
6 Intervenors which consist of the city of Rye, the
7 Village of Port Chester, and the Village of Rye
8 Brook.

9 The Public Utility Law Project, the
10 Sierra Club Atlantic Chapter, Bruce Levine, and the
11 Towns of Clarkstown, Haverstraw, Orangetown, Ramapo,
12 Stony Point, Rockland County Solid Waste Management
13 Authority, and the Rockland County Sewer District
14 Number 1 filed opposition to the joint proposal.

15 The draft order before you adopts the
16 terms of the J.P. and approved the merger petition
17 and establishes a four-year rate plan with increases
18 for SUEZ Water Westchester of about \$1.8 million or
19 2.7% in rate year one. \$3.9 million or 5.7% in rate
20 year two. \$3.8 million or 5.1% in rate year three,
21 and \$5.1 million or 6.6% in rate year four.

22 For SUEZ Water New York and the Forest
23 Park Territory the total b -- base rate increases are
24 about \$14.3 million or 15.6% in rate year one. \$5.6
25 million or 5.3% in rate year two. \$5.5 million or

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2 4.9% in rate year three, and \$5.5 million or 4.6% in
3 rate year four.

4 To help ease the rate impact of the
5 first year increase the draft order adopt the
6 levelized approach recommended in the joint proposal.

7 Thus the rate increases in each year
8 will be about \$9.2 million which equates to 10% in
9 rate year one, about 9% in rate year two, 8% in rate
10 year three and 7% in rate year four. The rate in the
11 SUEZ Water Owego-Nichols territory are unaffected by
12 the draft order.

13 During this initial review of the
14 company's filing, D.P.S. staff closely examined the
15 requested increases and eliminated various
16 expenditures that were not deemed immediately
17 essential.

18 Being sensitive to the economic
19 condition under which this rate case comes before the
20 Commission, staff defined immediately essential as
21 those capital projects that were either required by
22 law or regulation such as responding to local tax
23 increases or complying with the health and
24 environmental regulatory requirements, or as those
25 that were necessary to enable the company to provide

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2 safe and reliable water service to its ratepayers.

3 Under the current circumstances when
4 people are spending more time at home to comply with
5 and support social distancing requirements, it is
6 critically important that customers are able to rely
7 on the taps in their homes to provide clean and safe
8 water.

9 As a result, the J.P. provides for a
10 rate year one unlevelized increase for SUEZ Water New
11 York that is 1 -- \$11.1 million less than the
12 company's updated request at \$25.4 million.

13 And the rate year one increase for
14 SUEZ Water Westchester that is \$7 million less than
15 the company's updated request of \$8.8 million. After
16 the J.P. was filed, we consulted with the advisory
17 staff and then another close analysis was done to
18 identify any extraneous expenditures or other means
19 to reduce the proposed revenue requirement increases.

20 Ultimately, we believe that staff's
21 initial review and negotiation with the companies and
22 other parties resulted in the most economical, fair,
23 and balanced rate plan feasible under the
24 circumstances.

25 Indeed, the major rate driver over the

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2 four-year term of the rate plan predominantly consist
3 of capital expenditures that are necessary to enable
4 the companies to comply with various health and
5 safety regulations to provide safe and adequate water
6 served to customers.

7 It includes dam improvement,
8 improvements at water treatment facilities, main
9 replacement programs and critically necessary upgrade
10 and replacement projects at the company's physical
11 facilities.

12 While the amounts of the rate
13 increases are unavoidable in recognition of the
14 hardship that the increases could have on ratepayers
15 due to the economic crisis cause by COVID-19, the
16 company offered to postpone the base rate increases
17 until October 1, 2020 with a make-whole provision,
18 but with a waiver of the interest associated with
19 this deferral.

20 The draft order postpones the base
21 rate increases until that time, but instead of
22 compressing the effects of this postponement into
23 base rates during the remaining four months of rate
24 year one, the draft order allows the company to
25 recover the make-whole amount through a surcharge to

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2 customers half in rate year two and half in rate year
3 three.

4 The base rates in the joint proposal
5 reflect an 8.8% return on equity for non-Haverstraw
6 water supply project rate base and a 7.3 return on
7 equity for the Haverstraw water supply project rate
8 base. Both of which are significantly lower than the
9 10% return on equity requested by the company in its
10 original filing.

11 All of its earnings attributable to a
12 return on equity above 9.45% will be shared with the
13 ratepayers. The common equity ratio is 48% which
14 represents a reasonable compromise between staff's
15 and litigated position of 46% and the company's
16 litigation, litigation position of 50%.

17 The draft order also contains several
18 positive customer service provisions including a
19 customer service performance incentive that's
20 proposed in a joint proposal. As part of this
21 program, the company is required to survey overall
22 customer satisfaction levels. The customers'
23 opinions about the company's responses related to
24 their specific issues.

25 If the customer satisfac --

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2 satisfaction score in the survey is less than 75.7%,
3 the company is subjected to a negative revenue
4 adjustment.

5 The proposed rate plan also includes a
6 customer-side lead service line replacement program
7 pursuant to which the company, while in the process
8 of replacing the portion of a lead service line that
9 is in the public right of way will offer the property
10 owner, the option to replace the portion of the lead
11 service line that is on private property at a reduced
12 cost, or the supplemental nutrition assistance
13 program, or home energy assistance program
14 recipients, at no cost.

15 The joint proposal includes the
16 continuation of a comprehensive conservation program
17 that began in the legacy SUEZ Water New York and SUEZ
18 Water -- SUEZ Water Westchester service territory.

19 Under this program, the company will
20 offer rebates for certain water essential items such
21 as toilets and faucets as well as other incentives to
22 promote the reduction in indoor and outdoor water
23 use.

24 The conservation program also includes
25 a workshop program to educate irrigation contractors,

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2 an outdoor water use best practices for conservation,
3 and outreach and education activities to promote
4 awareness of the water conservation program.

5 Importantly, the order adopts the
6 provision in the joint proposal that requires the
7 company, prior to the next rate case filing, to
8 develop a method for coding residential customer
9 accounts in all of its service territories to
10 indicate that the customer is a low income customer.

11 The company will be required,
12 beginning in January 2021 to report annually to the
13 Commission, the total percentage of residential cu --
14 customer accounts that have been coded, and the
15 number of low income customers that have been
16 identified.

17 This activity isn't -- is to be
18 undertaken at shareholder, not ratepayer expense. In
19 the meantime, the company will expand its existing
20 SUEZ Care Program which provides a one-time grant
21 assistance to payment-troubled customers. This
22 program will be made available to rate payers in all
23 of the company's service territories.

24 Additionally, the order adopts the
25 provision in the joint proposal that eliminates

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2 private fire hydrant rates in the SUEZ Water
3 Westchester rate district. The municipal public fire
4 protection statement will be cancelled and all
5 revenues from both public and private fire hydrants
6 in the SUEZ Water Westchester rate district 1, and
7 rate district 2 will be collected from the metered
8 customer base through a fixed charged based on meter
9 size.

10 The elimination of private hydrant
11 rates addresses the concern expressed by some parties
12 that certain customers, predominantly those residing
13 in homeowner associations potentially were being
14 billed for both private and public hydrants.

15 Finally, it is important to recognize
16 that the company has a legal obligation to provide
17 safe and adequate water service to its ratepayers.
18 And that obligation cannot be satisfied without the
19 Commission acting from a rate position for the
20 utility to meet that statutory obligation.

21 On reviewing the joint proposal, the
22 public is -- interest standard set forth in the
23 Commission's settlement guidelines requires the
24 Commission to consider whether the joint proposal --
25 joint proposal result is one that fits within the

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2 range of possible litigated outcome.

3 The litigated record in this case
4 demonstrates that SUEZ Water New York has a need for
5 increased rates to support its operation so that its
6 customers can receive uninterrupted, safe, and
7 adequate water service.

8 As mentioned previously, the
9 provisions agreed upon in the joint proposal make it
10 possible to spread the rate increases over a four-
11 year period and has allowed the settling parties to
12 present an outcome that cannot otherwise be achieved
13 on the litigated record alone.

14 We believe that the benefits provided
15 for in the joint proposal strongly supports a vote in
16 favor of adopting the terms of that joint proposal.
17 This concludes my presentation. Judge Belsito, Mike
18 Rieder, Tim Canty, Aric Rider, and I are available
19 for questions. Thank you.

20 CHAIR RHODES: This is John Rhodes.
21 Thank you very much, Judge Bergen. With this four-
22 year plan, the company, SUEZ will be able to
23 continually -- will be able to continue to reliably
24 provide New Yorkers with clean, safe water. And
25 we'll be able to help New Yorkers save money by

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2 promoting and encouraging conservation and reducing
3 leakage.

4 As well as providing relief for
5 customers facing hardship by creating a shareholder
6 funded emergency grant program for customers in
7 hardship, by identifying customers for low income
8 discount programs and by delaying the impacts on
9 rates. I recognize of course that the rate increases
10 are substantial. Which of course imposes a duty on
11 us of the highest level of scrutiny.

12 This item in all its aspects has been
13 subjected to that level of scrutiny and challenging
14 and that scrubbing has meaningfully improved the
15 proposal and has now resulted in a version that is
16 now before us. In the end, adoption of this rate
17 plan will ensure critical investments that are
18 necessary and beneficial for the assurance of
19 reliable and safe water and safe and adequate
20 service.

21 An adoption of this rate plan will
22 also ensure that the investments that are necessary
23 and beneficial for the rates that customers will
24 ultimately pay, that those investments are made.
25 This item like the one before it has certainly

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2 benefited from active and highly engaged comments and
3 inputs by stakeholders. And also the result is that
4 it's -- is also one of thorough and probing work by
5 staff, which I have to commend.

6 The net result is a proposal that is
7 clearly in the public interest of New Yorkers and
8 ultimately in the interest of customers. I will vote
9 in favor of this item. Commissioner Burman, do have
10 any questions or comments for -- for the team?

11 COMMISSIONER BURMAN: Thank you,
12 Chair. Can you hear me?

13 CHAIR RHODES: Yes, I can.

14 COMMISSIONER BURMAN: Okay. Thank
15 you. As staff laid out, the major rate drivers over
16 this four-year term of the rate plan is predominantly
17 -- predominately consists of capital expenditures and
18 that the capital expenditures that have been looked
19 at in this draft plan for -- excuse me, draft order
20 for approval are necessary to enable the company to
21 comply with various health and safety regulations, to
22 provide safe and adequate water service to customers.

23 Many of these capital expenditures are
24 critically, not for upgrades and replacement programs
25 at the company's physical facilities. It also deals

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2 with dam improvements, water treatment facilities and
3 main replacement programs, something that is very
4 important, something that is very important.

5 For us, when we look at a prove --
6 approving a rate plan, we are cognizant that each
7 utility and your water utility in particular has a
8 legal obligation to provide in this case, safe and
9 adequate water service to its ratepayers and that the
10 Commission has to look at what rates are sufficient
11 for the utility to meet their statutory obligation.

12 I do think the public interest
13 standard was met. However, the thing that I am
14 focused on is the delicacy of capital expenditures.
15 COVID-19 forced us all to tighten our belts when
16 we're looking at significant increases, rate
17 increased pressures are something that is a challenge
18 and there's a growing concern that I have with delays
19 in access to capital and capital projects.

20 I do think that it's important that
21 utilities look at their capital projects and how they
22 can increase their capital productivity. And we need
23 to be mindful that the ability to effectively execute
24 on these capital projects is critical because the
25 capital projects represent a large portion of the

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2 utilities annual budget and are also key, many times
3 to achieving the strategic goals that the company has
4 set and that the State has set and allows the company
5 to remain viable in the future and the health of the
6 utilities are very important to us.

7 It's really important that we look to
8 make sure that the financial health of the utility is
9 there and that we keep capital projects on track. To
10 the extent that we need to make changes to those
11 capital projects, I want to make sure that we're
12 making clear that it's about helping on better
13 capital project planning and execution and how to do
14 that for the short and long term.

15 It is not about delaying appropriate
16 capital projects, but as we see, these are really
17 critical ones. But it's really about us looking to
18 make sure that we're sending a signal that we need to
19 be forward thinking in stronger capital utility
20 projects to control best practices and understanding
21 that in this environment there are significant
22 challenges, but that delay in necessary projects can
23 also increase, later down the road, cost to aging
24 infrastructure and other things.

25 So just want to be sensitive to the

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2 fact that while we're looking at only the approval of
3 necessary capital expenditures, we are cognizant
4 about the path forward and the importance that
5 capital projects can play and that most of them are
6 there because they are critical, but that is about us
7 helping the utilities to, you know, really foster,
8 better, more productive and less costly. So thank
9 you. I have no further questions or comments.

10 CHAIR RHODES: Thank you very much,
11 Commissioner Burman. Commissioner Alesi, any
12 questions or comments from you?

13 COMMISSIONER ALESI: Thank you, Mr.
14 Chairman. Just a brief comment. I believe that
15 there is a demonstrated need for increased rates so
16 that the customers can have a safe and adequate
17 uninterrupted service. Spreading the increase over
18 several years also, I think makes sense to me.
19 Simply put, I'll be supporting.

20 CHAIR RHODES: Thank you very much.
21 Commissioner Edwards.

22 COMMISSIONER EDWARDS: Yes, well, I
23 want to thank the staff for taking as much time with
24 me as they did going through all of the information.
25 Unfortunately, I am not going to vote in favor of

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2 this and I will tell you that while I understand my -
3 - the points of both Commissioner Burman, and you
4 Chair, and Commissioner Alesi before me, I will say
5 that my biggest concern is the starting point.

6 You know, I do believe that companies
7 have an obligation to conduct strategic planning for
8 their capital and their infrastructure so that the
9 starting point is not submitting an increase with an
10 expectation of close to 20% in one year. And because
11 of that and all of the work that all of the staff has
12 done with this, the ending point, while I understand
13 is in the first year close to 10%, I'm not
14 comfortable with voting for this at this time. So I
15 will not be voting in favor.

16 CHAIR RHODES: Thank you very much.
17 Commissioner Howard.

18 COMMISSIONER HOWARD: Thank you. I
19 have a couple questions. Could someone explain to
20 me, explain what the -- what the desalination plant
21 project was on in Haverstraw?

22 MS. BERGEN: I'm sorry. This is
23 Erika. You want an explanation of what that project
24 was generally?

25 COMMISSIONER HOWARD: Correct.

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2 MR. RIEDER: This Mike Rieder.

3 MS. BERGEN: Thanks, Mike.

4 MR. RIEDER: This Mike Rieder. The
5 desalinization plant was a plant that was to take
6 water from the Hudson River and take the salt content
7 out of it to make it potable.

8 COMMISSIONER HOWARD: And was that at
9 the time the primary new source for any new -- the
10 primary source for any new supply options for this
11 utility?

12 MR. RIEDER: That was the primary
13 source of new supply. They're -- there -- they do
14 have a number of wells in they're well fields, but
15 this was the primary new supply that the company was
16 looking to tap into.

17 COMMISSIONER HOWARD: Can you give me
18 how much money has been spent on this project to
19 date?

20 MR. RIEDER: I'll defer to Tim Canty
21 to respond.

22 MR. CANTY: Sure. This is Tim Canty,
23 Commissioner. \$54 million approximately.

24 COMMISSIONER HOWARD: How much more is
25 to be spent on this project?

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2 MR. CANTY: There's no more to be
3 spent on this project. In the future --

4 COMMISSIONER HOWARD: How much more --
5 how more is to be recovered from customers?

6 MR. CANTY: I apologize. Out of the
7 54 million about 43 million still to be recovered.

8 COMMISSIONER HOWARD: And what did
9 customers get for this expansion -- expenditure?

10 MR. CANTY: The plant was never built
11 so the customers didn't get anything for it.

12 COMMISSIONER HOWARD: So roughly we
13 spent \$100 million on something that didn't work out?

14 MR. CANTY: I think it's 54 million.

15 COMMISSIONER HOWARD: Oh, 54 million.
16 Okay. Thank you. So what -- what -- how much of the
17 revenue requirement is devoted to the repayment of
18 this balance on this ill-fated project?

19 MR. CANTY: On rate year one it's
20 about 6% and then it goes down because it gets
21 amortized down and at the -- by the fourth year, it's
22 about -- about 4% of the bill.

23 COMMISSIONER HOWARD: Okay. Thank
24 you. What percentage of the revenue requirement in
25 this proposal goes to real property tax payments and

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2 what in terms of a -- what is the effect on the
3 additional revenue requirement?

4 MR. CANTY: For SUEZ New York, it's
5 19% of the revenue requirement increase and for
6 Westchester, it's about 15% of the requirement
7 increase and that -- SUEZ New York, their bill -- 25%
8 of their bill is related to property taxes and for
9 Westchester about 19% of their bill is related to
10 property taxes.

11 COMMISSIONER HOWARD: So is it fair to
12 say the combined cost of the desalinization project
13 and real property taxes in excess of 25% of
14 customers' bills?

15 MR. CANTY: Could you --

16 COMMISSIONER HOWARD: Or there about?
17 That the combination of every dollar paid by a
18 customer that the combination of repaying expenses
19 for a project they didn't get, plus the real property
20 tax payments on the system are in excess of 25% of a
21 customer's bill?

22 MR. CANTY: On the SUEZ -- SUEZ New
23 York side of the river, yes.

24 COMMISSIONER HOWARD: So I just want
25 to go on record that again, the first 25% of

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2 everybody's bill in this, in particularly in the
3 Rockland side will go to things that they have
4 nothing related to what they got for the providing of
5 potable water service. In terms of the overall
6 dollars and percentage, what is the dollar
7 requirement and revenue increase for quality -- what
8 we would broadly call water quality improvements.

9 MR. RIEDER: This is Mike Rieder,
10 Commissioner. For water quality, there are two major
11 water quality projects included in the joint
12 proposal, which totaled \$33 million in capital
13 investment. In addition to that there is
14 approximately 15 other water treatment projects that
15 are directly related to water quality.

16 In total, the treatment projects are
17 with 33 million from the two smaller ones and the 15
18 over the 40 rate plan, that's another 30. So about
19 \$63 million. For the four-year term, the rate plan,
20 the revenue requirement is approximately 13.4 million
21 for water treatment and water quality projects.

22 I want to point out that if the new
23 P.F.O.A. and P.F.O.S. regulations are adopted, the
24 company will have to spend at least \$36 million more
25 to treat those contaminants. This would put on

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2 another \$7.7 million in revenue requirement over the
3 term of the rate plan.

4 COMMISSIONER HOWARD: And this water
5 would --

6 MR. RIEDER: Go ahead, sir. Or those
7 -- those are not included in the base rates at this
8 time. Go ahead, Commissioner.

9 COMMISSIONER HOWARD: Would the --
10 would the company have to come back to the Commission
11 for recovery of those additional expenditures?

12 MR. RIEDER: Those -- the -- any
13 amount over \$36 million would have to come -- would
14 come back to the Commission and right now --

15 COMMISSIONER HOWARD: Particularly
16 those --

17 MR. RIEDER: -- at this time -- I'm
18 sorry.

19 COMMISSIONER HOWARD: -- regarding
20 P.F.O. -- P.F.O.A., P.F.O.S. contamination orders.

21 MR. RIEDER: Right. Regarding --

22 COMMISSIONER HOWARD: They would --

23 MR. RIEDER: Regarding the P.F.O.A.,
24 P.O.F.E.O. -- P.F.O.S. contaminants, the rate plan
25 allows for up to \$36 million and recovered through

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2 the system improvement charge to address the capital
3 needs associated with those contaminants. If capital
4 investment incremental to the \$36 million is needed,
5 the company would have to come back to the Commission
6 for approval.

7 COMMISSIONER HOWARD: And if there
8 were any national or statewide programs devoted to
9 cleaning P.F.O.S. in systems both private and public,
10 would that just go dollar for dollar discounted off
11 this revenue requirement?

12 MR. RIEDER: If it were available to
13 private systems, it would probably be dollar for
14 dollar on the capital investment, which is not
15 necessarily a dollar for dollar in the revenue
16 requirement.

17 COMMISSIONER HOWARD: Right. But on
18 the capital side?

19 MR. RIEDER: Yes. That's my
20 understanding if that's avail -- made available to
21 both public and private entities.

22 COMMISSIONER HOWARD: Okay. Thank
23 you. Thank you. This was my comments on this case.
24 This company has made some very bad mistakes in the
25 past and we're still paying for them. And in

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2 focusing on this large capital project, in this case
3 the desalination plant, I believe it took focus off
4 for a variety of other very necessary capital
5 expenditures for improvement that need to be done
6 including replacing old -- old leaky pipes, in
7 addition to not anticipating water quality
8 improvement issues that needed to be done.

9 While I understand this -- this is a
10 big jolt to ratepayers and -- and I commend staff and
11 the trial staff for whittling it down as much as
12 possible, I also do believe and I've been assured
13 that we -- this company is now "on the right track"
14 and that I concur with Commissioner Burman that very
15 close scrutiny of any capital expenditure by this
16 company, given its history is very important and the
17 pencils need to be twice as sharp on this company as
18 one would anticipate.

19 But that being said, I understood when
20 I took this position, the Commission, that often we
21 have to make decisions based on the least bad outcome
22 and I believe that this proposal before us is in
23 fact, the least bad outcome. So to that extent, I
24 will be supporting it.

25 CHAIR RHODES: Thank you very much,

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2 Commissioner Howard. We will now -- I will now
3 proceed to call for a vote. This is John Rhodes. My
4 own vote is in favor of the recommendation to adopt
5 the terms of the joint proposal and grant a petition
6 for merger as discussed.

7 Commissioner Burman, how do you vote?

8 COMMISSIONER BURMAN: I vote, yes.

9 Thank you.

10 CHAIR RHODES: Thank you.

11 Commissioner Alesi, how do you vote?

12 COMMISSIONER ALESI: I vote, yes.

13 CHAIR RHODES: Thank you.

14 Commissioner Edwards, how do you vote?

15 COMMISSIONER EDWARDS: I vote no.

16 CHAIR RHODES: Thank you.

17 Commissioner Howard, how do you vote?

18 COMMISSIONER HOWARD: Yes.

19 CHAIR RHODES: Thank you. The item is
20 approved and the recommendation is adopted. And
21 thanks again to the staff, the staff that really dug
22 into this as well as the team that presented here and
23 responded to questions today. A really, really top-
24 notch work.

25 We will now move to the consent

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2 agenda. Do any Commissioners wish to comment on or
3 recuse from voting on any items on the consent
4 agenda? Commissioner Burman.

5 COMMISSIONER BURMAN: Yes, I'm going
6 to be commenting on two items. The first item is
7 Item 264. It is a draft order that recommend where
8 the Commission rejects National Fuel Gas
9 Distribution's proposed tariff amendments to its gas
10 tariff schedules. I think it's important to
11 recognize that this is a direct result of -- excuse
12 me, I'm just pulling up my information.

13 This really is coming out of the
14 status report that National Fuel Gas put in on the
15 conservation incentive programs, the status report
16 requires that all utilities are -- were directed to
17 deal with energy benchmarking on their reporting. It
18 comes out of the December 13th, 2018 Commission order
19 adopting accelerated energy efficiency targets where
20 we directed utilities to file a status report on
21 energy benchmarking.

22 They were to address a number of
23 things and which also included their work with
24 NYSERDA on developing a benchmarking offering to be
25 marketed to decision makers of suitable building

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2 types including cost sharing and benchmarking. In
3 response to that, National Fuel Gas submitted their
4 status report in 2019 along with other utilities as
5 well.

6 In that report, they also reference
7 this tariff amendment request that was before us.
8 They are, you know, in the -- when you look at the
9 report, they go into great detail on their cost
10 recovery tariff filing that was filed July 2019,
11 excuse me. And the tariff filing seeks cost recovery
12 for the development of capabilities for the automated
13 upload of aggregated data to Energy Star portfolio
14 manager.

15 And it also seeks cost recovery of
16 marketing costs associated with communicating the
17 availability of energy benchmarking to customers.
18 Energy proposed to recover costs to the Clean Energy
19 Fund surcharge rate component so that interest it
20 accumulate -- accumulated on that surcharge could be
21 utilized serving as the cost recovery funding source.

22 They were in their report respectfully
23 asking us to approve what they believe was a
24 thoughtful cost recovery tariff filing, which will
25 help them further advance statewide energy policy

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2 goals and objectives. Looking carefully at the draft
3 order, I think that it falls short of my expectations
4 for a clearer dive into what we're doing with
5 utilities.

6 It is not enough for us to in prior
7 orders seek to reference energy data availability and
8 what we're doing with several orders on that, looking
9 at energy efficiency targets and initiatives, et
10 cetera and directing utilities to file certain
11 reports that will help formulate information for us
12 as decisionmakers and also help the staff.

13 I think that this order could have
14 taken the opportunity to give a deeper dive
15 internally with Commissioners, but also in the order
16 itself on exactly what we were seeing in all of these
17 reports from the different utilities and what was
18 necessary. The reports themselves, I think, have a
19 lot of information including what some of the
20 barriers continue to be in achieving their energy
21 efficiency targets and other things and what is
22 clearly necessary from a data benchmarking
23 perspective, especially since they are being --
24 needing to work with stakeholders like NYSERDA, I
25 think it's imperative.

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2 So I would have rather seen this order
3 not reject this tariff amendment, we do take pains to
4 say that it's not that we're rejecting it forever,
5 but rather that it's premature for National Fuel Gas
6 to ask for requests for cost recovery. I look at it
7 as that they are being thoughtful in trying to think
8 of what they might need to do to ensure that their
9 tariff is ready for the significant benchmarking
10 that's necessary and that therefore, they were trying
11 to get out in front of that by having the tariffs
12 available for that.

13 We could have identified what would or
14 would not be appropriate, prudent, cost recovery if
15 certain things are met and allowed some, you know,
16 ask them to go revise the tariff if necessary and
17 come back to us for approval after the relevant
18 effort, et cetera was done. So I am disappointed to
19 see this order not have really gotten under the hood
20 on that issue. So I will not be voting for this, but
21 without prejudice for N.F.G. to come back to us.

22 The other item that I'd like to talk
23 on is Item 369. Excuse me, I'm pulling it up. On
24 Item 369, here the Commission draft order is seeking
25 to adopt staff's proposal in the rates designed for

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2 mass market net metering successor tariff white paper
3 with modifications. The most -- and it goes through
4 sort of a litany of things including implementing a
5 modest customer benefit charge for onsite solar P.V.
6 systems to continue the process of cost recovery of
7 public benefit funds and it goes into a lot of
8 detail.

9 My concern is that at the time, it
10 does not really account for ongoing process fees that
11 are being done looking at particular rate designs and
12 the comments that have come in from the COVID-19
13 proceeding. I think both can be really helpful and
14 instructive. I am struck by the fact that this draft
15 order does reference at the end that, you know, just
16 to make sure I pull up the actual.

17 That we're delaying -- the Commission
18 is delaying the implementation of the changes adopted
19 herein for an additional year due to the direct and
20 indirect effects of the COVID-19 pandemic on
21 businesses, including the critical clean energy
22 economy of New York. And therefore, it says that the
23 white paper recommended that the new successor tariff
24 goes into sort of the details of why our timeline is,
25 what it is based on what the white paper recommended

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2 and based on other things.

3 But for me, especially as we seem to
4 recognize that the COVID -- the issues with the
5 COVID-19 pandemic are still being felt and we are
6 working through that with the COVID-19 proceeding, I
7 would have liked to have seen that we, rather than
8 moving forward on this order, that we were also given
9 relevant opportunity to review the comments that came
10 in on COVID-19 and perhaps to address some of those
11 issues a little bit more cohesively and in alignment
12 so that we're not sending mixed messages to
13 stakeholders and especially as to regulatory
14 certainty.

15 However, I am also mindful of the fact
16 that as we look to extend this implementation out a
17 year, which may or may not be wise, we have in other
18 cases that come to mind failed to give a
19 implementation timeline that was reflective of what
20 was necessary and then instead what happens is the
21 parties have to seek continual extensions of time.

22 I am worried that the order itself
23 will allow this to go beyond that one year
24 implementation timeline and to perhaps be a forever
25 item that the relevant Commission Secretary is

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2 forever extending based on whatever the ongoing issue
3 is and I'd like for the Commission itself, to have
4 more of a say on those substantial things that this
5 isn't just a ministerial extension of time or
6 implementation.

7 It has a lot of consequences that
8 relate to other programs and ratepayer funding that
9 we may do. And so especially as the C.B.C. charge is
10 on -- high to a lot of what is done with other clean
11 energy funds and those may change, it's really
12 important for us to have a better handle on it.

13 So I'll be voting no without prejudice
14 because I do believe that it is an item that we
15 should be looking at, but not at this session for the
16 -- for the reasons I stated. Thank you and that's
17 all the -- those are all comments I have.

18 CHAIR RHODES: Commissioner Burman,
19 just for avoidance of all doubt, you are voting no
20 without prejudice both on 264 and on 369, correct?

21 COMMISSIONER BURMAN: Correct. It's
22 264 and 369. No, without prejudice.

23 CHAIR RHODES: Thank you. Thank you
24 very much for confirming. Other -- do other
25 Commissioners wish to comment on or recuse from

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2 voting on items on the consent agenda, Commissioner
3 Alesi?

4 COMMISSIONER ALESI: No comments.
5 Thank you.

6 CHAIR RHODES: Thank you.
7 Commissioner Edwards?

8 COMMISSIONER EDWARDS: No comments.

9 CHAIR RHODES: Thank you very much.
10 And Commissioner Howard?

11 COMMISSIONER HOWARD: No comments.

12 CHAIR RHODES: Thank you. With that I
13 will now proceed to call for a vote on the consent
14 agenda. It's John Rhodes. My own vote is in favor
15 of the recommendations on the consent agenda.

16 Commissioner Burman acknowledging your remarks, how
17 do you vote?

18 COMMISSIONER BURMAN: I vote in favor
19 for all other items, but 264 and 369.

20 CHAIR RHODES: Thank you.
21 Commissioner Alesi, how do you vote?

22 COMMISSIONER ALESI: I vote yes on all
23 items.

24 CHAIR RHODES: Thank you.
25 Commissioner Edwards, how do you vote?

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2 COMMISSIONER EDWARDS: I vote yes.

3 CHAIR RHODES: Thank you.

4 Commissioner Howard, how do you vote?

5 COMMISSIONER HOWARD: I vote yes on
6 the consent agenda.

7 CHAIR RHODES: Thank you very much.
8 The items are approved and the recommendations are
9 adopted. Secretary Phillips, is there anything
10 further to come before us today?

11 SECRETARY PHILLIPS: Hello, this is
12 Secretary Phillips. There's nothing further to come
13 before you today.

14 CHAIR RHODES: Well, thank you very
15 much colleagues and staff. We are adjourned.

16 (Off the record; 12:37 p.m.)

17 (The meeting concluded.)

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2 STATE OF NEW YORK

3 I, HANNAH ALLEN, 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 92, is a true record of all proceedings had at the
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 20th day of July, 2020.

11

12

13 HANNAH ALLEN, Reporter

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