

1 8-12-2021 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5 VIA WEBEX

6
7 Thursday, August 12, 2021

8 10:29 a.m. until 12:21 p.m.

9
10
11 COMMISSIONERS:

12 JOHN B. HOWARD, Interim Chair

13 DIANE X. BURMAN

14 TRACEY A. EDWARDS

15 JAMES ALESSI

16 JOHN B. MAGGIORE

17 DAVID J. VALESKY

18 RORY M. CHRISTIAN

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2 (On the record 10:29 a.m.)

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

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

9 CHAIRMAN HOWARD: Thank you very much.
10 Before moving to the agenda, I'd like to conduct a
11 roll call of the commissioners. When I call your
12 name please confirm that you're with us.
13 Commissioner Diane Burman.

14 COMMISSIONER BURMAN: Here.

15 CHAIRMAN HOWARD: Commissioner James
16 Alesi.

17 COMMISSIONER ALESI: Here.

18 CHAIRMAN HOWARD: Commissioner Tracy
19 Edwards.

20 COMMISSIONER EDWARDS: Here.

21 CHAIRMAN HOWARD: Commissioner David
22 Valesky.

23 COMMISSIONER VALESKY: Here.

24 CHAIRMAN HOWARD: Commissioner John
25 Maggiore.

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2 COMMISSIONER MAGGIORE: Here.

3 CHAIRMAN HOWARD: Commissioner Rory
4 Christian.

5 COMMISSIONER CHRISTIAN: Here.

6 CHAIRMAN HOWARD: Thank you. Like to
7 begin our session with Item 202 as they relate to the
8 KEDNY and KEDLI rate cases presented by
9 Administrative Law Judge James Costello, Cindy
10 McCarran, deputy director of safety and reliability
11 and Jeff Hogan, acting director of the office of
12 accounting, audits and finance will be available for
13 questions.

14 Judge Costello, will you please begin?

15 A.L.J. COSTELLO: Good morning
16 Chairman Howard and Commissioners. Maureen --
17 Maureen Leary and I were the two administrative law
18 judges assigned by the Department of Public Service
19 to these cases. Before you is a draft order adopting
20 the terms of a joint proposal signed by several of
21 the parties to these matters. If adopted, the joint
22 proposal would establish three year gas delivery rate
23 plans for the Brooklyn Union Gas Company doing
24 business as National Grid New York which is commonly
25 referred to as KEDNY. And the Key Span Gas East

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2 Corporation doing business as National Grid which is
3 commonly referred to as KEDLI. And I will be
4 referring to KEDNY and KEDLI together as the
5 companies.

6 These rate cases have a long and
7 rather complicated history that was impacted by
8 several major events including the commission's
9 resolution of the company's moratorium on new firm
10 and other gas service connections, the enactment into
11 law of the climate leadership and community
12 protection act, or C.L.C.P.A. on July 18th, 2019.
13 And the COVID-19 pandemic which also has had
14 widespread effects on the economy.

15 The joint proposal's terms were
16 clearly shaped by these events, as I will discuss in
17 more detail throughout this presentation. These rate
18 cases began in April 2019 when KEDNY requested a
19 revenue increase of approximately \$236.8 million and
20 KEDNY requested a revenue increase of approximately
21 \$49.4 million.

22 The companies requested that their
23 rates be set on a return on equity of 9.65%. By
24 contrast the revenue requirements in the joint
25 proposal are based on an 8.8% return on equity. In

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2 addition, the joint proposal provides for a \$4.7
3 million decrease in KEDNY's revenue requirement for
4 rate year 1. Thereafter, KEDNY's revenue requirement
5 will increase by approximately \$47 million in rate
6 year 2 and \$73 million in rate year 3.

7 For KEDLI, the joint proposal provides
8 for a revenue requirement decrease of \$22.8 million
9 in rate year 1 and revenue requirement increases of
10 approximately \$29 million in rate year 2 and \$26
11 million in rate year 3.

12 The joint proposal manages the
13 companies' revenue requirements. The impact of the
14 elimination of the tax sur-credit and the energy
15 efficiency surcharge along with the use and
16 amortization of deferred customer credits such that
17 the companies' customers will experience no delivery
18 rate increases in rate year one. An increase of 2%
19 for KEDNY in rate years 2 and 3 and an increase of
20 1.8% for KEDLI in rate years 2 and 3.

21 For average residential customers,
22 those revenue increases will result in total monthly
23 bill increases of \$5.56 in rate year 2 and \$4.89 in
24 rate year 3 for KEDNY customers. And \$5.35 in rate
25 year 2 and \$5.45 in rate year 3 for KEDLI customers.

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2 The draft order before you recommends
3 that you adopt the joint proposal with one minor
4 procedural modification to the process to be applied
5 to the companies' long term capacity projects, which
6 I will discuss later, and with two other minor
7 additions. The first addition addresses the
8 companies' required reporting and expected showing in
9 future rate cases for their site investigation and
10 remediation activities, reaffirming and clarifying
11 the expectations set by the commission in Case 11-M-
12 0034.

13 The second addition establishes an
14 adjustment clause mechanism to facilitate the
15 satisfaction of any refunds to customers that may
16 result from the commission's action in Case 21-M-0351
17 initiated by the commission last month. And any
18 related proceedings to deal with the ongoing federal
19 criminal investigation into the alleged bribery and
20 kickback schemes by some of the companies' former
21 employees.

22 Before turning to the specific
23 provisions of the joint proposal, I want to provide a
24 brief timeline of certain events that occurred in
25 these cases. The companies' initial filings in these

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2 cases were made under the assumption that the
3 companies could rely upon gas supply from a proposed
4 pipeline project known as the Northeast Supply
5 Enhancement or NESE project to meet what the
6 companies projection showed to be a significant
7 growth in customer sales.

8 In May and June of 2019 necessary
9 permits for construction of the NESE project were
10 denied by the New York State Department of
11 Environmental Conservation and the New Jersey
12 Department of Environmental Protection. As a result,
13 in May 2019 the companies imposed the moratorium on
14 gas connections in their service territories.
15 Initial settlement negotiations in these cases began
16 in September of 2019. In October of 2019 the
17 commission initiated a proceeding to address the
18 companies' moratorium. That matter was resolved by a
19 commission adopted settlement agreement at the
20 commission's December 2019 session. On January 16,
21 2020 the commission issued an order in Case 18-M-0084
22 establishing statewide energy efficiency targets and
23 budgets for all utilities including the companies.

24 Settlement negotiations on the rate
25 filings concluded unsuccessfully resulting in an

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2 evidentiary hearing that took place over nine days in
3 February of 2020. On March 7th, 2020 Governor Cuomo
4 declared a state of emergency due to the COVID-19
5 pandemic. The measures taken to limit the spread of
6 COVID-19 had a wide ranging effect on almost all
7 pending cases before the commission as all interested
8 parties tried to assess the evolving situation.

9 On June 15th, 2020 the parties resumed
10 settlement negotiations and that ultimately resulted
11 in the May 14th, 2021 filing of the joint proposal.
12 On June 21, 2021 the administrative law judges held a
13 one day hearing on the joint proposal at which
14 additional testimony and other evidence was admitted.
15 Following that hearing the parties filed additional
16 briefs on the issue of the C.L.C.P.A.'s application
17 to rate cases.

18 The joint proposal is signed by
19 parties with diverse interests including the
20 companies' Department of Public Service, the
21 Environmental Defense Fund, the state's New York Real
22 Estate Services, New York Geo, Bob Wyman and the Long
23 Island Power Authority. It is opposed by A.A.R.P.
24 New York, the Alliance for a Green Economy or AGREE,
25 All our Energy, the City of New York, the New Town

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2 Creek Alliance, the Sane Energy Project, various
3 individuals and B.S.C. Owners, L.L.C. which operates
4 a major apartment complex in Brooklyn known as Start
5 City.

6 The Public Utility Law Project of New
7 York or PULP filed a statement of neutrality. The
8 record amassed in these proceedings is substantial
9 and reflects all parties' views both before and after
10 the onset of COVID-19 and the passage of the
11 C.L.C.P.A. The joint proposal provides for three
12 year rate plans for the companies from April 1st,
13 2020 through March 31st, 2023. Rate year one, which
14 runs from April 1st, 2020 through March 31st, 2021 is
15 already over.

16 The joint proposal also contains terms
17 that would apply in a stay-out period beginning on
18 April 1st, 2023 and ending on the earlier of the
19 effective date of revised base rates for the
20 companies or on March 31st, 2024 if the companies do
21 not file tariff amendments to establish new base
22 delivery rates. The draft order before you concludes
23 that based on all the evidence in the parties
24 statements, the joint proposal viewed as a whole is
25 in the public interest.

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2 The commission's settlement guidelines
3 establish three criteria for determining whether a
4 joint proposal is in the public interest. First, the
5 proposal should strike a balance between protecting
6 the utilities' customers, providing the utilities
7 with an opportunity to earn a fair return on equity
8 and protecting the long term viability of the
9 utilities so they can continue to provide essential
10 services to customers who rely on those services.

11 Second, the joint proposal should be
12 consistent with the environmental, social and
13 economic policies of the state and the commission.

14 Third, the proposal should be
15 consistent with a range of potential outcomes from a
16 fully litigated proceeding. The joint proposal
17 satisfies all three of these criteria. The joint
18 proposal provides the companies with a fair return on
19 equity and funds to ensure that they can continue to
20 provide safe and reliable service to customers while
21 meeting legal obligations such as continuing site
22 investigation and remediation activities, paying
23 property taxes and meeting the commission's
24 conservation and energy policy goals.

25 The 8.8% return on equity over the

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2 course of the rate plans falls within the range of
3 likely litigation outcomes where the companies
4 requested a return on equity of 9.65% and the
5 Department of Public Service staff recommended a
6 return on equity of 8.2% in a 1 year rate case.

7 The manner in which the joint proposal
8 shapes the companies' revenue requirements provides
9 an immediate benefit to ratepayers who would
10 otherwise experience higher rates while the economy
11 is still recovering from the effects of the COVID-19
12 pandemic. As stated, the joint proposal provides for
13 no revenue increases in the first rate year and
14 modest increases in the second and third rate years.

15 To achieve these results over the
16 three year term of the rate plan, KEDNY will amortize
17 approximately \$94.9 million in deferred regulatory
18 liabilities and KEDLI will amortize approximately
19 \$4.84 million. There will be no wage increases for
20 the companies' senior managers through June 30th,
21 2022 and no increases for executives through June 30
22 of 2023.

23 The joint proposal reflects reductions
24 to the companies' capital plans of over \$970 million
25 for KEDNY and \$481 million for KEDLI as compared to

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2 the capital plans the companies had proposed in
3 litigation. The number of incremental full time
4 equivalent employees was cut. Operation and
5 management expense associated with new programs was
6 cut. New or enhanced programs were deferred or
7 delayed. Information technology expenditures were
8 reduced. Amortization of excess accumulated deferred
9 federal income tax benefits for unprotected assets
10 was significantly accelerated especially with respect
11 to KEDNY. And the acceleration of depreciation
12 associated with KEDLI's leak prone pipe assets was
13 delayed.

14 Although certain parties object to the
15 stay-out provisions of the joint proposal, because
16 rates would increase during the stay-out period, the
17 order before you finds that the stay-out provisions
18 are reasonable. Those provisions may allow the
19 companies to avoid the need to file for base rate
20 increases to be effective before the expiration of
21 the stay-out period at the end of March 2024.
22 Notably --.

23 A.L.J. LECAKES: Jim Costello, can --
24 can I interrupt for a moment? I -- I apologize,
25 Chairman and Commissioners. There's a fire alarm

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2 going off in the Buffalo office right now.

3 Commissioner Alesi and I have to leave the room and

4 -- and I apologize. I apologize, Judge Costello.

5 I'm very sorry. We'll be back when we can.

6 CHAIRMAN HOWARD: With that, Madam

7 Secretary I suggest we temporarily adjourn until we

8 have the full commission in attendance.

9 SECRETARY PHILLIPS: I agree.

10 CHAIRMAN HOWARD: With that we will

11 adjourn until our friends in Buffalo are back in

12 their office.

13 (Off the record 10:45 a.m.)

14 (On the record 10:53 a.m.)

15 UNIDENTIFIED SPEAKER: Fire alarm

16 pulled on the 8th floor. The fire department came

17 and -- and cleared us to come back in the building.

18 My apologies.

19 CHAIRMAN HOWARD: Let's go for another

20 ten seconds for our -- the -- for our web to launch

21 please.

22 Madam Secretary, I'd like to revise my

23 remarks. I had called for a recess and not an

24 adjournment. And I apologize for whatever we have so

25 I now call the session back to order.

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2 SECRETARY PHILLIPS: Okay. And I'll
3 -- I'll just clarify for the record that we were on
4 recess, not adjournment. And the chair has called us
5 back to order.

6 CHAIRMAN HOWARD: Right. Thank you.
7 Judge, would you like to continue?

8 A.L.J. COSTELLO: Yes, thank you. As
9 I said there are certain parties who object to the
10 stay-out provisions of the joint proposal because
11 rates would increase during a stay-out period. But
12 the order before you finds that the stay-out
13 provisions are reasonable because they may allow the
14 companies to avoid the need to file for base rate
15 increases to be effective before the expiration of
16 the stay-out period at the end of March 2024.

17 In addition, the rates recommended for
18 the stay-out period are based on the same modest
19 revenue requirements as rate year three under the
20 joint proposal. The difference is that the deferral
21 credits used to moderate the full impact of the rate
22 increases during the terms of the rate plans will not
23 be available during the stay-out period. In any
24 event, the use of such deferral credits to moderate
25 impacts now during the economic crisis presented by

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2 the COVID-19 pandemic makes sense.

3 Moreover those deferral credits expire
4 regardless of any stay-out period and would not be
5 available for a new rate plan that the companies
6 could file that would cover that same period. In
7 addition, the joint proposal ensures that two
8 surcharges applicable during the stay-out period do
9 not allow the companies to earn more than the 8.8%
10 return on equity allowed under the joint proposal.

11 The joint proposal also benefits
12 ratepayers by including an earnings sharing
13 mechanism, downward only reconciliation mechanisms
14 and negative revenue adjustments if the companies
15 miss established targets for certain customer service
16 and gas safety performance metrics. The joint
17 proposal also contains numerous provisions that help
18 the companies' low-income customers and those facing
19 financial difficulties.

20 In addition to the signatory parties,
21 many of these provisions are also supported by
22 A.A.R.P. New York and PULP. The proposed energy
23 affordability program budgets and benefit levels are
24 consistent with commission requirements. The
25 companies will establish a process for residential

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2 customers to enter into deferred payment agreements
3 electronically. To address enrollment in the energy
4 affordability programs, the companies will increase
5 the frequency of file matching with New York City's
6 human resources administration, and KEDNY will
7 explore file matching with the Office of Temporary
8 Disability Assistance in Nassau and Suffolk Counties.

9 Similar to KEDLI, KEDNY will waive
10 reconnection fees for participants in its energy
11 affordability program. The joint proposal provides
12 for enhanced training of consumer advocates to ensure
13 that certain customers receive additional information
14 on bill payment assistance and programs. The joint
15 proposal also contains provisions regarding customer
16 arrears and programs to communicate with customers in
17 different languages. Several of these provisions are
18 the product of compromise arising from the parties'
19 positions in litigation.

20 The most contested issue in these
21 proceedings is whether the C.L.C.P.A. is applicable
22 to commission action and rate cases. The draft order
23 agrees with the parties that have urged the -- the
24 commission to recognize that the C.L.C.P.A. does
25 apply to the commission's actions here. Many of

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2 those who oppose the joint proposal maintain that
3 further investments in gas infrastructure violate the
4 terms of the C.L.C.P.A.

5 However, the draft order analyzes the
6 proposed rate plans and finds that they are
7 consistent with the C.L.C.P.A. particularly when
8 viewed in light of the commission's statutory mandate
9 to ensure that the companies provide safe and
10 adequate service at just and reasonable rates. The
11 statutory mandate is fundamental to protecting the
12 public health and welfare.

13 In a moratorium proceeding mentioned
14 earlier, the companies provided long term capacity
15 reports analyzing various gas supply options to
16 ensure adequate future supply. The companies provide
17 an examination of greenhouse gas emissions impacts of
18 the various options in those reports which have been
19 entered into evidence in these proceedings and
20 reviewed under the C.L.C.P.A.'s provisions.

21 The joint proposal contains provisions
22 that promote energy efficiency, demand response,
23 geothermal and electrification options to meet
24 customers' energy needs while minimizing the need for
25 additional gas infrastructure. The joint proposal

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2 also requires the companies to prioritize leak prone
3 pipe removal based upon methane flow rate data,
4 develop an enhanced methane detection program,
5 discontinue natural gas marketing efforts and
6 promotional programs, and provide educational
7 information to customers about alternative heating
8 options and the emission reduction requirements of
9 the C.L.C.P.A.

10 The joint proposal also requires the
11 companies to conduct a study evaluating how their
12 businesses may evolve to support the C.L.C.P.A.'s
13 admission reduction and renewable energy goals. In
14 addition, the joint proposal requires that any
15 proposed long term capital projects be evaluated by
16 an independent consultant against specific criteria
17 including verification of the need for the project
18 and its greenhouse gas emissions potential.

19 The cost recovery for those long term
20 capital projects also is contingent upon the
21 companies achieving certain capacity demand metrics
22 including meeting energy efficiency, demand response
23 program goals, issuing requests for proposals for
24 non-pipe alternatives to traditional infrastructure
25 solutions including the replacement of leak prone

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2 pipe, and referrals of applicants to Con Edison, LIPA
3 or PSEG Long Island for heating electrification
4 programs.

5 Importantly, the independent
6 consultants' review of capital projects is in
7 addition to the commission's normal review of
8 proposed capital projects for the appropriateness of
9 costs and to ensure their need for safety and
10 reliability, a review the commission has undertaken
11 in these proceedings. Nevertheless, the draft order
12 modifies the process established in the report in the
13 joint proposal to require that within 60 days after
14 issuance of the report filed by the independent
15 consultant and upon consideration of any public
16 comments, the commission will issue a final decision
17 regarding the appropriateness of cost recovery.

18 The joint proposal also expressly
19 discontinues construction of Phase 5 of the
20 Metropolitan Reliability Project subject to further
21 commission action only after approval by the
22 independent consultant and upon a petition by the
23 companies. Although the companies have engaged in
24 certain Phase 5 work already, cost recovery for such
25 work is not a part of the revenue requirement and the

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2 rate plans under the joint proposal.

3 To allow for the recovery of costs
4 that are not contained in the companies' revenue
5 requirements associated with incremental demand
6 response and energy efficiency programs and a long
7 term capacity projects, the joint proposal provides
8 for the companies to implement a demand capacity
9 surcharge starting in rate year two.

10 Finally the draft order determines in
11 conformance with the C.L.C.P.A. that contrary to the
12 claims of certain opponents to the joint proposal,
13 the capital projects proposed do not
14 disproportionately burden disadvantaged communities.
15 In short the joint proposal protects the companies'
16 customers, maintains the companies' ability to obtain
17 capital at reasonable rates and enables the companies
18 to continue to provide safe and reliable service to
19 customers.

20 The joint proposal does so while
21 remaining consistent with their environmental, social
22 and economic policies of the commission and state.
23 Finally, the joint proposal produces a result that is
24 consistent with and in many instances superior to the
25 range of potential outcomes that could be expected to

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2 have been achieved in a fully litigated proceeding.

3 This concludes my presentation and we are now

4 available for questions.

5 CHAIRMAN HOWARD: Thank you, Judge for
6 that excellent job and outlining the settlement and
7 the various aspects of the history that are relevant
8 to this proceeding. To say this has been a long and
9 arduous process is quite an understatement. During
10 the extended course of these proceedings, two major
11 events impacted the development of this joint
12 proposal. The enactment into law of the climate
13 leadership and community protection act and the COVID
14 pandemic.

15 The C.L.C.P.A. sets forth New York's
16 nation leading policy goals to fight against global
17 climate change caused by the extraction and use of
18 fossil fuels and the resulting emissions from that
19 activity. The pandemic and measures to control its
20 spread have had wide sprayed -- ranging impacts on
21 the economy and continue to affect a large portion of
22 our population today.

23 Today we set a new precedent. For the
24 first time this commission formally has made
25 compliance with the climate leadership and community

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2 protection act part of this and all future rate
3 cases. I think that bears repeating. Compliance
4 with the C.P. -- C.L.C.P.A. is part of this and all
5 future orders in rate cases. Like every other case
6 that comes before this commission, we strive to
7 achieve a balance with safe and reliable service at
8 just and reasonable rates. Now that balance will
9 include considerations of the impact of the
10 C.L.C.P.A. in rate cases.

11 While the Public Service Law is well
12 over a century old and has been interpreted thousands
13 of times and amended dozens of times, such is not the
14 case with the C.L.C.P.A. The C.L.C.P.A. sets
15 statutory mandates regarding emission standards for
16 greenhouse gases and their reductions. One that
17 calls for a 60% limit of greenhouse gas emissions in
18 2023 as compared to 1990 levels. And a 85% reduction
19 in greenhouse gas emissions in 2050 as compared to
20 the 1990 levels.

21 However, today the specifics of
22 implementing those mandates have yet to be
23 promulgated. The C.L.C.P.A. established the climate
24 action council of which I am statutory member. It
25 will issue recommendations through a scoping plan.

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2 The scoping plan will provide a blueprint to specify
3 the mechanisms to meet the various goals of the
4 statute. This draft plan will be issued by January
5 1, 2022 and a final scoping plan will be completed by
6 January 1, 2023.

7 Additionally, in December 2020 some
8 twenty months after KEDNY and KEDLI filed their
9 cases, the Department of Environmental Conservation
10 adopted regulations setting two greenhouse gas limits
11 for all sectors of the economy. One that will apply
12 in 2030 and one will apply in 2050. Additionally,
13 the C.L.C.P.A. establishes that no later than four
14 years after the effective date or by January 2024,
15 D.E.C. is to promulgate regulations to ensure
16 compliance with the statewide emission limits.

17 Those detailed regulations have yet to
18 be established. Regarding Section 7 of the
19 C.L.C.P.A., the commission must decide if the J.P. is
20 consistent with the greenhouse gas emissions set for
21 2030. In other words does this move, KEDNY and KEDLI
22 toward meeting that 2030 limit set by D.E.C. to
23 reduce greenhouse emissions by 60 -- to 60% of 1990
24 levels.

25 Based on the list of projects,

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2 processes and decisions required under the joint
3 proposal, the draft order before us finds that the
4 J.P. is consistent with these emission limits. I
5 also believe that the J.P. is justified to ensure
6 that KEDNY and KEDLI provide safe and reliable
7 service to its customers.

8 Finally, also the J.P. requires a long
9 list of mitigation measures including unprecedented
10 levels of energy efficiency and demand response.
11 Judge Costello has otherwise explained projects that
12 the companies will be required to undertake to reduce
13 demand. For these reasons the order finds that the
14 J.P. complies with Section 7 of the C.L.C.P.A.

15 You know, in addition to the good work
16 done by department staff in this case, I really want
17 to commend my colleagues on this commission. Within
18 -- with their input on the final order -- with their
19 input on the final order. They provided a variety of
20 comments that are part of this final order and
21 significantly improved it. This is how this
22 commission should work so thank you. I'd also like
23 to thank the signatory parties who have a wide range
24 of interests and they who work very hard through this
25 very long and arduous process to achieve what I

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2 believe is this very balanced approach. With that
3 I'd like to ... over to my colleague Commissioner
4 Burman.

5 COMMISSIONER BURMAN: Thank you so
6 much, Chair. We have a broad mandate to ensure that
7 consumers receive safe and reliable utility service
8 at reasonable rates and with the least adverse effect
9 upon the environment. And the commission stands at
10 the crossroads of the public need for these virtually
11 essential core services and the private needs of the
12 shareholder to ensure continue investment in these
13 services.

14 As such, we occupy an incredibly
15 important and unique role in balancing these
16 interests in a way that ensures the most advanced and
17 reliable services while at the same time ensuring
18 that they are effectively and efficiently delivered.
19 And the critical importance of the commission's
20 mission to the economic wellbeing of the state and
21 its citizens cannot be overstated.

22 If you look at the order taken in its
23 whole and its entirety it is sound and it is
24 reasonable. And it is in the public interest. Based
25 on that and the comments that the chair made as well

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2 as the excellent presentation by A.L.J. Costello, I
3 have nothing further to add. I do thank my
4 colleagues and I thank the chair personally for his
5 willingness to engage in thoughtfulness and
6 appropriate discussion on issues that commissioners
7 might have had to make the product itself
8 substantively better.

9 From that I'm going to withhold
10 substantive comments. I really do encourage all
11 stakeholders to look at the entire document in its
12 whole and taking that into account and the long
13 history of this case and the progress forward in what
14 we have before us at the commission. I think this is
15 a very sound and reasonable end, one that meets the
16 legal standard for being in the public interest.

17 My colleagues I know are going to be
18 sharing their thoughts and I may comment on -- on
19 some things that I hear in support. But I just
20 wanted to thank everyone and especially staff. Thank
21 you.

22 CHAIRMAN HOWARD: Thank you,
23 Commissioner.

24 Commissioner Alesi?

25 COMMISSIONER ALESI: I think the joint

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2 proposal provides us with just and reasonable rates
3 that are in the public interest and sufficiently
4 addresses the goals of climate leadership and I'll be
5 supporting it.

6 CHAIRMAN HOWARD: Thank you very much.
7 Commissioner Edwards?

8 COMMISSIONER EDWARDS: Thank you very
9 much, Chair. You know, it's very important as all of
10 you just mentioned that we balance the C.L.C.P.A.,
11 and providing adequate service. But I also want to
12 add in that it's also important that we do everything
13 we can to avoid a moratorium because if we think back
14 that moratorium over 1,000 businesses and ... that
15 were denied services was just not sustainable.

16 So I believe that this joint proposal
17 does accomplish that. I do have one request, however
18 and a question. And the question it says that the
19 independent consultant is going to provide a report
20 to us. Do we know what rate year that that report is
21 due, Judge Costello?

22 A.L.J. COSTELLO: The report will be
23 due based on when there are projects that are
24 proposed. So I don't think -- I think there may be
25 more than one report and I don't know the timing on

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2 those reports.

3 COMMISSIONER EDWARDS: Okay. All
4 right. That's fine. If you could -- if you could
5 get that information, if you could get that to us
6 that would be great.

7 MR. ROSENTHAL: Let -- let me answer
8 the question more specifically. The report --

9 COMMISSIONER EDWARDS: Okay.

10 MR. ROSENTHAL: -- would be -- the
11 report would be triggered by a petition filed by
12 National Grid after they have, you know, tried their
13 best to meet very high energy efficiency and demand
14 response metrics that are established in the order.

15 If that is un -- if they are unable to
16 sort of turn down demand as a result of those
17 projects and believe that they need to undertake
18 certain projects, they will then file a petition.
19 That would trigger the -- the need for the
20 independent consultant to evaluate their petition
21 along the criteria that Judge Costello just
22 identified for you.

23 COMMISSIONER EDWARDS: Okay. Thank
24 you very much. And then just my comment is that, you
25 know, within the report there's a couple concerns in

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2 terms of that the company is required to take
3 reasonable efforts in terms of these projects. So if
4 we could have them better explain to us in when they
5 have to provide us a report on how their businesses
6 will evolve in terms of omissions reduction and the
7 local energy goals if we could just be clear that we
8 want them to really define to us their definitions of
9 reasonable efforts because I am thrilled that we are
10 taking into effect C.L.C.P.A. as we go into the
11 future rate cases.

12 But I just want to make sure that
13 we're very clear that it is our expectation that they
14 do meet the C.L.C.P.A. goals. We have to get there
15 and we have to get there together. So any room that
16 we have for clarity is going to be very beneficial as
17 we move forward with them on geothermal, heat pumps,
18 electrification, all of the different things that we
19 need to do. We just have to be very clear with them
20 that we -- what our expectations are. And they have
21 to be clear with us on what their definition is of
22 reasonable attempts.

23 So if we could do that on a going
24 forward basis as we meet with them. And if we could
25 meet with them prior to rate raising. Thank you very

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2 much. That's my comments.

3 CHAIRMAN HOWARD: Thank you
4 Commissioner. Commissioner Valesky?

5 COMMISSIONER VALESKY: Thank you very
6 much, Chairman Howard. I don't have any questions
7 for the panel today but I would like to offer some
8 brief comments on the joint proposal. And before I
9 do I just want to share this reflection. You know,
10 you can't turn on the national news these days
11 without hearing about two things that are simply
12 devastating in their own right.

13 First of all the resurgence of the
14 COVID virus and specifically its Delta variant here
15 and around the world. And second what is happening
16 with the weather and extreme weather events. Fires
17 so overwhelming that they burn entire towns off the
18 map. Droughts so severe that lakes are literally
19 drying up. Floods that are so catastrophic that
20 there is often no escape from them.

21 And I think it is in this reality that
22 we consider today's agenda and specifically this
23 joint proposal that become -- that comes before us
24 this morning. I want to thank the entire team here
25 at the Department of Public Service that has worked

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2 so hard on this going all the way back to its
3 submission almost two and a half years ago. As Chair
4 Howard indicated, certainly an unprecedented rate
5 case to be sure. A pipeline permit rejection, a
6 moratorium on new gas hookups, the effects of the
7 pandemic and certainly policy changes brought on by
8 the implementation of the C.L.C.P.A.

9 And on C.L.C.P.A. applicability thank
10 you Chairman Howard for addressing that issue. I
11 also believe my colleague Commissioner Maggiore will
12 -- Commissioner Maggiore will address some of that in
13 greater detail in a few moments. But I do want to
14 just underscore and -- and restate, Judge Costello,
15 what you indicated in your -- your proposal. To
16 underscore several items that are in this joint
17 proposal, most of which have never been done before
18 by these companies.

19 Those specific provisions again that
20 promote energy efficiency, demand response,
21 geothermal and electrification options. Those
22 specific provisions that prioritize leak prone pipe
23 removal, that develop and enhanced methane detection
24 program that discontinue natural gas marketing
25 efforts and promotional programs and that provide

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2 educational information to customers about
3 alternative heating options and the emission
4 reduction requirements of the C.L.C.P.A.

5 And certainly those provisions that
6 require the study that we've heard and talked about
7 to evaluate how businesses will evolve to support the
8 emission reduction and renewable energy goals that
9 are set in the statute. These are significant, these
10 are real, these are meaningful and these are
11 impactful. So in short, I believe that this order
12 does further the objectives of the C.L.C.P.A. while
13 at the same time responding appropriately and
14 effectively to the economic conditions created by the
15 pandemic and all the while fulfilling our original
16 mandate as a commission to provide safe and reliable
17 service at just and reasonable rates. Thank you, Mr.
18 Chair.

19 CHAIRMAN HOWARD: Thank you,
20 Commissioner -- Commissioner Maggiore.

21 COMMISSIONER MAGGIORE: Thank you,
22 Chair. Thank you, Judge for your presentation. My
23 first question is about something you alluded to in
24 the early part of the presentation. The order
25 addresses a proceeding to investigate expenditures by

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2 National Grid's facilities department in light of a
3 recent federal criminal indictment. Can you just
4 expand on how this order addresses that issue?

5 A.L.J. COSTELLO: I believe Mr. -- Mr.
6 Hogan will be answering that question.

7 COMMISSIONER MAGGIORE: Thank you, Mr.
8 Hogan.

9 MR. HOGAN: Yes, hi, Commissioner.
10 Good morning. As you're aware the alleged wrongdoing
11 was only recently made public. While the commission
12 issued an order in June to begin an investigation
13 into what occurred and what exact dollar amounts
14 might be involved and to look into what the company's
15 contracting practices are, it's going to take some
16 time for that investigation to complete.

17 So the commission, however, must set
18 rates now for these companies. And we -- we have to
19 do that without knowing the outcome of the
20 investigation or the dollar amounts involved. So the
21 order sets an amount that could be subject to refund
22 in the future once the investigation is complete. It
23 utilizes a mechanism for the amount subject to refund
24 which is apart from the normal base rates of the
25 company.

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2 Under normal circumstances the
3 commission cannot require a refund of amounts
4 collected under a utility tariff. However, under
5 Section 6612(K) of the Public Service Law there is
6 the ability to create this adjustment clause which
7 will allow the commission to refund to customers any
8 amounts that it determines have been collected if the
9 -- if the utility lacks reasonable care in the
10 provision of its service.

11 The commission used such an adjustment
12 clause in Case 07-E-0523 which was a Consolidated
13 Edison rate case which was ongoing while a
14 investigation of that company was occurring and --
15 and had not yet concluded. That precedent is
16 actually discussed on page 99 of your draft order and
17 it goes into that a little bit.

18 The use of the adjustment mechanism
19 will allow the commission to order a refund to
20 customers of any amounts that it -- it finds is
21 appropriate at the conclusion of that investigation.
22 For each KEDNY and KEDLI \$2.5 million per year for
23 each of the rate years. A total of \$7.5 million per
24 company is being collected in this way and would be
25 subject to refund, you know, if -- if the

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2 investigation found that was warranted.

3 COMMISSIONER MAGGIORE: Thank you very
4 much. The rest of my questions have to do with how
5 this order relates to the C.L.C.P.A. So first is
6 this, does the Public Service Law dictate this
7 commission shall encourage utilities to formulate and
8 carry out programs with economy, efficiency and care
9 for the public safety, the preservation of
10 environmental values and the conservation of natural
11 resources?

12 MR. ROSENTHAL: So let me take that
13 one. Yes, it does, Commissioner.

14 COMMISSIONER MAGGIORE: Thank you.
15 And is that provision of the Public Service Law the
16 basis or one of the bases of the Public Service
17 Commission's statement to, quote, ensure affordable,
18 safe, secure and reliable access to electric, gas,
19 steam, telecommunications and water services for New
20 York State's residential and business customers while
21 protecting the natural environment?

22 MR. ROSENTHAL: Yes, it does,
23 Commissioner. And let me just add that the staff of
24 this agency views that mandate to ensure safe and
25 reliable service at just and reasonable rates as its

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2 core responsibility. And you will see that language
3 that you just quoted throughout the Public Service
4 Law.

5 COMMISSIONER MAGGIORE: Thank you.
6 And that relates to my next question. Does the
7 Public Service Law require that every gas corporation
8 shall furnish and provide such service
9 instrumentalities and facilities as shall be safe and
10 adequate?

11 MR. ROSENTHAL: Yes, it does. And
12 I'll just also add that that same exact language
13 applies to electric corporations as well.

14 COMMISSIONER MAGGIORE: Thank you.
15 Does the C.L.C.P.A. ban the use of natural gas?

16 MR. ROSENTHAL: No, it doesn't.

17 COMMISSIONER MAGGIORE: Does it ban
18 natural gas infrastructure?

19 MR. ROSENTHAL: No, it doesn't.

20 COMMISSIONER MAGGIORE: So what would
21 happen if we rejected this case on the basis of
22 opposition to the continued use of natural gas?

23 MR. ROSENTHAL: So it's a good
24 question. I'm going to ask Cindy McCarran from our
25 office of Electric Gas and Water to assist. But let

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2 me start by just saying that almost all the
3 infrastructure projects that are at issue in this
4 rate case are related to equipment that's either past
5 its useful life or it needed to meet reliability
6 standards. Perhaps two or three of the projects --.

7 Where's that coming from? Can you
8 just --? Just hold on a sec. There we go. Sorry
9 about that.

10 UNIDENTIFIED SPEAKER: One of those
11 warranty calls.

12 MR. ROSENTHAL: Right. Or Medicaid
13 Advantage is the one I get. But perhaps -- which I
14 don't take well given that I'm just approaching that
15 age.

16 But anyway, perhaps two or three of
17 the projects at issue, the ones that are subject to
18 the surcharge that Judge Costello mentioned, those
19 obviously would require a separate layer of review,
20 the one that he laid out. But I -- I would argue
21 that absent approval of ratepayer recovery for these
22 projects it would arguably go against meeting what,
23 you know, again, is the commission's core
24 responsibility to provide safe and reliable service.

25 COMMISSIONER MAGGIORE: Okay.

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2 MR. ROSENTHAL: And anything else
3 that, you know, Ms. McCarran can add I think, you
4 know, would be helpful.

5 MS. MCCARRAN: Yeah, I just want to
6 give a couple of examples. You know, like Bob said,
7 the majority of this spending is to ensure the safety
8 and reliability of the system. There have been two
9 recent incidents that I think highlight the need for
10 these expenditures. One was in Merrimack Valley of
11 Massachusetts where a low pressure distribution
12 system was over pressurized because of the failure of
13 the gas regulating pressure regulating equipment.

14 That caused -- that was on September
15 13th of 2018. It resulted in a series of fires and
16 explosions. One person was killed, 22 people were
17 taken to the hospital, 131 structures were damaged.
18 So this highlights that if you do not maintain and
19 upgrade the regulators and other equipment needed to
20 assure safe and reliable service can have very
21 devastating consequences.

22 Another one happened on Aquidneck
23 Island in Rhode Island where there was a cascading
24 series of events. First, there was, you know, the
25 forecast of the local utility of demand was not

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2 sufficient to provide enough assets. They had under
3 forecast demand. Added onto that was the failure at
4 the L.N.G. station nearby and a failure of a valve on
5 the Algonquin pipeline in Massachusetts.

6 Those three events contributed to an
7 outage of over 7,000 people which took over a week to
8 restore in some of the coldest weather that you can
9 imagine. It was very cold. You know, some peoples
10 pipes froze and et cetera, et cetera. The point
11 being that these expenditures on these capital
12 projects have very real consequences if they are not
13 completed.

14 COMMISSIONER MAGGIORE: Thank you. My
15 -- my next question I think you addressed but just
16 for the sake of crystal clarity, so would that type
17 of result be consistent with the P.S.C. mission or
18 the Public Service Law on which it's based?

19 MR. ROSENTHAL: I would argue it
20 would.

21 COMMISSIONER MAGGIORE: Okay. And
22 then, again, I think you addressed this but for the
23 sake of clarity, is this case inconsistent with the
24 Public Service Law, the C.L.C.P.A. or any law of the
25 State of New York?

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2 MR. ROSENTHAL: I would argue it's
3 fully consistent.

4 COMMISSIONER MAGGIORE: Okay. And you
5 -- you addressed this to some extent but can you
6 expand on -- to the extent that this order would
7 allow for the recovery of cost associated with
8 natural gas infrastructure? Can you expand on how
9 much this has to do with repair, safety and
10 prevention of emissions?

11 MR. ROSENTHAL: And -- and I'll defer
12 to Ms. McCarran on that one as well.

13 MS. MCCARRAN: Yeah, so we pulled
14 those numbers together. And we estimate that only
15 10% of the capital budget could be considered
16 discretionary. We've actually compared the
17 expenditures on three categories which is customer
18 connections, safety and reliability and non -- I
19 forget what we call it, the non-infrastructure
20 category which are capitalized items that are not
21 directly related to infrastructure.

22 And those three categories, the
23 expenditures are actually going down compared to the
24 last rate case. The only category where capital
25 expenditures are increasing is the city state mandate

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2 category over which the Public Service Commission has
3 very little control.

4 COMMISSIONER MAGGIORE: Thank you. Do
5 you know that there's been some talk among some
6 legislators about banning any new natural gas
7 infrastructure which would include some of the
8 projects anticipated by this order?

9 MR. ROSENTHAL: I -- I can't say that
10 I specifically know, you know, anything that
11 legislators have -- have said about it. I certainly
12 have heard, you know, that sort of sentiment raised
13 by others.

14 COMMISSIONER MAGGIORE: Well, have you
15 heard that any such legislation is actually passed
16 into law?

17 MR. ROSENTHAL: I'm not aware of any.
18 And I should let you know, my office tracks, you
19 know, all legislation obviously that's passed and is
20 being considered.

21 COMMISSIONER MAGGIORE: Okay. So I
22 think this was maybe the thrust of the -- the part of
23 the presentation about the C.L.C.P.A. But, again,
24 just for clarity's sake, is it the case that this
25 order advances the larger purposes of the C.L.C.P.A.

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2 which I'm quoting from here, to promote energy
3 efficiency, demand response, geothermal and
4 electrification options to meet customers' energy
5 needs while minimizing the need for additional gas
6 infrastructure?

7 MR. ROSENTHAL: So for all of the
8 reasons that were established in the draft order that
9 -- that you have before you as summarized by Judge
10 Costello, I would argue with you that -- that the
11 answer to that question is yes.

12 COMMISSIONER MAGGIORE: Okay. Thank
13 you. So I think it's -- that's significant because
14 it's not a matter of the legislature leaving a word
15 out of the law or another oversight that's easy to
16 recognize as an oversight. In my view, this order
17 really is consistent with the C.L.C.P.A. So I don't
18 like it that we aren't yet beyond the use of natural
19 gas, but it seems to me that this case is consistent
20 with the relevant laws governing our actions.

21 So I feel compelled to vote yes. I'm
22 not sure on what basis I could responsibly vote no.
23 That said, this topic was one of the handful of
24 substantive issues that came up during my recent
25 confirmation process. I think it's worth

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2 acknowledging that the idea that the legislature
3 might ban the construction of any natural gas
4 infrastructure, not just pipelines, is within the
5 realm of imagination in the foreseeable future.

6 So I actually think that this reflects
7 solid, creative and responsible work on the part of
8 staff and I commend you not just for the presentation
9 but the work that you did. And I want to, as Chair
10 Howard did, thank my colleagues for their input as
11 well. But I also think this reflects a point in time
12 in the evolution of this state towards greater
13 reliance on renewable energy sources. It is not a
14 static point in time. That said, I'm going to vote
15 yes. Thank you.

16 CHAIRMAN HOWARD: Thank you,
17 Commissioner Maggiore. Commissioner Christian?

18 COMMISSIONER CHRISTIAN: Thank you,
19 Chair. Want to thank staff and the parties involved
20 for putting together what I consider to be a great
21 joint proposal. I want to echo Commissioner
22 Valesky's listing of the various benefits that this
23 proposal puts forward and amplify that by adding I'm
24 particularly pleased to see how leak prone pipes are
25 being addressed through this order.

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2 Additional emphasis is being placed on
3 addressing leak prone pipes in flood prone areas and
4 instead of simply replacing these pipes with new
5 pipes, the utilities have moved forward with a
6 proposal to put forward non-pipe alternatives. Thus
7 not only addressing the leaks but reducing demand for
8 gas going forward.

9 As a whole I think this proposal meets
10 the various requirements set forth for Public Service
11 Law and the C.L.C.P.A. Through this proposal we'll
12 be able to maintain the safe and reliable service at
13 just and reasonable rates, our main mandate. And
14 we're also moving forward with reducing our demand on
15 natural gas over time and thus reducing our climate
16 impact over time. I want to thank staff and all the
17 parties involved. I plan to vote yes for this rate
18 case. Thank you.

19 CHAIRMAN HOWARD: Thank you very much.
20 I'll now call for a vote on this item. I'll be
21 voting in favor of this recommendation to the adopt
22 the terms of the joint proposal as discussed.
23 Commissioner Burman, how do you vote?

24 COMMISSIONER BURMAN: Yes.

25 CHAIRMAN HOWARD: Commissioner Alesi,

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2 how do you vote?

3 COMMISSIONER ALESI: I vote yes.

4 CHAIRMAN HOWARD: Commissioner

5 Edwards?

6 COMMISSIONER EDWARDS: Yes.

7 CHAIRMAN HOWARD: Commissioner

8 Valesky?

9 COMMISSIONER VALESKY: Yes.

10 CHAIRMAN HOWARD: Commissioner

11 Maggiore?

12 COMMISSIONER MAGGIORE: Yes.

13 CHAIRMAN HOWARD: Commissioner

14 Christian?

15 COMMISSIONER CHRISTIAN: Yes.

16 CHAIRMAN HOWARD: Thank you. The

17 items are approved and the recommendations are
18 adopted. Thank you everyone for your hard work on
19 this and as I mentioned to Judge Costello off the
20 record, this is a case is a gift that will keep on
21 giving. So thank you.

22 For our next item of discussion will
23 be Item 201 Cases 14-M-0565 and 20-M-0266 as they
24 relate to our energy affordability policy presented
25 by Aric Rider, acting deputy director, Offices of

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2 Consumer Services and Tom Dwyer, assistant counsel
3 will be also available for questions. Aric, please
4 begin at your convenience.

5 MR. RIDER: Good morning, Chair Howard
6 and Commissioners. Item Number 201 before you today
7 is a draft order addressing issues in two cases, Case
8 14-M-0565, the commission's Energy Affordability
9 Policy or referred to as E.A.P. And Case 20-M-0266
10 the commission's proceeding to address effects of
11 COVID-19 on utility service.

12 The draft order before you today
13 adopts modifications to the E.A.P. to further promote
14 achievement of the commission's 6% energy burden
15 goal. The utility bill discount programs now reach
16 over one million low-income households. Staff
17 estimates that the recommended improvements to the
18 methodology will result in a statewide annual E.A.P.
19 budget of approximately \$367 million which is an
20 increase of approximately \$129 million from the
21 effective utility programs.

22 The draft order directs utilities,
23 staff and other stakeholders to continue to address
24 the standardization of certain aspects of the utility
25 programs, the identification of low-income customers

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2 through data sharing and file matching, the
3 stratification of low-income customers into
4 additional tiers or usage groups to enhance bill
5 discounts, and the identification of low-income
6 customers with the highest energy usage for
7 participation in energy efficiency programs.

8 While this draft order represents an
9 important and impactful step, more work will be
10 required to improve the E.A.P. as well as to address
11 targeted relief to those customers financially
12 impacted by the COVID-19 pandemic.

13 As a way of background, on May 20th,
14 2016 the commission issued an order adopting an
15 E.A.P. that set a target energy burden at or below 6%
16 of household income for all low-income households in
17 New York State. To advance this goal, new low-income
18 bill discount programs were established for each of
19 the major investor owned electric and gas
20 distribution utilities. The commission also set out
21 to standardize the utility energy affordability
22 program statewide to reflect best practices where
23 appropriate and streamline low-income issues in rate
24 cases.

25 The commission acknowledged that in

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2 order to reach the target 6% energy burden goal, it
3 would be necessary to coordinate with state agencies
4 to identify low-income customers and leverage
5 resources at the state's disposal including energy
6 efficiency measures and access to clean energy to
7 provide lasting bill affordability for low-income
8 customers.

9 At the January 2020 commission session
10 staff of the Department of Public Service was asked
11 by the commission to revisit the E.A.P. to determine
12 if there were opportunities to make improvements.
13 Staff was to consider potential modifications and
14 improvements based on the operation of the programs
15 and the experience of various stakeholders. On
16 January 31st, 2020 the City of New York filed a
17 petition in part to address concerns that had been
18 raised since the E.A.P.'s implementation.

19 Beginning in March 2020 the COVID-19
20 pandemic considerably affected public health and
21 subsequently caused significant economic turmoil for
22 many New Yorkers. On May 14th, 2020 the Public
23 Utility Law Project of New York or PULP filed a
24 petition seeking relief for low-income households
25 impacted by the COVID-19 pandemic. On June 11th,

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2 2020 the commission commenced a proceeding to
3 identify and address the economic impacts of the
4 COVID-19 pandemic on the state's utilities.

5 In its E.A.P. reexamination staff
6 reviewed and evaluated the existing bill discount
7 methodology including the City of New York's petition
8 regarding data used in the calculations, the file
9 matching systems, identification and enrollment
10 expansion including self-certification, the treatment
11 of low-income levels and Home Energy Assistance
12 Program or HEAP benefits, the E.A.P. program budget
13 cap, modifications to utility reporting requirements,
14 levelized budget billing programs, the application of
15 deferred payment agreements and late payment fees,
16 the establishment of arrears management and arrears
17 forgiveness programs. And improved coordination with
18 energy efficiency and clean energy programs for low-
19 income customers.

20 On February 4th, 2021 staff issued a
21 white paper on the status of the E.A.P. Staff
22 provided a total of 24 recommendations for commission
23 consideration to modify the E.A.P. and provide
24 specific COVID-19 relief to customers. Staff
25 recommended continued work to better realize

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2 statewide standardization of these utility programs
3 to the maximum extent possible. At that time, staff
4 estimated that implementation of its recommendations
5 would result in an annual increase in the statewide
6 E.A.P. program budget of approximately \$75 million.

7 Interested entities and the public
8 were invited to a virtual technical conference held
9 on March 5th, 2021 and all were provided an
10 opportunity to comment on the white paper. Comments
11 were submitted by advanced energy companies, American
12 Association of Retired Persons, Citizens for Local
13 Power, The City of New York, Energy Efficiency for
14 all New York, the Joint Utilities, New York Energy
15 Democracy Alliance, PULP, PSEG Long Island, SUEZ
16 Water New York and the Utility Intervention Unit of
17 the New York State Department Division of Consumer
18 Protection.

19 Most comments received were supportive
20 of staff's white paper recommendations. Some
21 comments urged the commission to provide expedited
22 relief to low-income customers especially because of
23 the economic conditions induced by the COVID-19
24 pandemic. Others stressed that near term
25 modifications to the bill discount calculations

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2 should be done with consideration to administrative
3 ease, simplicity, transparency and other
4 modifications that require further study and analysis
5 be rejected or deferred.

6 Now turning to the draft order before
7 you today. The draft order addresses white paper
8 recommendations 1 through 17 and 22 through 24.
9 Staff plans to prepare in -- staff plans to prepare
10 an item in consideration that addresses white paper
11 recommendations 18 through 21 which are focused on
12 COVID-19 relief in the near future. Overall staff
13 recommends changes to the E.A.P. that will provide
14 immediate relief to low-income customers by among
15 other things, increasing the number of customers
16 enrolled in the utility low-income assistance
17 programs and increasing many of the bill discount
18 levels.

19 Next I will provide an overview of the
20 major recommendations included in the draft order.
21 The draft order directs staff to establish a
22 stakeholder E.A.P. working group to engage all
23 stakeholders in the advisement of improving the
24 E.A.P. The draft order recommends the E.A.P. working
25 group develop a list of priorities and objectives and

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2 file status reports and recommendation for commission
3 consideration.

4 The draft order directs the joint
5 utilities to establish a uniform statewide customer
6 self-certification process to facilitate
7 participation in utility affordability programs and
8 enroll utility customers who can provide
9 documentation of proof of their enrollment in public
10 assistance programs associated with the federal
11 lifeline program. Self-certification, however, is an
12 interim measure to expand enrollment and limit
13 enrollment delays. The goal is to have a more
14 comprehensive automated file matching system that
15 affirmatively identifies eligible low-income
16 customers using a broader list of programs which
17 would increase efficiency, standardization and verify
18 utility bill discount program eligibility.

19 The draft order also adopts
20 improvements to the bill discount calculation
21 methodology including, one, income for each discount
22 tier be set at the midpoint level. Two, the renter
23 HEAP benefit be reflected in the development of tier
24 one non-heat electric and non-heat gas bill
25 discounts. And, three, the average low-income bill

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2 be developed using an historical monthly average of
3 commodity costs and a forecast delivery cost. There
4 is wide support for these changes as they will better
5 reflect the actual income HEAP benefits and average
6 bills of low-income customers during the program
7 year.

8 The draft order directs the joint
9 utilities to develop and file specific studies so
10 that the E.A.P. working group can explore the
11 possibility of developing more tailored bill
12 discounts. Staff understands that further
13 stratification will take additional time to analyze
14 and likely need further information technology
15 investments to implement. But an analysis is the
16 first step needed to determine if resources should be
17 dedicated to developing more tailored bill discounts.

18 Due to the need to provide relief to
19 low-income customers, the draft order directs the
20 joint utilities to file bill discounts and tariff
21 changes to become effective on September 1st, 2021.
22 As a short term COVID-19 relief measure, the draft
23 order directs that bill discounts be set to no less
24 than the current bill discount amounts through
25 November 30th, 2022 or approximately one and a half

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2 years after the expiration of the COVID-19 state of
3 emergency which ended June 25th, 2021.

4 Freezing discount levels is an
5 estimated \$25 million statewide benefit for low-
6 income customers recommended to limit the financial
7 strain caused by the COVID-19 pandemic. In an effort
8 to promote efficient program oversight, the draft
9 order adopts the recommendation to standardize the
10 annual filing of energy affordability updates to
11 November 1st. In light of timing considerations
12 identified by the joint utilities, with respect to
13 the receipt of HEAP budget information from the
14 Office of Temporary and Disability Assistance or
15 O.T.D.A., revised discounts are recommended to become
16 effective on December 1st which would provide
17 stakeholders 30 days to review proposed changes.

18 As previously discussed, bill
19 discounts would not be reduced through November 30th,
20 2022 as a COVID relief measure. The draft order
21 directs the utilities to begin the annual cycle of
22 filing E.A.P. tariff statement modifications and
23 associated work papers on November 1st, 2022 to
24 become effective December 1st, 2022. The draft order
25 also adopts the recommendation that a utilities'

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2 energy affordability bill discounts be updated
3 whenever the utility files tariff compliance for a
4 new rate plan to protect low-income customers.

5 The draft order further requires the
6 joint utilities to report on the number of high-use,
7 low-income customers that were referred to NYSERDA
8 for energy efficiency services or provided energy
9 efficiency services directly by the utility. This
10 reporting is intended to ensure that high-usage, low-
11 income customers are afforded the opportunity to
12 reduce their load resulting in more permanent energy
13 cost savings.

14 In conclusion, the commission's E.A.P.
15 depends on cooperation and coordination among the
16 utilities, O.T.D.A., staff and other stakeholders.
17 Staff strongly believes that further E.A.P.
18 improvements can be developed with increased
19 involvement from interested stakeholders through the
20 E.A.P. working group. Recommended modifications to
21 the bill discount methodology will increase the
22 statewide annual energy affordability program budget
23 by approximately \$129 million and as a short term
24 COVID-19 relief provision, bill discount levels will
25 not be reduced through November 30th, 2022.

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2 To provide low-income customer relief
3 as swiftly as possible, the draft order directs the
4 joint utilities to update their respective E.A.P.
5 bill discounts by September 1st, 2021. The actions
6 taken in this draft order will provide for greater
7 uniformity of the E.A.P. statewide through
8 standardized practices and will facilitate the ease
9 of enrollment and customer participation to move us
10 further toward achieving the commission's 6% energy
11 burden goal.

12 However, I reiterate, while this draft
13 order represents an important and impactful step,
14 more work will be required to develop improvements to
15 the E.A.P. as well as provide targeted relief to
16 those customers financially impacted by the COVID-19
17 pandemic. Staff plans to come back to the commission
18 with COVID-19 related recommendations in the near
19 future. Staff's next steps are to establish the
20 E.A.P. working group and host stakeholder meetings to
21 develop options to address customers' COVID-19
22 arrearages.

23 This concludes my presentation and
24 Bruce Alch, Tom Dwyer and I are available for any
25 questions.

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2 CHAIRMAN HOWARD: Thank you, Aric.

3 Quick question. With this increase in funding
4 levels, how many more New Yorkers will be -- what's
5 your estimate on how many more New Yorkers will be
6 able to participate in the E.A.P. program?

7 MR. RIDER: So, Chair, that's --
8 that's a difficult question to ask or answer. Right
9 now we know that there are about 2.3 million
10 households, low-income households. We also know that
11 in 2016 there were about 770,000 low-income
12 households that were served by the utilities E.A.P.
13 And when staff filed its -- its white paper that
14 number has risen to 923,000.

15 And -- and as of today we're over a
16 million, so I think we're going in the right
17 direction but -- but customers, low-income customers
18 actually have to take proactive steps to either get
19 assistance through their local D.S.S. offices or if
20 they do have paper work showing that they are
21 enrolled in assistance programs, they have to go to
22 the utility and enroll -- have them enrolled into the
23 utilities low-income program. So it's -- because of
24 that it's hard to tell how many more customers will
25 be enrolled in the program.

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2 CHAIRMAN HOWARD: But it's safe to say
3 it could be in the tens of thousands?

4 MR. RIDER: That's correct.

5 CHAIRMAN HOWARD: Thank you. The fact
6 that we have at this point in time reflects I think
7 two countervailing concepts. The need that we know
8 that millions, millions of New York customers are
9 having a very difficult time paying not only their
10 energy bills but bills at large, rent and a variety
11 of other must pay bills. And I do really appreciate
12 our work here at the commission and staff's work of
13 forcing the hand of the various agencies and
14 providers of income and related assistance to New
15 York -- to low-income New Yorkers to improve their
16 lives and take away a great deal of anxiety. They
17 exist every day for people who can't pay their bills.

18 However, I'd be remiss to say it's
19 still very difficult to access programs at large in
20 the State of New York. I am very hopeful and would
21 hope to instruct staff that refining that as best as
22 humanly possible on our end, knowing full well that
23 we don't drive the car in most of this -- most of
24 these instances. But I know that we will be maybe a
25 leader in moving this entire system in the right

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2 direction.

3 But, again, I think the thing would be
4 the uncertainty and the anxiety that currently exists
5 with many low-income New Yorkers is absolutely
6 unacceptable. And quite honestly unnecessary. So to
7 that end I do commend you and really look forward to
8 accelerating our discussions with other stakeholders
9 and -- and moving this to a more permanent solution.

10 And -- and also that the concept it
11 doesn't -- shouldn't matter where you live in the
12 State of New York, what service territory you're in
13 that but the benefits should be the same, you know,
14 from Buffalo to Babylon. And I think that this goes
15 a long way into doing that and making universality a
16 better concept. And with that I'll turn it over to
17 Commissioner Burman.

18 COMMISSIONER BURMAN: Thank you.
19 Thank you so much for your presentation. The need is
20 great and through our energy affordability policy and
21 COVID relief programs, we are trying to increase and
22 stretch the dollars we have to more people who are
23 unfortunately financially impacted. However, at the
24 same time, we are sensitive, as we should be, to cost
25 control as we are mindful of the impact on other

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2 ratepayers who bear the burden of paying to ensure
3 the continued maintenance of such energy
4 affordability focus.

5 It is important we provide concrete
6 proof on the effectiveness of the dollars spent for
7 such energy affordability efforts and that we are
8 focused on continuous improvement opportunities like
9 we are in this order. I am pleased with what I think
10 has been a very diligent and robust process to truly
11 try to make positive changes to the energy
12 affordability policy. It is clear to me that staff
13 at utilities OTDA, and D.P.S. have the tools to keep
14 working together under the guidance of the policy and
15 as such in doing keep honing the implementation in a
16 way that will reach more vulnerable people.

17 However, it is likely in our reaching
18 too many more deserving people this will require
19 better information sharing than we are currently
20 getting from OTDA. Now that is not necessarily the
21 fault of OTDA but OTDA must prioritize fixing this.
22 We need to figure out the perceived hurdles and find
23 solutions to such data sharing hurdles and we need to
24 do it now. Taking the time to solve the need for
25 better information sharing will lead to more success

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2 in the goals of the energy affordability policy.

3 This order also lays out the need for
4 us to prepare for the next phase of the E.A.P.
5 proceeding. I do see that addressing the COVID-19
6 customer arrears component is likely to be extremely
7 challenging. We may actually need to get under the
8 hood on the federal funds that are going first
9 directly at OTDA and then minus the monies given to
10 OTDA for administrative overhead supposed to flow to
11 the relevant deserving clients.

12 We may be able to already look at
13 lessons learned on corrective process improvements we
14 can make from such things as the ongoing efforts with
15 the billion of -- billions of dollars in federal
16 funds that are go -- that are to go to renters and
17 landlords. The goal should be to take stock of
18 tightening up the process improvements to ensure we
19 are as appropriate helping to disperse monies that
20 may be available shortly to address residential and
21 small business utility obligations.

22 It may be frankly we need to think
23 outside of the box. And instead of waiting for OTDA
24 to hand out the monies, we with proper guardrails get
25 the monies to the utilities to disperse more

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2 directly. OTDA's administrative overhead funding may
3 be able to be used and shifted if others like D.P.S.
4 and other utilities actually incur that overhead.
5 The goal to me should be to ensure the funds move
6 seamlessly and we show the effectiveness of the funds
7 being put to use and the direct positive impact on
8 people.

9 In sum, I will be supporting this
10 order. It shows due diligence on trying to achieve
11 proper changes to our energy affordability policy
12 with maximum benefit at minimum cost with focus on
13 ensuring effectiveness on energy affordability
14 programs. Moreover, it lays out a framework for next
15 steps which we all recognize will be extremely
16 challenging especially as we face the economic
17 realities on the other side of the COVID pandemic.

18 I am mindful that we are taking an
19 important step here but our work is not done. I
20 expect as a commissioner to be kept abreast in real
21 time on these issues and the ongoing work with staff,
22 OTDA, utilities and the E.A.P. working group. Thank
23 you.

24 CHAIRMAN HOWARD: Thank you.

25 Commissioner Alesi.

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2 COMMISSIONER ALESI: Thank you, Mr.
3 Chairman. This will give us an opportunity to modify
4 calculation methods to increase discounts, to adjust
5 the budget cap to standardize the process, to better
6 identify low-income customers and an opportunity to
7 view all of this with the effects of COVID and how
8 that will work into the effort which I believe is
9 going to happen in the very near future as we
10 continue on. I'll be supporting it.

11 CHAIRMAN HOWARD: Thank you.
12 Commissioner Edwards.

13 COMMISSIONER EDWARDS: Yes, thank you.
14 Just a couple questions and then a comment. The
15 numbers that you went over 700,000 up to 900,000 but
16 then there was a 2.3 million. So are we saying that
17 there's still a million people that are not included
18 in the low-income program? Or did I misunderstand
19 you?

20 MR. RIDER: The -- as the total
21 population, yes. I would note though that not all
22 low-income customers apply for benefits and -- and
23 there's some other -- there's municipalities that --
24 that don't have an E.A.P. program so there's --
25 there's definitely more customers to be reached there

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2 for sure.

3 COMMISSIONER EDWARDS: Okay. And then
4 of the E.A.P. programs that we know of is there a
5 municipality or a county, a city that has a better
6 qualification certification process that we know of
7 that we could share with other municipalities?

8 MR. RIDER: So there are two matching
9 systems currently effective. One is used by the City
10 of New York, H.R.A. That system, that methodology
11 matches more programs for low-income customers. The
12 other process that's used is a process that -- for
13 upstate utilities, and that process only matches the
14 HEAP program. So I believe that if there was a
15 process more like the H.R.A. matching system deployed
16 statewide there may be an opportunity to enroll
17 additional customers into the program.

18 COMMISSIONER EDWARDS: Okay. Great.
19 Thank you. And lastly, I want to thank the staff
20 especially for putting together the stakeholder
21 meeting and working group. I think it's great if we
22 get all of the stakeholders involved to see the kind
23 of recommendations that -- that they had and list of
24 priorities. I would ask if you could just ensure, I
25 know that you are, that communication and outreach is

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2 one of those priorities, because that -- until we get
3 systems in better shape we're going to really need as
4 much help as we can to communicate on an outward
5 basis to all the consumers to let them know about all
6 these programs that they are following.

7 So if you could just add that to your
8 lists if it's not already there I would appreciate
9 it. And I want to thank you for putting this
10 together. The immediate relief is necessary. We
11 need to move fast on this and the need out there is
12 actually growing. Thank you.

13 CHAIRMAN HOWARD: Thank you.
14 Commissioner Valesky.

15 COMMISSIONER VALESKY: Thank you, Mr.
16 Chair. I would just -- Aric, certainly thank you and
17 -- and your team for continued great work. Just from
18 a -- a historical perspective you all know this, this
19 is a program I think that was established by this
20 commission five years ago now in -- in 2016. It was
21 an important program at that time but it has
22 continually had need to be improved. And the white
23 paper that -- that you and many of your colleagues
24 developed was a -- a key milestone in -- in the -- in
25 the continued development of the effectiveness of

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2 this program.

3 And -- and I'm pleased to see here on
4 -- on only my second session as a -- as a new
5 commissioner, many of these recommendations from the
6 white paper are included and are before us here
7 today. And I know as you indicated, Aric, the
8 remaining items will likely be before us sooner
9 rather than later I would think. So, again, thanks,
10 congratulations for your work. There's a lot more
11 work to be done, no question.

12 But just echo Commissioner Edward's
13 comment about the working group. I think it's really
14 important, it's always important to get feedback from
15 those who are benefiting from programs whatever they
16 might be. So look forward to the -- the quick
17 establishment of that group and -- and the
18 stakeholder meetings that will -- that will follow
19 soon thereafter. Thank you very much.

20 CHAIRMAN HOWARD: Thank you,
21 Commissioner. Commissioner Maggiore.

22 COMMISSIONER MAGGIORE: Thank you.
23 Actually had a question but your response has
24 answered it. But I would like to join with my
25 colleagues. Everything that's been said I agree

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2 with. I would especially like to reinforce what
3 Chair Howard's comments, the sentiments that he
4 expressed I agree with him. And just want to be on
5 the record supporting that. But also want to thank
6 you for your excellent work. You know, I'm impressed
7 that in the five years of this program's existence
8 every passing year has reached thousands more New
9 Yorkers. And there's -- as you just said, there's
10 thousands more to work. So I -- I view this -- this
11 case as moving the ball down the field. So thank you
12 very much for your work and I look forward to
13 continued progress.

14 CHAIRMAN HOWARD: Thank you.
15 Commissioner Christian.

16 COMMISSIONER CHRISTIAN: Thank you,
17 Chair. Want to thank you for putting together a
18 great proposal. What I see before me is going to be
19 sorely needed by many New Yorkers who have been
20 affected by COVID. The -- the targeted relief
21 offered to these customers cannot come at a more
22 needed time. What I like most about this order is
23 the timeliness, the -- the use of the data to -- that
24 it targets the way these incentives are going to be
25 put forward. And I also look forward to seeing how

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2 best to further refine both this and other programs
3 as we move forward. So I want to thank staff for
4 putting this together and I'll be voting in favor.

5 CHAIRMAN HOWARD: Thank you,
6 Commissioner. Now I'll call for a vote on this item.
7 I will be voting in favor of the recommendations to
8 modify the Energy Affordability Policy and provide
9 COVID-19 relief as discussed. Commissioner Burman,
10 how do you vote?

11 COMMISSIONER BURMAN: Yes.

12 CHAIRMAN HOWARD: Commissioner Edwards
13 or Alesi, pardon me?

14 COMMISSIONER EDWARDS: Yes. Support.

15 COMMISSIONER ALESI: Alesi votes yes.

16 COMMISSIONER EDWARDS: Edwards votes
17 yes.

18 CHAIRMAN HOWARD: Thank you.
19 Commissioner Maggiore?

20 COMMISSIONER MAGGIORE: Yes.

21 CHAIRMAN HOWARD: I'm sorry,
22 Commissioner Valesky?

23 COMMISSIONER VALESKY: Yes.

24 CHAIRMAN HOWARD: And Commissioner
25 Christian?

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2 COMMISSIONER CHRISTIAN: Yes.

3 CHAIRMAN HOWARD: Thank you. The item
4 is approved and the recommendations are adopted.

5 We'll now move to the consent agenda. Do any
6 commissioners wish to comment or recuse from voting
7 on any items on the consent agenda? We'll begin with
8 Commissioner Burman.

9 COMMISSIONER BURMAN: Thank you. I
10 have two items that I'd like to comment on. Item 264
11 and 265. I'm going to first comment on Item 265.
12 This is the Matter of Greenlight Networks pole
13 attachments in the service territory of RG&E and
14 Frontier. The safety violations identified in the
15 order to show cause issued on November 20th, 2020
16 indicated apparent numerous and systematic failures
17 by the named utilities and pole attachers.

18 I am supportive of today's order
19 adopting the terms of the joint settlement
20 agreements. However, I have two comments that I wish
21 to make. First, I think this is a good, substantive
22 settlement in that it prioritizes moving remediation
23 forward and requires Frontier and RG&E to conduct a
24 full pole audit and inspection of their respective
25 services territories and to remediate any safety

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2 issues identified by that process by December 2022.
3 To me this focus on safety and corrective follow-up
4 action to be taken if necessary after a diligent
5 audit and inspection is critical to my support for
6 this settlement.

7 Second, the order also provides \$7.5
8 million to expedite broadband expansion to those who
9 may need it most in this state. That is a laudable
10 focus. However, by itself it would not have been
11 enough to convince me this was a reasonable and
12 proper settlement. In general, in my humble opinion,
13 dollars set aside in a settlement should have a
14 direct linkage to those substantive matters under our
15 commission's jurisdiction. And such control and how
16 to spend the dollars should remain under the
17 oversight of the commission for proper
18 accountability.

19 The use of settlement dollars here
20 merits careful review and scrutiny as well as
21 tracking going forward. We have been consistently
22 working with the utilities and attachers under our
23 existing regulations and specifically the 2004 pole
24 attachment order on the proper handling of these
25 issues especially as we work through the challenges

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2 of broadband expansion.

3 Accordingly, there is an implicit
4 linkage with using these dollars to help expedite
5 broadband expansion and our jurisdictional role
6 working with the utilities and the pole attachers in
7 ensuring such attachments are done properly and
8 safely. I encourage staff to follow up with the New
9 York State broadband program office under Empire
10 State Development and enter into a proper agency to
11 agency M.O.U. with the B.P.O. to provide staff
12 awareness and monitoring of the dispersal of those
13 funds and include proper and adequate tracking and
14 mandatory reporting to our staff on any expenditures.

15 As a commissioner, I expect to be
16 updated on the status of that M.O.U. and how the
17 rollout of the funds are going which includes
18 information on tracking and reporting. Again, I will
19 be supporting this item.

20 Item 264 is in the matter of the
21 Utility Energy Registry. Here the order seeks to
22 modify the existing utility energy registry protocols
23 and adopt with modifications recommendations that
24 were in a December 2019 status report submitted by
25 NYSERDA but prepared by the Climate Action

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2 Associates, L.L.C. I will be voting in favor of this
3 item, but I must point out my strong reservations and
4 caution with this item.

5 It is important to understand the
6 historical underpinnings of the formation of the
7 utility energy registry. The U.E.R., as it's called,
8 is a database platform that was designed to provide
9 streamlined access to anonymous aggregated community
10 scale utility reported energy data. It was
11 established by the commission on Earth Day April
12 19th, 2018 in the order adopting the utility energy
13 registry and required utilities to develop and report
14 community energy use data to the U.E.R.

15 The P.S.C.'s order focused on two
16 areas. Privacy and data sets. On the privacy front,
17 the commission sought to balance data access with the
18 possible release of identifiable customer data. In
19 considering data sets, the goal was to reduce the
20 administrative burden of reporting while also
21 offering a range of information. The data set
22 identify -- included electricity, natural gas usage
23 data reported at the county level and other U.R. --
24 U.E.R. data sets included energy use data reported at
25 the city, town and village and zip code level.

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2 Data in the U.E. -- U.E.R. was
3 expressly to be used for several important purposes
4 such as planning, community choice aggregation
5 programs, developing community greenhouse gas
6 emission inventories and relating how certain energy
7 projects and policies may affect a particular
8 program. In a nutshell, the U.E.R. was supposed to
9 also assist third party developers in their market
10 research and it would make placement of distributed
11 resources more efficient particularly if the register
12 was combined with local building stock databases.

13 It would seem that implementing this
14 U.E.R. would allow ready access to information
15 regarding customer energy usage which would be vital
16 to the success of the U.E.R. At its core, the U.E.R.
17 was deemed an online platform to promote and
18 facilitate community based energy planning and energy
19 use awareness and engagement. Moreover from a
20 historical perspective, New York after the order
21 entered into a D.E. -- D. -- U.S. D.O.E. program also
22 with Maryland, Minnesota and D. -- and D.C. focused
23 on creating an integrated U.E.R. model that was
24 touted as going to be a model for all 50 states to
25 use.

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2 Now it was understood at the time of
3 that order that it was initial -- it was an initial
4 step. It was going to evolve and adjustments would
5 need to be made. It was also understood that that
6 was because it needed a lot of work. The order
7 directed D.P.S. staff and NYSERDA to convene a
8 stakeholder input process and file a report with the
9 commission regarding any changes that may need to be
10 made. That was all done and hence this order before
11 us today.

12 My problem today with this order is
13 similar to issues I have raised since the initial
14 order back in 2018 and after the report was filed and
15 in several other matters where we have discussed
16 D.E.R., community choice aggregation, data gathering
17 and privacy issues. I am worried that we, as a
18 state, are investing a ton of time and resources and
19 energy in developing competing protocols, competing
20 working groups and coming up -- coming up with ways
21 to try to gain insight into clean energy
22 opportunities for New Yorkers important as they are.

23 But we're not actually always moving
24 the ball forward in much of these endeavors and we're
25 creating a lot of work that maybe we can just take a

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2 pause and try to figure out what makes sense and what
3 doesn't. The U.E.R. is one such endeavor I'm
4 concerned about. I don't think it's lived up to its
5 expectations and I feel like we've kept trying to
6 keep it alive. Maybe I'm wrong. Maybe it can be.
7 But as I see it, the grand plan of all 50 states
8 using the New York U.E.R. blueprint seems to have
9 fallen flat despite press releases.

10 Climate Action Associate, L.L.C. who
11 prepared the NYSERDA report appears to be a software
12 technology and sustainability consulting firm that I
13 can't seem to find much current active information
14 on. And I worry that we're locking ourselves into
15 this concept of the U.E.R. and trying now to make it
16 work in a way that just may no longer be needed as
17 there are other better tools out there and already
18 ongoing working groups and others engaged in this
19 process.

20 Frankly, I'm not sure this tool is one
21 that is feasible for us to expend all these resources
22 or data reconfigurations and restructuring of the
23 U.E.R. And we may still just wind up having
24 something that no one really uses and doesn't add
25 much value but it's up there on the website like many

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2 things are.

3 Moreover, to the extent this is about
4 helping, providing more useful information for C.C.A.
5 programs. Frankly, we need to be more intellectually
6 honest and forthright on our statewide C.C.A.
7 programs and get under the hood of what we deem
8 successful and what we deem not so much and talk
9 openly about that and work through those challenges.

10 This order also implicitly will touch
11 upon in some future date and perhaps in some future
12 case number outside this U.E.R. relevant C.C.A.
13 metrics information that will impact the U.E.R.,
14 setting up now a subgroup on U.E. -- on C.C.A. within
15 the working group. I'm just afraid we're going down
16 that rabbit hole again that really always concerns
17 me. We need to ensure we have a more robust
18 discussion with the commission itself on the four
19 corners of the substantive issues we want and we're
20 concerned about before we send off into the ethers
21 this working group to go doing that.

22 However, why am I not voting no for
23 it? Because everyone that submitted stuff, not a lot
24 of people did, there was a lot of form letters from
25 municipalities, stakeholders supporting the NYSERDA

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2 setting up of the U.E.R. working group and they're
3 going to be in some fashion a part of that. In their
4 mind they think this is important and necessary. I
5 caution that NYSERDA is going to be running this not
6 because I don't think they're going to be doing a
7 good job, but I caution that they are the right ones
8 to administer the very thing that they're pushing and
9 advocating for, and I want to make sure that we're
10 looking at all of these programs, the C.C.A., the
11 U.E.R. in a way that's giving real factual
12 information.

13 And these municipalities that
14 submitted these form letters truly understand what it
15 is that they're actually asking for not just that
16 they get to be able to then get the dollars to be a
17 part of the climate smart communities and therefore
18 they need to be able to do this. I want to have
19 frank, open discussions on what they need and what
20 works for them. And what -- what may work and the
21 tools that are already there.

22 There are a number of inventories that
23 are already existing in New York that we can utilize
24 and work together on. The U.E.R. may be able to be a
25 part of that but in a vacuum I'm -- I'm just worried

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2 that we're trying too hard. I will be supporting
3 this in my long-winded way. I gave you an idea of
4 why I am concerned. And with that some information
5 for those who will be focused on in -- in the working
6 group. Thank you.

7 CHAIRMAN HOWARD: Thank you,
8 Commissioner.

9 Commissioner Alesi?

10 COMMISSIONER ALESI: Thank you, Mr.
11 Chairman. I will be supporting the consent agenda
12 with the exception of Number 265 I will ask to be
13 recused.

14 CHAIRMAN HOWARD: Thank you.
15 Commissioner Edwards?

16 COMMISSIONER EDWARDS: No comments.

17 CHAIRMAN HOWARD: Thank you.
18 Commissioner Valesky?

19 COMMISSIONER VALESKY: No comments.

20 CHAIRMAN HOWARD: Commissioner
21 Maggiore?

22 COMMISSIONER MAGGIORE: No comments.

23 CHAIRMAN HOWARD: And Commissioner
24 Christian?

25 COMMISSIONER CHRISTIAN: No comments.

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2 CHAIRMAN HOWARD: All right. With
3 that I will move to a vote. My vote is in favor of
4 the recommendations on the consent agenda.
5 Commissioner Burman, how do you vote?

6 COMMISSIONER BURMAN: I vote yes.

7 CHAIRMAN HOWARD: Commissioner Alesi?

8 COMMISSIONER ALESI: I vote yes with
9 the exception of Item 265 I ask to be recused on that
10 item. Thank you.

11 CHAIRMAN HOWARD: Thank you.
12 Commissioner Edwards?

13 COMMISSIONER EDWARDS: I vote yes.

14 CHAIRMAN HOWARD: Commissioner
15 Valesky?

16 COMMISSIONER VALESKY: Yes.

17 CHAIRMAN HOWARD: Commissioner
18 Maggiore?

19 COMMISSIONER MAGGIORE: I vote yes.

20 CHAIRMAN HOWARD: Commissioner
21 Christian?

22 COMMISSIONER CHRISTIAN: I vote yes.

23 CHAIRMAN HOWARD: Thank you. These
24 items are approved and the recommendations are
25 adopted. Secretary Phillips, is there anything else

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2 to come before us today?

3 SECRETARY PHILLIPS: There is nothing
4 further today.

5 CHAIRMAN HOWARD: Well, thank you.
6 With that I will call this session of the commission
7 to be adjourned.

8 (The proceeding concluded at 12:21
9 p.m.)

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2 STATE OF NEW YORK

3 I, ROBERT WURTZ, 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 80, 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 16th day of August, 2021.

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