

1 Monthly Meeting - 9-17-20

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4

5

6 MONTHLY MEETING OF THE

7 PUBLIC SERVICE COMMISSION

8 VIA WEBEX

9

10 Thursday, September 17, 2020

11 10:30 a.m. until 11:49 a.m.

12

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14

15 COMMISSIONERS:

16 JOHN B. RHODES, Chair

17 DIANE X. BURMAN

18 JAMES S. ALESI

19 TRACEY A. EDWARDS

20 JOHN B. HOWARD

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

3 CHAIR RHODES: This is John Rhodes,
4 Chair of the Public Service Commission, and I call
5 this session of the Public Service Commission to
6 order.

7 Secretary Phillips, are there any
8 changes to the final agenda?

9 SECRETARY PHILLIPS: There are no
10 changes to the final agenda.

11 CHAIR RHODES: Thank you very much.

12 Before we get started, and has -- as
13 has been our practice recently, I would like to note
14 our arrangements for the session today. In line with
15 the guidelines concerning social distancing and
16 minimizing large gatherings, and in light of
17 executive orders that suspended provisions of the
18 Open Meetings Law on an emergency basis, we are
19 conducting today's session remotely.

20 I'd like to remind those who are
21 participating by phone to please mute their lines
22 except when they are speaking. The public will have
23 the opportunity to listen to the session on the
24 Department's webcast page and we will also record and
25 transcribe the session, as has been our practice.

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2 These arrangements have been reviewed
3 by our general counsel, and he's found that these
4 meet the requirements of the executive orders and
5 also that they meet my own expectations of honoring
6 the intent of the Open Meetings Law to the extent --
7 maximum extent permitted by our duty to protect the
8 public health of New Yorkers.

9 And before we jump into the regular
10 agenda, just out of an abundance of good order, if I
11 could ask our commissioners to confirm that they are
12 on.

13 Commissioner Burman?

14 COMMISSIONER BURMAN: Here.

15 CHAIR RHODES: Great. Thank you.

16 Commissioner Alesi?

17 COMMISSIONER ALESI: I am here.

18 CHAIR RHODES: Great.

19 Commissioner Edwards?

20 COMMISSIONER EDWARDS: I'm here.

21 CHAIR RHODES: Great.

22 And Commissioner Howard?

23 COMMISSIONER HOWARD: I'm here, as

24 well.

25 CHAIR RHODES: Thank you very much.

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2 We are complete.

3 With that, let's go to the regular
4 agenda and to the first item for discussion. Item
5 301, case 15-E-0302, as it relates to the
6 supplemental generic environmental impact statement,
7 evaluating the renewable energy mandates of the
8 Climate Leadership and Community Protection Act,
9 presented by John Garvey, Utility Supervisor. Tom
10 Rienzo, Chief Clean Energy Programs, and Tom Dwyer,
11 Assistant Counsel, are available for questions.

12 John, please begin.

13 MR. GARVEY: Thank you, Chair.

14 Good morning, Commissioners.

15 Item 301 includes 3 draft documents.
16 The first is the Final Supplemental Generic
17 Environmental Impact Statement, or E.I.S., evaluating
18 the Climate Leadership and Community Protection Act
19 or C.L.C.P.A.

20 The second document is a resolution
21 accepting the Final Supplemental Generic E.I.S.

22 And the third document is a Notice of
23 Completion of Final Supplemental Generic E.I.S. The
24 E.I.S. was prepared pursuant to the requirements of
25 the State Environmental Quality Review Act, or SEQRA,

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2 in connection with the State potential procurement of
3 the incremental renewable resources needed to satisfy
4 the C.L.C.P.A.'s expanded clean energy mandates.

5 The C.L.C.P.A. increases the renewable
6 energy targets in the state from 50% to 70% by 2030,
7 increases the offshore wind procurement goal from
8 2,400 megawatts by 2030, to 9,000 megawatts by 2035,
9 and increases the distributed solar goal of 3,000
10 megawatts by 2023, to 6,000 megawatts by 2025.

11 SEQRA requires the Commission to
12 identify the potential environmental impacts of these
13 changes and the means available to minimize any that
14 are adverse.

15 The E.I.S. is not intended to evaluate
16 specific renewable resource projects and the
17 potential site-specific environmental impacts.
18 Rather, it identifies whether anticipated Commission
19 action or alternatives could pose unavoidable adverse
20 impacts at a generic level.

21 A Draft E.I.S. was prepared by
22 Department of Public Service Staff and the Commission
23 accepted it on June 12th, 2020 for comments.

24 A Notice of Completion and Notice of
25 Determination of Significance was subsequently issued

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2 by the Secretary on June 12th, 2020. A Notice of
3 Acceptance was also published in the Environmental
4 Notice Bulletin on June 24th, 2020. The minimum 30-
5 day public comment period provided for the Draft
6 E.I.S. ended on July 24th, 2020.

7 Subsequent to the Commission's
8 acceptance of the Draft E.I.S., D.P.S. Staff and
9 NYSERDA filed a White Paper with the Commission on
10 June 18th, 2020, which details recommendations on how
11 the accelerated and expanded renewable energy
12 procurement mandates of the C.L.C.P.A. could be
13 accomplished primarily through the modification of
14 the Clean Energy Standard Program to reflect the new
15 clean energy targets.

16 The White Paper does not propose a
17 particular generation facility or site, but rather,
18 provides the rationale and justification for
19 additional procurements of renewable resources
20 through various program modifications of the C.E.S.

21 In order for the Commission to take
22 substantive action on the C.L.C.P.A.'s expanded
23 renewable energy mandates, SEQRA requires that the
24 Commission identify the potential impacts of the
25 proposed changes and the means available to minimize

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2 any that are adverse.

3 To support the Commission's review of
4 these issues, Staff has prepared the Final E.I.S.,
5 which presents a comprehensive overview of the
6 potential impacts. It concludes that there are no
7 unavoidable adverse impacts that cannot be mitigated
8 through one or more regulatory mechanisms identified
9 in the report.

10 The required avoidance, minimization,
11 and mitigation of potential environment --
12 environmental impacts from future renewable energy
13 development, however, would occur on a project-
14 specific basis as part of the permitting process for
15 each project.

16 It further concludes that direct
17 benefits may result in the form of reductions in
18 greenhouse gas emissions, additional economic
19 development, workforce employment, the avoidance of
20 adverse health outcomes, and improve the transmission
21 and distribution network.

22 For example, the White Paper estimated
23 the development of renewable energy resources to meet
24 the 70 by 30 goal would avoid 11.8 million short tons
25 of carbon, which would equal approximately \$7.7

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2 billion in net carbon benefits over the lifetime of
3 the project. Factoring in reductions and other types
4 of air pollutants not quantified would further
5 increase the net benefit of these procurements.

6 Additional secondary benefits that may
7 result include further development of coastal
8 tourism, indirect jobs associated with construction
9 and operations, purchases of local products and
10 services, and new or increased tax payments by
11 employees and facilities.

12 Over 140 written comments were
13 received on the Draft E.I.S. While most comments
14 were supportive of the C.L.C.P.A.'s renewable energy
15 targets, some commenters had general concerns
16 regarding potential impacts on birds and bats, visual
17 resources, land use, health and safety, environmental
18 justice communities, and an economic impact.

19 Some commenters requested that the
20 Commission consider other energy alternatives not
21 currently eligible under the C.L.C.P.A., such as
22 nuclear energy and bio-gas. And others asked that
23 the E.I.S. expand its evaluation of potential impacts
24 from an increase in hydropower resources imported
25 into New York. Each of the comments are separately

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2 addressed in Appendix A of the Final E.I.S.

3 In addition, Appendix B includes
4 various changes that were made to the Draft E.I.S.,
5 to reflect the commenters' concerns and other issues,
6 including additional analysis of hydropower
7 resources, as well as updates of certain forecasts to
8 reflect the calculations in the White Paper that was
9 filed subsequent to the new -- the Draft E.I.S.

10 Accepting and filing the Final E.I.S.
11 is a necessary step in the SEQRA review process. The
12 draft resolution accepts as complete the Final E.I.S.
13 A Notice of Completion of the Final E.I.S. and the
14 Final E.I.S., itself, would then be issued and filed
15 by the secretary. And a Notice of Acceptance of
16 Final E.I.S. would be published in the Environmental
17 Notice Bulletin.

18 Thank you. Tom Rienzo, Tom Dwyer, and
19 I are available for questions.

20 CHAIR RHODES: Thank you. Thank you,
21 John.

22 This is John Rhodes. My own -- I'll
23 share my own comments on the actions. I think this
24 item is well done. I think it reaches clear
25 conclusions that are well grounded in the record.

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2 And it a -- and it affirms the satisfaction and then
3 some of the requirements regarding an assessment of
4 environmental impacts.

5

6 This is just one step, but it is
7 essential to moving ahead on the ambitious and
8 necessary renewable energy targets called for in the
9 C.L.C.P.A.

10 I am going to be in favor of this
11 item.

12 Commissioner Burman, any comments or
13 questions?

14 COMMISSIONER BURMAN: Thank you so
15 much. Can you hear me? Can you hear me?

16 CHAIR RHODES: I can.

17 COMMISSIONER BURMAN: Okay. Great.
18 Thank you.

19 So on June 12th, 2020, the New York
20 State Public Service Commission, in a four to one
21 vote, issued a Notice of Completion of a Draft
22 Supplemental Generic Environmental Impact Statement.
23 The Commission in its discretion did so and completed
24 and accepted this in connection with proposed actions
25 regarding the implementation of the renewable energy

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2 provisions of the Climate Leadership Community
3 Protection Act.

4 And then afterwards, a notice was
5 issued, inviting comments on the Draft S.G.E.I.S. and
6 they were received and, as Staff pointed out, we
7 received a lot of comments. At the time, the reason
8 that I voted no -- and I voted no without prejudice
9 on the Draft G.E.I.S. That's something I normally
10 would vote in favor of and I stated that the reason I
11 was voting no without prejudice -- and normally,
12 again, would vote in favor because it's a procedural
13 matter and helps to move things forward.

14 But I had concerns at that time
15 because the Draft G.E.I.S. was being done outside of
16 any specific proceeding and also ties directly to the
17 very important Climate Leadership and Community
18 Protection Act, which has a number of items that are
19 really important for us to review and to be engaged
20 in, including the Climate Action Council.

21 And so I was concerned that by
22 supporting the movement forward of that and doing so
23 in a vacuum, I was not comfortable voting on that
24 draft item because I thought we needed to
25 substantively get more under the hood on what was

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2 going on and how things interrelated.

3 I am going to also be voting no, again
4 without prejudice. The thing that strikes me here is
5 that this document really is an important document.
6 And while it is a procedural matter that would move
7 things forward, and I recognize that accepting and
8 filing this Final S.G.E.I.S. is a necessary step in
9 the SEQRA review process, but I can't vote in favor
10 of this resolution that would accept it as complete
11 and a final -- complete and final. And the reason is
12 -- is because when I look at the comments, and I
13 think it's really important that people do, many
14 times, because they are procedural matters and it's
15 moving forward, I don't know that everyone is focused
16 on all the details in the document.

17 These documents, I think, really need
18 to be more carefully gone through. And in fact,
19 rather than just having a small order that references
20 the actual document, I do think a more detailed
21 drilling down of exactly what is in it is
22 appropriate.

23 And I say that because I really found
24 that the Appendix A, which has the responses to the
25 comments on the Draft Supplemental Generic

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2 Environmental Impact Statement are really worth us
3 taking the time as a group to review and go through.
4 And in fact, I think it's a really actually great
5 exercise in how it's done.

6 We have listed in here, not only the
7 commenter, but the comment letter and number of the
8 comment that it references in the document, and then
9 what the actual comment was, and then the response to
10 that. I would actually add another category, which
11 would be another column, which would be follow-up and
12 other proceedings this might relate to because I
13 think it would really help to showcase that we are
14 very carefully reviewing these, and also the
15 Commission as a whole is looking at and analyzing the
16 different aspects of that.

17 I point out that a number of things,
18 number of comments really struck me, including the
19 comments that I thought were thoughtfully done by
20 National Fuel, especially as to looking at the fact
21 that the S.G.E.I.S. didn't consider R.N.G., and
22 power-to-gas, and should be further supplemented with
23 analysis of the potential -- potential contributions
24 to the achievement of the Climate Leadership and
25 Community Protection Act.

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2 And while I recognize the response
3 says that it's outside the scope of the analysis,
4 really, these are the core issues that we
5 substantively need to be engaged in, especially as
6 the other entities such as the Climate Action Council
7 and various sub-committees and working groups will be
8 getting under the hood on these. And our -- our
9 engagement and discussion, I think, can be really
10 fruitful and helpful.

11 I also thought there were a lot of
12 great comments from Sierra Club, the Alliance for
13 Clean Energy, New York Offshore Wind Alliance, New
14 York Renews. Really, everybody had really -- you
15 know, really took the time to drill down on their
16 concerns and I found it really helpful.

17 To the extent that there are responses
18 to the specific comments written out in this way, I
19 think it also helps from giving more information to
20 the public in terms of not having to find it in the
21 document, itself, or search for it on their own.
22 They can really see exactly what the response is to a
23 specific comment and then there is a -- it tells you
24 exactly where that can be found in the document,
25 itself.

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2 Frankly, I think this is the way we
3 should be doing all of our orders when we do a
4 summary of comments and reference the comment section
5 or the page number that it is in the Draft Order
6 because I think it really helps folks to truly match
7 it up and make sure that nothing is left out, but
8 also helps people understand specifically.

9 The Law Office of Gary Abraham did
10 make a comment that I think is worth noting. He said
11 that, except for energy storage, all the Climate
12 Leadership and Community Protection Act targets would
13 increase intermittent renewables, and intermittent
14 renewable energy does not improve the grid's
15 reliability. Additional measures to ensure
16 reliability as a result of injecting intermittent
17 power into the system are required. These measures
18 are not required for non-intermittent nuclear hydro
19 power, or higher efficiency, low emission gas fired
20 power plants.

21 I think that comment is one that would
22 be helpful for us to really expand upon and make sure
23 that we're all sort of focused on the reliability
24 aspects in a way that would be helpful. Our response
25 does reference the New York Independent System

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2 Operator and ensuring the reliability of the full
3 power system and -- and does give some information on
4 that.

5 And I do think, though, that while it
6 may be outside of this particular document, it is
7 important for us to make sure that we are carefully
8 looking at that.

9 Some of the responses said, sort of,
10 you know -- many of the responses to the Law Office
11 of Gary Abraham said the policy issues triggered by
12 the C.L.C.P.A. are considered separately and are not
13 appropriate subject matters for the S.G.E.I.S. I
14 worry that folks that took the time to submit
15 diligent comments to us, that type of response is --
16 might be seen as not helpful or not necessarily
17 caring about their particular policy issues.

18 And so I do think that, for us as a
19 body, we need to be mindful of while it may be that
20 policy issues triggered by the C.P.L.C. are
21 considered separate and not appropriate, we do, in
22 the body itself, take liberties at, you know, putting
23 forth policies within the document, itself. So I can
24 see some commenters feeling that it is the proper
25 place for them to make comments on specific policy

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2 issues, especially when they read a document that is
3 couched full of policy issues.

4 MR. GARVEY: This is John Garvey. I
5 just want to add that we are ensuring that those
6 comments that address policy issues will be addressed
7 in the substantive order that -- that examines the
8 White Paper.

9 COMMISSIONER BURMAN: Thank you. I've
10 no doubt of that. I'm just highlighting I think
11 that's why it's important for us to really be
12 involved in that. And so thank you for that. Thank
13 you for sharing that. I think it would be helpful
14 for us also as a body to be giving some kind of
15 direction, or having at least a discussion on that,
16 rather than just leaving it to the Staff to put in a
17 White Paper that furthers that.

18 Folks took time to put in these
19 comments. Even if it's for us to talk about them and
20 then to make clear what the timeline is for those
21 appropriate policy comments and also give those
22 commenters the opportunity to not have to rewrite all
23 of their public comments that they might have taken
24 the time to do now, but rather to move it into
25 whatever other item, or excuse me, matter number is

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2 actually considering their very important policy
3 comments.

4 And that goes for all of the
5 commenters and, really, frankly, goes for figuring
6 out perhaps a better way so that people do not feel
7 that their comments that they took the time to write
8 were just given lip service. And even if we intend
9 to consider it, if they don't submit it in there, we
10 can only -- we can only vote on what is before the
11 record of that particular matter. So I think it's
12 important.

13 With that, thank you. I think Staff
14 did a good job in putting together a document, but I,
15 in good conscience, will be voting no without
16 prejudice. Thank you.

17 CHAIR RHODES: Thank you very much.
18 Commissioner Alesi, any comments or
19 questions?

20 COMMISSIONER ALESI: Yes. Just
21 briefly, Mr. Chairman. Thank you.

22 I think that this is going to help us
23 establish a reasonable approach as we pursue what I
24 think is a very worthy goal of meeting our
25 responsibility to improve our environmental health

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2 and our societal health, as well, in the near and in
3 the future. I will be voting yes.

4 CHAIR RHODES: Great. Thank you very
5 much.

6 Commissioner Edwards, any comments or
7 questions?

8 COMMISSIONER EDWARDS: I don't have
9 any questions. I just -- you know, a Supplemental
10 E.I.S. can always be submitted if the sponsor finds
11 that there's new information. If there's significant
12 adverse information that's not addressed, there can
13 be a supplement submitted. If there is any change in
14 circumstances that arise, a supplement can be
15 submitted.

16 You know, we should be following the
17 State Environmental Review Act documents. It's
18 important for us to check environmental circumstances
19 along the way. The lead agency has a requirement to
20 do that. So it is a necessary procedure; it's an
21 important procedure. And if there's new information
22 that comes to light, there can be another supplement.

23 So I will be voting in favor.

24 CHAIR RHODES: Terrific. Thank you.

25 And Commissioner Howard?

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2 COMMISSIONER HOWARD: Yes. First of
3 all, thank the Staff for a job well done and remind
4 folks, while this is a roadmap, real nitty gritty
5 questions are answered during the implementation,
6 particularly in siting generation assets and
7 transmission assets.

8 One of the concerns that I have that I
9 believe needs to be emphasized is the concern for
10 host communities, particularly in rural areas.

11 While the issues confronting many
12 urban communities, which we label environmental
13 justice communities are well-noted, I just want to
14 make sure that we ensure as this process goes
15 forward, that rural communities are treated
16 equitably.

17 Many of these communities, potential
18 host communities face the same issues of multi-
19 generational poverty, sub-standard housing, poor
20 health care options, and high unemployment. So
21 again, as we move forward, particularly in areas that
22 have not seen a large industrial development for
23 generations, previously, we keep these things in
24 mind.

25 One last comment I have is,

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2 particularly again, as we move forward with
3 implementation, community character is a real concern
4 in many host communities, particularly for large
5 scale renewables, and will need to be closely
6 evaluated during the future siting considerations.

7 With that, I will be voting yes.

8 CHAIR RHODES: Thank you very much.

9 So and we're now at the point where I
10 call for a vote. For the record, it's John Rhodes
11 and my vote is in favor of the recommendation to
12 accept and file the Final Supplemental Generic
13 Environmental Impact Statement as discussed.

14 Commissioner Burman, how do you vote?

15 COMMISSIONER BURMAN: No, without
16 prejudice.

17 CHAIR RHODES: Thank you.

18 Commissioner Alesi, how do you vote?

19 COMMISSIONER ALESI: I vote yes.

20 CHAIR RHODES: Thank you.

21 Commissioner Edwards, how do you vote?

22 COMMISSIONER EDWARDS: I vote yes.

23 CHAIR RHODES: Thank you.

24 Commissioner Howard, how do you vote?

25 COMMISSIONER HOWARD: Yes.

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2 CHAIR RHODES: Thank you.

3 The item is approved, and the
4 recommendation is adopted.

5 We will now move to the second item
6 for discussion. This is Item 302, Cases 18-E-0130 et
7 al, as they relate to proposals for new Dynamic Load
8 Management Programs presented by Robert Cully,
9 Utility Engineering Specialist 3. Bridget Woebbe,
10 Assistant Counsel, and Marco Padula, Director Office
11 of Markets and Innovation, are available for
12 questions.

13 Rob, please begin.

14 MR. CULLY: I'm sorry. I was on mute.
15 Good morning Chairman, Commissioners.

16 Before you is Item 302, a Draft Order
17 regarding plans for implementing new Dynamic Load
18 Management, or D.L.M., programs filed by Central
19 Hudson Gas and Electric Corporation, or Central
20 Hudson, Consolidated Edison Company of New York,
21 Inc., or Con Edison, New York State Electric and Gas
22 Corporation, or NYSEG, Niagara Mohawk Power
23 Corporation, doing business as National Grid, or
24 National Grid, Orange and Rockland Utilities Inc., or
25 O&R, and Rochester Gas and Electric Corporation, or

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2 RG&E, in Case 18-E-0130.

3 Collectively, Central Hudson, Con
4 Edison, NYSEG, RG&E -- NYSEG, National Grid, O&R, and
5 RG&E are referred to as the Joint Utilities.

6 Although several utilities proposed different titles,
7 for the sake of consistency, these new D.L.M. program
8 components will be known as the Term-D.L.M. and Auto-
9 D.L.M. programs.

10 This Draft Order also considers tariff
11 amendments related to these new programs filed --
12 filed by Con Edison and O&R in Cases 20-E-0112 and
13 20-E-0113, respectively. The plans filed by the
14 Joint Utilities and proposed tariff amendments filed
15 by Con Edison and O&R are, themselves, outgrowths
16 from the December 2018 order establishing energy
17 storage goal and deployment policy, or Storage Order,
18 which required each utility to hold a competitive
19 procurement for new D.L.M. program resources, which
20 would operate under a fixed incentive contract for a
21 minimum term of 3 years.

22 The Storage Order also provided other
23 requirements related to these new procurements.

24 These new programs to be operated alongside the
25 existing tariff-based utility level D.L.M. programs,

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2 specifically, the Commercial System Relief Program,
3 or C.S.R.P., the Distribution Load Relief Program, or
4 D.L.R.P., and the Direct Load Control Program, or
5 D.L.C. Program.

6 The new programs would include
7 penalties for non-performance. The procurements must
8 consider and provide rules for transitioning between
9 participating in the multi-year D.L.M. contracts and
10 participating in a Non-Wire Alternative, or N.W.A.,
11 project during the term of the D.L.M. contract.

12 Participation through sub-metering
13 would not be allowed and the new programs must be
14 compliant with the New York State Department of
15 Environmental Conservation's rules regarding air
16 emissions from generators used for demand response
17 programs contained in 6 N.Y.C.R.R. Part 222.

18 In addition, the Storage Order
19 required the utilities to establish a premium Auto-
20 D.L.M. resource category, which would provide greater
21 performance during events and would have more
22 stringent availability requirements.

23 The new programs required by the
24 Storage Order are intended to recognize the new
25 services and economic values that energy storage

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2 resources are capable of providing and in turn -- and
3 in return provide a stable and longer-term revenue
4 stream than the existing D.L.M. programs that should
5 be attractive for energy storage developers.

6 The Joint Utilities filed their
7 respective plans to procure resources beginning
8 participation in these programs for the 2021
9 capability period on January 29th of 2020. The plans
10 filed by the utilities were fairly consistent
11 statewide on a very high level; however, they did
12 contain several areas of variance. Each utility
13 proposed a 21-hour advance notice peak-shaving Term-
14 D.L.M. program. Each utility proposed a 10-minute
15 advance notice peak-shaving and reliability Auto-
16 D.L.M. program.

17 There were numerous areas of
18 differences between the various utility plans, which
19 will be discussed in greater detail later in this
20 presentation.

21 On March 6th, 2020, both Con Edison
22 and O&R filed proposed tariff amendments reflective
23 of their filed procurement plans.

24 Specifically, Con Edison and O&R made
25 changes to first restrict eligibility to participate

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2 in the C.S.R.P. and D.L.R.P.; second, changes to the
3 Value Stack related to coordination between the
4 distribution relief value and location-specific
5 release value from the Value Stack tariff and the new
6 D.L.M. programs.

7 Finally, the tariff filings effectuate
8 the recovery of Term-D.L.M. and Auto-D.L.M. program
9 costs using the same cost allocation and recovery
10 mechanisms as is currently used for the C.S.R.P.
11 cost.

12 Department of Public Service Staff, or
13 Staff, convened a technical conference to discuss the
14 Joint Utilities' filings on May 29th of 2020.
15 Comments were due on June 22nd of 2020. A total of
16 four groups submitted comments, Advanced Energy
17 Management Alliance and Advanced Energy Economy
18 Institute, collectively referred to as A.E.M.A.,
19 Blueprint Power, or Blueprint, Digital Energy Corp,
20 or Digital, and Multiple Intervenors. The Joint
21 Utilities submitted reply comments on June 13th,
22 2020.

23 I will now provide a summary of the
24 utility proposals, stakeholder comments, Joint
25 Utility reply, and Staff's recommendations reflected

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2 in the Draft Order by topic area.

3 Regarding procurement strategy,
4 Central Hudson and National Grid proposed to procure
5 Term-D.L.M. and Auto-D.L.M. resources, using a sealed
6 bid Uniform Clearing Price procurement. Con Edison,
7 O&R, NYSEG, and RG&E proposed to procure resources
8 using a pay-as-bid method. NYSEG and RG&E noted that
9 they would pay up to a maximum ceiling price to be
10 determined by the companies.

11 Stakeholders generally prefer a
12 Uniform Clearing Price methodology to be applied
13 consistently amongst the utilities.

14 The Draft Order explains that a
15 Uniform Clearing Price methodology is most
16 appropriate when, first, the procurement will be
17 responded to by a number -- a large number of
18 competitors, second, the procurement respondents are
19 bidding against each other to provide a service at
20 least cost, instead of bidding against an alternative
21 utility cost, and third, the product being procured
22 is well defined and every bid essentially includes
23 the same service.

24 In the case of these new Term-D.L.M.
25 and Auto-D.L.M. programs, none of these criteria are

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2 met. Therefore, Staff's recommendation is to require
3 procurement of all resources using a pay-as-bid
4 method.

5 Regarding the structure of incentive
6 payments made to participants, Con Edison and O&R
7 proposed a front-loaded payment, plus financial
8 assurance and early exit fees, whereas the other
9 utilities would make evenly split annual performance-
10 based payments with no financial assurance component
11 or early exit fees.

12 Stakeholders generally did not support
13 financial assurance, and favor a more even
14 distribution of incentive payments, instead of the
15 front-loading payments proposed by Con Edison and
16 O&R. The Draft Order before you implements a
17 consistent, evenly distributed set of incentive
18 payments consisting of a reservation payment and a
19 performance payment with the option for participants
20 to pay an early exit fee prior to beginning -- the
21 beginning of the summer capability period for
22 contracted load relief that they are unable to
23 provide.

24 A more even distribution of payments
25 and lack of significant upfront financial assurance

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2 obligations should be more favorable for development
3 and financing of energy storage resources.

4 The early exit fee structure allows
5 participants to modify their enrolled load relief
6 amounts prior to the beginning of the capability
7 period, providing maximum reliability for customers
8 and lessening non-performance penalties for
9 participants.

10 The Joint Utilities universally
11 proposed that the same customers may participate in
12 either the Term-D.L.M. program or the D.L. -- Auto-
13 D.L.M. program, but not both.

14 However, the utilities differed on
15 approaches regarding program availability and
16 coordination with the C.S.R.P. and D.L.R.P. National
17 Grid, NYSEG, and RG&E proposed to offer the Term-
18 D.L.M. and Auto-D.L.M. programs only in constrained
19 areas in their service territories. However, they
20 also proposed to allow such customers to
21 simultaneously participate in those utilities'
22 C.S.R.P.s.

23 Con Edison, O&R, and Central Hudson
24 proposed to offer the Term-D.L.M. and Auto-D.L.M.
25 programs throughout their service territories;

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2 however, customers of those utilities would not be
3 able to participate simultaneously in those
4 utilities' C.S.R.P.s or D.L.R.P.s.

5 Stakeholder comments generally relied
6 on unworkable solutions such as sub-metering to allow
7 simultaneous participation in the term and Auto-
8 D.L.M. programs, as well as the C.S.R.P. and D.L.R.P.

9 The Draft Order before you today
10 requires that the utilities procure Term-D.L.M.
11 resources throughout a utility's service territory,
12 and requires the utilities to procure Auto-D.L.M.
13 resources only for certain specified areas. However,
14 the utilities may procure Auto-D.L.M. resources in
15 all areas of their service territories, if they so
16 choose.

17 In addition, the Draft Order allows
18 customers to simultaneously participate in the Term-
19 D.L.M. program and the D.L.R.P. as the Term-D.L.M.
20 program provides peak shaving benefits distinct from
21 the reliability-based benefits provided from -- by
22 the D.L.R.P., but will not be able to participate in
23 the C.S.R.P.

24 Participants in the Auto-D.L.M.
25 program, however, will provide both peak shaving and

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2 reliability services and, therefore, will be
3 ineligible to participate in either the C.S.R.P. or
4 D.L.R.P.

5 Each of the utilities proposed to call
6 Auto-D.L.M. program events using a 10-minute advance
7 notice window. Stakeholders do not support the 10-
8 minute notification requirement, noting that the 10-
9 minute requirement does not allow for dual
10 participation and with certain day-ahead New York
11 Independent System Operator, or New York I.S.O.,
12 wholesale energy markets, potentially forcing
13 customers to choose whether to participate in the
14 Auto-D.L.M. program or the New York I.S.O. programs.

15 Stakeholders generally preferred a 90-
16 minute or 2-hour notification for the Auto-D.L.M.
17 program, similar to what is currently in effect for
18 the D.L.R.P. The Joint Utilities, in reply, note
19 that the 10-minute notice under the Auto-D.L.M.
20 program is intended to procure resources that can be
21 dispatched with little advance notice, could be
22 called upon to meet immediate system needs, and which
23 would warrant premium prices paid to participants.

24 The Draft Order before you accepts the
25 Joint Utilities' 10-minute advance window -- advance

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2 notice window for calling Auto-D.L.M. program events.
3 The 10-minute notice window will provide a much more
4 responsive demand response product that will be more
5 useful to utilities in responding to reliability
6 issues on their distribution systems, enabling the
7 utilities to address real-time overloads and
8 contingencies that require a very rapid, if not
9 immediate response.

10 This response will increase the value
11 that such resources provide to ratepayers, therefore
12 supporting the premium payment that would be provided
13 to participants. Storage resources are particularly
14 well-suited to providing these short-notice services.
15 And implementation of these new Auto-D.L.M. programs
16 should result in more experience for both the energy
17 storage market and utilities in providing and relying
18 on the new services energy storage resources can
19 provide.

20 While Con Edison and O&R have included
21 tariff amendments regarding cost allocation and
22 recovery in their procurement proposals, others have
23 not. In its filing, National Grid proposes to
24 recover Term-D.L.M. program and Auto-D.L.M. program
25 costs through its existing D.L.M. surcharge mechanism

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2 and to allocate costs to all delivery customers in
3 the same manner as the company's C.S.R.P. costs are
4 allocated.

5 In its comments, Multiple Intervenors
6 recommends that the Commission direct each of the
7 utilities to include, as part of their final
8 procurement documents, details about how costs would
9 be equitably allocated to and collected from
10 customers. Multiple Intervenors also notes that to
11 the extent that surcharges are utilized to recover
12 costs related to these procurements, such surcharges
13 should be assessed on a demand basis, at least for
14 classes with demand meters.

15 The Draft Order before you agrees with
16 Con Edison, O&R, National Grid, and Multiple
17 Intervenors' positions that the Term-D.L.M. and Auto-
18 D.L.M. program costs should be allocated and
19 recovered no differently than the way that the
20 tariffed D.L.M. program costs are recovered, which
21 already includes all of the features that Multiple
22 Intervenors described.

23 The Draft Order requires that the
24 utilities file tariff amendments to effectuate these
25 cost recovery mechanisms, as well as file additional

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2 tariff amendments required to detail the Term-D.L.M.
3 and Auto-D.L.M. programs within each utility's
4 tariff.

5 Since each of Con Edison and O&R's
6 proposed tariff amendments require further
7 modification to comply with the directives in the
8 Draft Order, Con Edison and O&R will be required to
9 further -- to file further revisions to such leaves
10 in compliance with this Draft Order.

11 Finally, the Draft Order before you
12 requires utilities to include information related to
13 the Term-D.L.M. and Auto-D.L.M. programs as part of
14 each of the utilities' D.L.M. program annual reports
15 filed on November 15th of each year.

16 The annual reports will include
17 information on operation of the Term-D.L.M. and Auto-
18 D.L.M. programs from the previous season, as well as
19 information regarding the effectiveness and process
20 of the procurement for the new Term-D.L.M. and Auto-
21 D.L.M. resources.

22 The reporting mechanism aligns with
23 the existing reporting requirements for the C.S.R.P.,
24 D.L.R.P., and D.L.C. program, and will ensure
25 effective operation and oversight of the Term-D.L.M.

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2 and Auto-D.L.M. programs, going forward.

3 Bridget Woebbe, Marco Padula, and I
4 are available to answer any questions you may have on
5 this item.

6 CHAIR RHODES: Thank you very much,
7 Rob.

8 This is a well-done item. Sometimes
9 our work is quite technical and detail-rich and, at
10 the same time, it's also a big deal. This is one of
11 those cases. On the technical detail aspect, I find
12 the work to be well-done, it's careful, it's
13 thorough, it's serious, and it arrives at workable
14 solutions. And that's all no small feat. And it's
15 well-supported by the record.

16 In terms of a big deal, this will
17 unlock storage and other flexibility resources into
18 use cases that are good for the system and,
19 critically, are also good for customers. This is a
20 careful and purposeful item and I'm going to support
21 it.

22 Commissioner Burman?

23 COMMISSIONER BURMAN: Thank you. Can
24 you hear me?

25 CHAIR RHODES: Yes, I can -- we can.

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2 COMMISSIONER BURMAN: Great.

3 CHAIR RHODES: Thank you.

4 COMMISSIONER BURMAN: Thanks. So I
5 just have a couple of things, comments, and also a
6 couple of questions.

7 I understand that this order sort of
8 arises out of the December 13th, 2018 order, which
9 established the energy storage goal and deployment
10 policy, and the Commission adopted many of the
11 recommendations which were contained in the New York
12 Public Service Commission State Energy Storage
13 Roadmap, which was released back in June of 2018.

14 As you may recall, the Energy Storage
15 Roadmap provided a comprehensive strategy to
16 encourage deployment of 1,500 megawatts of energy
17 storage by 2025, and 3,000 megawatts by 2030. And
18 broadly, the recommendations in their roadmap fell
19 into seven categories, retail rate actions, utility
20 programs, utility roles, business models, direct
21 procurement, market acceleration incentives, soft
22 cost reductions, clean peak actions, and wholesale
23 market actions.

24 I firmly believe that energy storage
25 will be a critical electric system component in

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2 maintaining reliability and enabling renewables to
3 provide the needed amount of penetration to reduce
4 greenhouse gas emissions and can help to satisfy the
5 State's Clean Energy Standard and State Energy Plan
6 targets.

7 The thing that I am struck with is,
8 when I go to the matter itself, that December 18th
9 order, at that time -- and again, I concurred in part
10 and dissented in part. At that time, there -- the
11 only three Commissioners who are current -- who --
12 only you -- myself, Commissioner Alesi, and Chair
13 Rhodes were part of that voting on that order.

14 But since December 2018, in the
15 proceeding, itself, there's been a lot of activity.
16 We started numerous technical conferences, formation
17 of a market design integration working group was set
18 up, NYSERDA filed many different filings, and there
19 was a D.P.S. energy storage deployment program
20 report. And there were notices that were issued for
21 comments, as well, and a letter regarding energy
22 storage market, acceleration bridge incentives
23 implementation plan, and the list goes on.

24 So it's a very active filing, very
25 active matter, but what strikes me is in --

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2 throughout this from 2018 through to today, there has
3 been no Commission activity as a body itself. And
4 this is a really important -- energy storage is
5 really, really important. And I do think that we
6 need to take a pause that for almost two years, while
7 this order is -- while this matter itself has been
8 very active, the Commission has not been engaged as a
9 body in review of these, even if it was a update -- a
10 public update or an internal update on the various
11 things and engagement on many of these matters.

12 And so I am concerned and that was one
13 of my concerns, which is why I dissented in part back
14 in 2018, about the need for us to -- as a body to be
15 engaged.

16 I do see that there was a letter
17 filed, announcing a tech conference on September
18 10th, 2020. I know that this is, you know, pursuant
19 to the Commission's order establishing the energy
20 storage goal and deployment policy and is a necessary
21 step in this process.

22 I'm wondering how -- what -- if Staff
23 can comment on this upcoming technical conference, as
24 well as, you know, when we will see others filing --
25 other filings from utilities on this?

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2 MS. WOEBBE: So this is Bridget
3 Woebbe. Commissioner Burman, we can certainly
4 respond to that. Before I give a response, I just
5 want to see if Marco Padula would like to take the
6 first shot at doing so?

7 COMMISSIONER BURMAN: Thank you.

8 MR. PADULA: Yeah. Sure. I
9 apologize; I was on mute. I did start.

10 COMMISSIONER BURMAN: Thanks.
11 Appreciate it.

12 MR. PADULA: Good afternoon -- good
13 morning, Commissioner Burman.

14 And I think one of the first documents
15 I would refer you to and the public is the annual
16 report that was submitted back in April. That gives
17 a very detailed update on all of the actions that you
18 summarized --

19 COMMISSIONER BURMAN: Yeah.

20 MR. PADULA: -- related to the -- to
21 the order, so -- and it is true, there are many
22 things happening and very positive ones for sure.

23 The tech conference that you refer to
24 next week is related to the utility procurements that
25 are happening as required by the Commission order and

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2 it's an update to get input from stakeholders
3 regarding the next procurement.

4 There was one procurement from all of
5 the utilities. R.F.P.s were submitted and responses
6 received and now this would be the next phase of
7 that. And the tech conference is really for
8 stakeholders to provide input and guidance to what --
9 what they -- what they felt could be changed or
10 modified, going forward. And that will be taken into
11 account by the utilities, moving forward.

12 COMMISSIONER BURMAN: Okay. Great.
13 Thank you.

14 The other thing is the Draft Order.
15 And I just want to make sure I understand this right.
16 The Draft Order, before us today, talks about that
17 the Joint Utilities -- and I'll just read the -- the
18 wording, the sentence. The Joint Utilities are
19 directed to consult with Staff prior to finalizing
20 which bids will be awarded and which bids will be
21 rejected to ensure that bids are awarded in a
22 reasonable fashion, consistent with the criteria and
23 waiting identified in solicitation documents.

24 I rather say I take pause on that.
25 I'm a little concerned about us engaging in being --

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2 having to be consulted by the Utilities on which bids
3 will be awarded and which bids will be rejected and
4 ensuring that bids are awarded in a reasonable
5 fashion.

6 I think we need to have some clear
7 guardrails here, not only for the, you know,
8 appearance of transparency and ensuring that we are
9 properly reviewing this. But I just wonder if you
10 want to comment a little bit about that, because I'm
11 just concerned and I'm flagging it because it could -
12 - it could be misinterpreted? And I just want to
13 make sure that we are not improperly weighing in on
14 their bid selection process. And have we ever done
15 that before?

16 MR. CULLY: Thank you, Commissioner.

17 COMMISSIONER BURMAN: Thanks.

18 MR. CULLY: Yeah. So we, fairly
19 regularly, consult with Utilities for things like
20 Non-Wire Alternatives, where they -- the Utilities
21 develop portfolios of alternative solutions from
22 various R.F.P. or other solicitation responses.

23 The -- the goal here is not to unduly
24 influence, you know, this process, but to make sure
25 that it's happening in a fair and transparent way,

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2 and that the -- that the criteria that the Utilities
3 publish in their procurement documents are being
4 followed to make sure that when the Utilities, you
5 know, file these procurement documents that the
6 market itself has confidence that it can, you know,
7 compete on those documents using the published
8 criteria, and that the Utilities are not deviating
9 from those when they -- when they -- when they
10 actually decide who -- who gets a bid award and who
11 does not.

12 So this really is -- is just an
13 oversight to -- an oversight action to make sure that
14 the Utilities are essentially playing by their own
15 rules with respect to awarding the participation in
16 these programs.

17 COMMISSIONER BURMAN: Have we ever
18 done this before, formally, like this?

19 MR. MYERS: Commissioner, this is
20 Warren Myers, Director of the Office of Regulatory
21 Economics. We most certainly have. Over many
22 decades that I've been here, we have ... the
23 guardrails in a lot of utility sales such as ...
24 proceedings.

25 COMMISSIONER BURMAN: That is not my

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2 question. Thank you.

3 My question is related to this order
4 says the Joint Utilities are directed to consult with
5 Staff prior to finalizing which bids will be awarded
6 and which bids will be rejected to ensure that bids
7 are awarded in a reasonable fashion consistent with
8 the criteria and weighting identified in the
9 solicitation of documents.

10 I just want to make sure that we, as
11 the Commission, fully embrace whatever the guardrails
12 are, whether or not they need to be increased or more
13 specifically laid out because this is us potentially,
14 you know, weighing in or being accused of weighing in
15 inappropriately.

16 And I want to make sure that I fully
17 understand what that means when we're directing them
18 to consult with Staff and to do it in a way that does
19 not have us essentially directing Staff to help pick
20 winners or losers, however well-intentioned it may
21 be.

22 MS. WOEBBE: Commissioner Burman, this
23 is Bridget Woebbe from Counsel's office, if I could
24 just respond before Marco perhaps would like to jump
25 in?

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2 The Commission has, in the past,
3 directed Staff and the Utilities to consult in
4 implementing the Commission-directed guidelines when
5 formulating implementation plans.

6 This would be somewhat similar to that
7 example where the Draft Order before you contains
8 some specific criteria and directs the Utilities to
9 further come up with bid evaluation criteria to
10 procure these resources competitively.

11 So the Staff role in this instance is
12 not necessarily to sit on the panel with the
13 Utilities evaluating the bids, but really to make
14 sure that the Utilities incorporate the appropriate
15 bid evaluation criteria in their procurements, not to
16 weigh in on the winners.

17 COMMISSIONER BURMAN: I personally
18 think that we need to have more clear written
19 guidelines and clear code of conduct on this because
20 I think this is a potential area that may -- without
21 those, I'm not comfortable having it in the order
22 itself.

23 And I know that we're having this
24 technical conference -- or excuse me -- that the
25 Utilities are having this technical conference, which

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2 is working with stakeholders, including D.P.S., in
3 ways to solicit input, you know, on this -- a lot of
4 these issues. I'm not sure why -- you know, there
5 are, just like -- I mean, we're not directing -- we
6 don't direct NYSERDA to consult with Staff before
7 their bidding process is finalized, either. And I
8 would hope that we have guardrails, not only there,
9 but also with NYPA in their energy storage.

10 So I just think it's an area I'm a
11 little uncomfortable with. I don't fully understand
12 the process that Staff is engaging in and I want to
13 make sure that we have the proper protocols in place
14 for my comfort level as a Commissioner. It's not any
15 -- you know, I don't -- I don't think that there's
16 anything untoward. I just think that written in this
17 way, it can -- it can be misinterpreted. And I just
18 want to be careful before I give -- delegate that
19 responsibility to, and direct the Utilities to work
20 with Staff on that because I want to make sure that
21 the bidding process and the procurement process is
22 one that is above reproach. So that's -- just on
23 that item.

24 I don't know if anyone has anything
25 else they want to say? I just raise it as it

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2 concerns me.

3 Okay. Hearing nothing, I'll go to my
4 notes. I'm sorry?

5 CHAIR RHODES: Commissioner Burman,
6 just on that, can -- can we -- let's ask Staff to
7 brief us, Commissioners, as these, you know, criteria
8 and guardrails and oversight issues become clear, so
9 that at least it's a well-informed delegation. If I
10 can make that offer?

11 COMMISSIONER BURMAN: Yeah, I think
12 that's -- I think that's fine. I think -- I mean,
13 again, I think this is just about better processes
14 and also making sure that we're very comfortable in
15 what we're directing people, the entities and Staff
16 to do. You know, there are a number of different
17 R.F.P.s and bids that go out from other various
18 entities that may come as a result of relevant orders
19 that we're doing.

20 So this -- I don't want this to become
21 the normal boilerplate wording in orders like this
22 because I think it really kind of muddies the water
23 and it may need some clarification on what we're
24 asking, specifically, and as clarification for the
25 public to see also, to feel comfortable in the

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2 appropriate procurement process. And the oversight
3 that we have really shouldn't be -- it should be done
4 in a way that we're blind to who the specific bidders
5 are.

6 If we're concerned about them
7 following the criteria, you know, that's sort of --
8 that's the stuff that, you know, we're involved in
9 from an oversight after the fact on that, on a number
10 of things, or other relevant auditing entities and
11 review entities.

12 So I just want to make clear because
13 that, to me, can -- can morph quickly if we're not
14 clear about what the boundaries are here. And, you
15 know, we do have oversight of the Utilities. I
16 raised the same issue, you know, way back, you know,
17 when I was the only Commissioner out of all us now on
18 the Commission as it related to REV demonstration
19 projects and, you know, my concern about picking
20 winners and losers and our oversight of that.

21 So I think it applies across the
22 board, but now seeing it -- this is the first time I
23 think I've seen this, maybe I missed it before. This
24 is the first time I seen it quite this way, written
25 in an order, and I -- I just pause. So I do

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2 appreciate and I look forward to engagement on this -
3 - that issue and I -- I think it's helpful. So thank
4 you.

5 Moving on to my other comment, it's a
6 comment really and then a question. We -- I
7 appreciated Multiple Intervenors' comments here. And
8 they -- they were really focused in -- I just lost my
9 place. I apologize. They were really focused on
10 emphasizing the importance of resolving outstanding
11 cost allocation and cost recovery issues in an
12 equitable and cost-based manner.

13 I don't think that we would disagree
14 with that. And when I read the order, one of the --
15 one of the comments that I really have is for
16 Multiple Intervenors for their recommendations here,
17 could Staff speak to what exactly we do disagree
18 with?

19 MR. CULLY: Sure. Commissioner, we
20 actually agree with Multiple Intervenors --

21 COMMISSIONER BURMAN: Right.

22 MR. CULLY: -- one hundred percent.
23 In fact, we had, several years ago at this point,
24 gone through this exercise of cost allocation and
25 recovery mechanisms for the C.S.R.P., D.L.R.P., and

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2 D.L.C. program and gone through and allocated those
3 costs to -- to service classes on a beneficiary's pay
4 principal basis, using the -- the closest ECOS
5 allocation factor -- I'm sorry -- embedded cost of
6 service study allocation factor available for the
7 benefits that those programs provide.

8 This order, in adopting those same
9 cost recovery mechanisms for the Term-D.L.M. and
10 Auto-D.L.M. programs does the exact same thing.
11 We're really trying to allocate these programs to
12 service classifications in -- in a way that the
13 customers that benefit most greatly from the programs
14 also pay for the programs -- pay for those benefits,
15 proportionally.

16 Similarly, we also adopt the cost
17 recovery mechanisms, which would recover the -- the
18 program costs on a demand basis for demand build
19 customers and on an energy basis for energy build
20 customers. These are all exactly what Multiple
21 Intervenors asked for.

22 COMMISSIONER BURMAN: Okay. Great.
23 Thank you.

24 And I just really wanted to clarify
25 that because that is how I read it. Maybe I'm just

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2 surprised because -- that we agreed a 100% with
3 Multiple Intervenors. And, you know, I do think that
4 we would all agree with Multiple Intervenors that
5 well-designed D.L.M. programs can benefit all
6 customers by modernize -- moderating electricity
7 costs, particularly during peak periods and helping
8 to maintain grid reliability.

9 So this Draft Order expressly stating
10 that we agree with M.I. and that we should resolve
11 cost allocation and cost recovery issues, really in
12 an adequate and equitable cost-based manner, is
13 appropriate. So I just wanted to make sure that that
14 -- my interpretation was correct. Does that make
15 sense?

16 MR. CULLY: Yes, Commissioner. We --
17 we definitely agree with that statement and -- and is
18 -- we think this Draft Order implements those fair
19 and equitable cost recovery and cost allocation
20 methods for these programs.

21 COMMISSIONER BURMAN: Okay. Great.
22 Thank you so much.

23 I do note that we -- we recognize here
24 that reliability of load relief procured through
25 these programs is paramount. We do recognize that --

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2 I think we need to recognize, also, though, that it
3 really is important for us to make sure that we are
4 actually not just sort of agreeing that yes,
5 reliability of a load relief procured through these
6 programs is paramount, but really engaging in an
7 active way, in real time on what this means from a
8 reliability perspective.

9 And, you know, I turn to a number of
10 the different most recent I.S.O. reports that I think
11 are really helpful for us to make sure that we have
12 engaged very directly on reviewing them and analyzing
13 them would be helpful. And I'd like to ask that, not
14 now, but at some point, myself and whoever else
15 wants, gets briefed on those most recent reports,
16 including the presentation that summarize the climate
17 change impacts phase two report and the 2020 R.M.A.
18 report because I think that they're really critical
19 that not only stakeholders review them and examine
20 them, but that we as Commissioners are properly
21 briefed on those two orders, in particular, and other
22 orders -- excuse me -- reports but -- so I'd like to
23 ask for that.

24 Okay. Hearing silence, I assume that
25 that's an agreement.

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2 CHAIR RHODES: It's okay. It's okay.

3 COMMISSIONER BURMAN: Thank you.

4 Really, I'm going to stop here. I had
5 some other comments, but I don't want to monopolize
6 the time. I think I really wanted to give credit to
7 Staff. I think this is -- you can tell -- I -- you
8 know, just how much work -- substantive work the
9 Staff has been doing and engaged with stakeholders.

10 I do take pause. I do try to follow
11 as much as I can all of the different filings and
12 notices that go out, as well as be involved as much
13 as I can in the technical conferences. However, it
14 does make me pause when we have a really important
15 substantive issue, that the Staff -- excuse me --
16 that the Commission itself as a body has not been
17 directly included in -- in a more formal way. And I
18 want to sort of try to figure that out at some point.

19 Being that as one of my primary
20 issues, as well as the issue with the -- the bid
21 engagement, I am going to concur in part and dissent
22 in part, which actually happens to be in line with my
23 vote on December 13th, 2018. And again, I want to
24 thank Staff. Thank you so much.

25 CHAIR RHODES: Thank you very much.

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2 Commissioner Alesi, any questions or
3 comments?

4 COMMISSIONER ALESI: Thank you, Mr.
5 Chairman.

6 Very comprehensive and detailed
7 report. I'm sure it's the result of much hard work
8 and diligence. The Staff has provided us with
9 valuable guidance on a concentrated issue. I think
10 we can envision a significant benefit to the system
11 in general, and end users as well. I'll be
12 supporting this.

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

15 COMMISSIONER EDWARDS: No questions.
16 Thank you.

17 CHAIR RHODES: Thank you.
18 And Commissioner Howard?

19 COMMISSIONER HOWARD: Just one brief
20 comment. This will be part of many, many orders and
21 issues that are going to come before this Commission
22 as we move to our new energy future, including
23 storage with renewables and a variety of other
24 technologies that we know of and soon to be
25 developed.

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2 The one thing I want to really praise
3 Staff on this order is that, ultimately, the impact,
4 the financial impact on customers' needs to be
5 paramount in making this transition, and that I
6 believe this order is in a line with that and would
7 hope that future orders, as we move through this
8 transition, will be equally -- will scrutinize the
9 issue of ratepayer impact ...

10 In that case, I will be voting yes.

11 CHAIR RHODES: Thank you very much.

12 With that, we are at the point where I
13 call for a vote. For the record, this is John Rhodes
14 and my vote is in favor of the recommendation to
15 establish the Term- and Auto-Dynamic Load Management
16 Program as discussed.

17 Commissioner Burman, how do you vote?

18 COMMISSIONER BURMAN: I concur in part
19 and dissent in part. Thank you.

20 CHAIR RHODES: Thank you.

21 Commissioner Alesi, how do you vote?

22 COMMISSIONER ALESI: I vote yes.

23 CHAIR RHODES: Thank you.

24 Commissioner Edwards, how do you vote?

25 COMMISSIONER EDWARDS: I vote yes.

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2 CHAIR RHODES: Thank you.

3 Commissioner Howard, how do you vote?

4 COMMISSIONER HOWARD: I will also be
5 voting yes.

6 CHAIR RHODES: Thank you.

7 The item is approved, and the
8 recommendation is adopted.

9 We will now move to the consent
10 agenda. Do any Commissioners wish to comment on or
11 recuse from voting on any items on the consent
12 agenda? For the record, it's John Rhodes and I have
13 no such items.

14 Commissioner Burman?

15 COMMISSIONER BURMAN: Thank you. I
16 have two items that I'll be speaking on. Concerning
17 Item 265, which is the ESCO Retail Energy Market
18 Access item, I have a few brief observations. I
19 don't plan to rehash in detail here the history of
20 ESCO and the Commission orders on this. My past
21 comments at prior Commission sessions on these
22 matters still stand.

23 These comments today are really about
24 looking forward. I believe that ESCOs continue to
25 play and should play a beneficial role in New York

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2 State. From my perspective, I would like to see the
3 Commission and Staff, on a going-forward basis,
4 expand their work in the ESCO area to integrate, on a
5 holistic basis, additional items not limited to, but
6 including Community Choice Aggregation Programs and
7 Distributed -- Distributed Energy Resources.

8 I also think that Staff, in the next
9 phase of these proceedings, should now turn to and
10 address issues surrounding ESCOs' development of
11 renewable gas products. Renewable energy products
12 are important, and it seems to me that the Draft
13 Order punts on these issues.

14 Turning to more general concerns, we
15 are going through a unique and challenging time with
16 the Coronavirus. I would suggest that in the ESCO
17 context, as we've done in similar other areas, we
18 examine the fiscal impact of COVID-19 on the many
19 energy customers and energy service companies. As
20 part of those concerns, I believe it is important for
21 Staff to address current data and analysis of ESCOs,
22 including whether there's been a change in which
23 companies still operate in New York and how we can
24 help with the economic recovery that benefits
25 consumers.

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2 We have an obligation to be focused on
3 recognizing the value that all of our energy folks,
4 players provide. That includes ESCOs. ESCOs can
5 play a role, not just for economic recovery, but to
6 meet our energy goals and provide value to customers.
7 We should recognize that and seek to move in a
8 positive direction with that.

9 In reviewing the Draft Order, I
10 believe that at times, it includes unnecessarily
11 prescriptive requirements with, perhaps without
12 meaning to, negative dismissive tone against the
13 industry -- ESCO industry as a whole. Going forward,
14 I'd like to see the Commission try to move forward in
15 a more positive direction and we should, when
16 appropriate, consider lifting requirements that are
17 now perhaps unnecessarily burdensome on the good
18 ESCOs that are there.

19 So in conclusion, I plan to vote no on
20 Item 265.

21 On Item 269, which is the item that's
22 addressing the continuation of the petition for
23 emergency relief to vulnerable utility customers
24 arising from the COVID-19 pandemic, I will be voting
25 yes on this item.

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2 I do note that this is very important.
3 The credit that was to be applied was from July
4 through October. We haven't gotten to the other side
5 of that yet. However, it is important for us to get
6 feedback on the status of the ongoing efforts with
7 that emergency relief, which also includes the
8 engagement with the City of New York, as well as Con
9 Ed, and looking to what was the success of the air
10 conditioning program, as well, and what were some of
11 the challenges and, most importantly, how did this
12 impact, negatively or positively, utility customers.

13 Thank you so much. I have no other
14 comments.

15 CHAIR RHODES: Thank you, Commissioner
16 Burman. And I -- and I do confirm that we will
17 absolutely be briefing. I will ask Staff to brief
18 all the Commissioners on the results and progress of
19 that -- give updates on that emergency relief topic.
20 So thank you very much.

21 Commissioner Alesi?

22 COMMISSIONER ALESI: I have no
23 comments.

24 CHAIR RHODES: Commissioner Edwards,
25 any items on the consent agenda?

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2 COMMISSIONER EDWARDS: Nothing for me.

3 Thank you.

4 CHAIR RHODES: Thank you very much.

5 And Commissioner Howard, any items on
6 the consent agenda?

7 COMMISSIONER HOWARD: I have just one
8 comment on Item 371, regarding the continued discount
9 program --.

10 CHAIR RHODES: I'm sorry. I cannot
11 hear you well. 271 or 371?

12 COMMISSIONER HOWARD: 371.

13 CHAIR RHODES: Thank you.

14 COMMISSIONER HOWARD: Regarding the
15 discount program for Nucor Steel as a New York State
16 Electric and Gas. I just think this -- this item
17 shows the irony of, despite our many efforts to move
18 our energy system forward, where we continue to need
19 major discounting large industrial facilities,
20 particularly those in dealing with basic
21 metalworking.

22 As we go forward, particularly in
23 regards to how we implement the climate legislation,
24 it's very, very important that we understand that
25 certain industries require a certain cost of energy

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2 in order to be competitive and stay in business. We
3 need to be diligent, going forward. And again, as we
4 continue to add other non-energy related costs to
5 consumers' bills, these issues will come back again
6 and again. I will be supporting.

7 CHAIR RHODES: Thank you.

8 With that, I will proceed to call for
9 a vote on the consent agenda. For the record, it's
10 John Rhodes. My own vote is in favor of the
11 recommendations on the consent agenda.

12 Commissioner Burman, acknowledging
13 your two comments, how do you vote?

14 COMMISSIONER BURMAN: I vote yes on
15 all items, except 265 is a no. Thank you.

16 CHAIR RHODES: Thank you very much.

17 Commissioner Alesi, how do you vote on
18 the consent agenda?

19 COMMISSIONER ALESI: I vote yes on the
20 entire consent agenda.

21 CHAIR RHODES: Thank you.

22 Commissioner Edwards, how do you vote
23 on the consent agenda?

24 COMMISSIONER EDWARDS: I vote yes.

25 CHAIR RHODES: And thank you.

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2 And Commissioner Howard, how do you
3 vote on the consent agenda?

4 COMMISSIONER HOWARD: I will also be
5 supporting all the items on the consent agenda, yes.

6 CHAIR RHODES: Thank you very much.

7 The items on the consent agenda are
8 approved and the recommendations are adopted.

9 Secretary Phillips, is there anything
10 further to come before us today?

11 SECRETARY PHILLIPS: There is nothing
12 further to come before you.

13 CHAIR RHODES: Thank you very much.

14 With that, we are adjourned. Thanks,
15 all. Please, everybody be safe.

16 (The meeting adjourned at 11:49 a.m.)

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2 STATE OF NEW YORK

3 I, TRACY WILLIAMS, do hereby certify that the foregoing
4 was reported by me, in the cause, at the time and place,
5 as stated in the caption hereto, at Page 1 hereof; that
6 the foregoing typewritten transcription consisting of
7 pages 1 through 61, is a true record of all proceedings
8 had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 23rd day of September, 2020.

11

12

13 TRACY WILLIAMS, Reporter

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