

1 9-9-2021 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5
6 Thursday, September 9, 2021

7 10:31 a.m. until 12:01 p.m.

8 ESP, Building 3, 19th Floor Boardroom

9 Albany, New York

10

11 COMMISSIONERS:

12 JOHN B. HOWARD, Chair

13 DIANE X. BURMAN

14 TRACEY A. EDWARDS

15 JAMES S. ALESİ

16 JOHN B. MAGGIORE

17 DAVID J. VALESKY

18 RORY M. CHRISTIAN

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2 (Commenced, 10:31 a.m.)

3 CHAIR HOWARD: For those running the
4 webcast, this is our ten-second warning. Good
5 morning. I call this session of the Public Service
6 Commission to order. Secretary Phillips, is there
7 any changes to the final agenda?

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

10 CHAIR HOWARD: Thank you very much.
11 Before moving to the agenda, I'd like to conduct a
12 roll call of the Commissioners. When I call your
13 name please confirm that you are with us.

14 Commissioner Diane Burman.

15 COMMISSIONER BURMAN: Here.

16 CHAIR HOWARD: Commissioner James
17 Alesi.

18 COMMISSIONER ALESI: Here.

19 CHAIR HOWARD: Commissioner Tracy
20 Edwards.

21 COMMISSIONER EDWARDS: I am here.

22 CHAIR HOWARD: Commissioner David
23 Valesky.

24 COMMISSIONER VALESKY: Here.

25 CHAIR HOWARD: Commissioner John

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2 Maggiore.

3 COMMISSIONER MAGGIORE: Here.

4 CHAIR HOWARD: Commissioner Rory

5 Christian.

6 COMMISSIONER CHRISTIAN: Here.

7 CHAIR HOWARD: Thank you very much.

8 For our first item of discussion today is Item 201,
9 Cases 14-M-0094 et al, as they relate to the Clean
10 Energy Fund review presented by Peggy Neville, Deputy
11 Director of Efficiency and Innovation, and David
12 Drexler our managing attorney will be available for
13 questions.

14 Peggy, will you please begin?

15 MS. NEVILLE: Good morning, Chair
16 Howard and commissioners. Today I will be presenting
17 Item 201, a draft order approving the Clean Energy
18 Fund with modifications.

19 The item before you represents the
20 outcome of an interim review of the Clean Energy
21 Fund, as called for in the 2016 order authorizing the
22 Clean Energy Fund framework, and response to specific
23 actions requested in a petition filed by the New York
24 State Energy Research and Development Authority, or
25 NYSERDA on December 29th, 2020.

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2 The 2016 framework order established
3 the Clean Energy Fund or C.E.F. as an umbrella
4 funding mechanism that covers the majority of
5 NYSERDA's post 2015 ratepayer supported initiatives
6 and expenditures. The C.E.F. umbrella covers four
7 active portfolios, which are 1) Market development,
8 2) Innovation and research, 3) New York Sun and 4)
9 New York Green Bank.

10 It also includes expenditures
11 associated with legacy portfolios such as the
12 renewable portfolio standard and the energy
13 efficiency portfolio standard for which financial
14 commitments had been made during their active program
15 periods, but for which expenditures have and will
16 continue to occur after 2015.

17 The C.E.F. framework order established
18 a suite of metrics and goals through 2025 for the
19 four C.E.F. portfolios to work in tandem to achieve.
20 These metrics include energy efficiency, megawatt
21 hour reductions, and M.M.B.T. reductions, installed
22 distributed renewable generation, greenhouse gas
23 emission reductions, leveraged funds and participant
24 bill savings.

25 The framework order also established

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2 various requirements for the operation of the C.E.F.
3 and associated processes and reporting requirements.

4 NYSERDA's petition presented
5 performance information through 2019, which was
6 subsequently updated through 2020, as well as
7 specific actions it sought from the Commission to
8 improve the operation of the C.E.F. and further align
9 it with evolving state energy policies, including the
10 Climate Leadership and Community Protection Act or
11 C.L.C.P.A.

12 Ten sets of initial comments and five
13 sets of reply comments were received on the petition.
14 No comments were received in opposition to NYSERDA's
15 petition, and commenters were generally supportive of
16 the C.E.F. and the petition.

17 A few comments of note include the
18 joint utilities and the City of New York recommended
19 allocating additional funds to clean transportation
20 and building efficiency. Multiple intervenors or
21 M.I. urged the Commission to ensure the continuation
22 of initiatives targeting large C.N.I. customers and
23 to modify the surcharge so that it is not collected
24 on a purely volumetric basis.

25 M.I. objected to NYSERDA's proposal to

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2 revise C.E.F. collection schedules unless the
3 Commission was to rule that no incremental
4 collections will be added after 2029, and the C.E.F.
5 will terminate at that time.

6 The joint utilities objected to
7 NYSERDA's proposal to be a member of the technical
8 resource manual committee and recommended the
9 collections beyond 2025 not be addressed at this
10 time.

11 As previously mentioned, the
12 Commission established 10 year goals through 2025 for
13 the C.E.F. While the achievement of these goals will
14 not necessarily be linear, the approach taken for
15 assessing progress to date is to look at each of the
16 required metrics on a prorated basis compared to
17 where we are in the C.E.F. cycle.

18 In other words, at 50 percent of the
19 way through the C.E.F., our metrics near 50 percent.
20 As detailed in the draft order, the C.E.F.'s overall
21 performance is generally trending positively towards
22 the goals established by the Commission.

23 Two metrics are lagging; leveraged
24 funds, a measure of how much non-ratepayer funds are
25 supporting projects and energy efficiency megawatt

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2 hour reductions. Leveraged funds, which through 2020
3 stand at 38 percent of the goal, has been primarily
4 impacted by the steep decline in solar costs that was
5 not predicted at the time of the C.E.F. framework
6 order.

7 Therefore, while this particular
8 metric may be lagging behind the original goal, the
9 overall decline in solar cost is a positive for the
10 market and for consumers.

11 Megawatt hour reductions through 2020
12 stand at 27 percent of the goal, while M.M.B.T.U.
13 reduction stands at 130 percent of the goal. These
14 results are primarily a function of market response.

15 It is noted that when combining
16 electric efficiency with other fuel efficiency on a
17 total T.B.T.U. basis, the combined results are in
18 line at approximately 55 percent. However, it is
19 important for the C.E.F. to continue to advance
20 electric efficiency where possible, particularly as
21 the State begins to electrify its building site.

22 While NYSERDA's performance on the
23 C.E.F. is trending positively, expenditures have
24 significantly lagged expectations. This has led to
25 not only delayed realization of benefits, but to a

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2 larger cash balance than had been anticipated at the
3 time of the C.E.F. framework order.

4 This is attributable to the slower
5 than anticipated market uptake for many of the
6 initiatives, as well as attrition from legacy program
7 commitments.

8 While this variance predated the COVID
9 pandemic, the results were further exacerbated by the
10 impacts of the pandemic including customer facing
11 programs, ceasing operations for at least one quarter
12 during 2020, and other program areas facing
13 substantial delays in advancing program activities.

14 The item before you strongly
15 reinforces the need for NYSERDA to put this funding
16 to work effectively and expeditiously, and requires
17 additional measures to monitor expenditures against
18 expectations.

19 As mentioned, NYSERDA's petition
20 includes a number of refinements to optimize the
21 C.E.F. as well as further align the C.E.F. with State
22 Energy Policy. These -- excuse me. These
23 refinements include strategies for the remaining
24 buildout of the market development, innovation and
25 research in New York Green Bank portfolios with

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2 specific budget allocations.

3 Adoption of the goal of 40 percent of
4 benefits of spending for disadvantaged communities
5 pursuant to the C.L.C.P.A. Updated performance
6 targets and metrics for the C.E.F. portfolio,
7 including a shift from commitment base to acquired
8 base targets, modifications to the C.E.F. collections
9 by year but not in total.

10 Use of uncommitted funds or
11 reallocations from New York Green Bank to fully fund
12 the New York Sun program. Authorizing a formal role
13 for NYSERDA on the technical resource manual
14 committee, and other administrative improvements.

15 The C.E.F. is an integral component to
16 the State's ability to deliver on its clean energy
17 goals and complements ongoing efforts of the electric
18 and gas utilities. The proposed elements put forth
19 by NYSERDA to optimize the C.E.F. with modifications
20 will place a greater emphasis on timely achievement
21 of metrics, provide clarity on the key primary
22 metrics, are in line with current State energy policy
23 objectives, and impose additional regulatory
24 oversight and transparency.

25 With regard to NYSERDA's proposed

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2 modification to collection schedules by year but not
3 in total, Staff's review found that adoption of
4 NYSERDA's proposal in combination with a revised
5 expenditure projection provided by NYSERDA would
6 potentially result in a negative cash balance in
7 2025.

8 Therefore, while the draft order
9 adopts the proposal to modify collections by year,
10 but not in total, it does so by making adjustments to
11 the proposal put forth by NYSERDA.

12 The item before you presents a
13 modified schedule, which maintains collections as
14 currently authorized through 2024, adjusts
15 collections for 2025 through 2030, and eliminates
16 collections after 2030.

17 This approach takes account for
18 revised cash flow projections, including necessary
19 adjustments resulting from prior commission decisions
20 that have repurposed uncommitted funds.

21 These decisions have resulted in
22 projected expenditures of funds earlier than that
23 which would have resulted from their original
24 purpose. The revised collection schedule avoids near
25 term volatility in collection levels and any

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2 disincentive for NYSERDA to increase the pace of
3 expenditures.

4 In addition, the draft order requires
5 NYSERDA to provide an updated cash flow analysis on
6 an annual basis to further monitor performance and
7 direct Staff to raise any concerns to the Commission
8 in advance of the next C.E.F. review, if necessary.

9 The draft order acknowledges that this
10 interim review while not contingent upon the
11 C.L.C.P.A. or associated Climate Action Council
12 process is occurring during the phase of -- during
13 this phase of C.L.C.P.A. implementation.

14 The order focuses on near-term
15 improvements to C.E.F. operations that should proceed
16 immediately and recognizes the Commission may need to
17 revisit the C.E.F. as well as utility clean energy
18 initiatives following the Climate Action Council
19 scoping plan process.

20 The order, therefore, calls for the
21 next C.E.F. review to occur in 2023, and require
22 Staff to align the next C.E.F. review with that of
23 the interim review called for in the January, 2020,
24 new efficiency New York order, which established
25 utility administered energy efficiency and building

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2 electrification budgets and targets.

3 This alignment will provide Staff --
4 excuse me. This alignment will provide stakeholders,
5 Staff and the Commission the opportunity to assess
6 the full suite of ratepayer supported programs in the
7 context of the C.L.C.P.A. and in the context of one
8 another to determine the best approaches to pursue.

9 The order adopts NYSERDA's request to
10 establish a new goal for the C.E.F. as a whole to
11 deliver 40 percent of benefits of spending to
12 disadvantaged communities, as well as the New York
13 Green Bank specific goal for 35 percent of post 2019
14 investments to benefit disadvantaged communities.

15 These goals will significantly improve
16 benefits to disadvantaged communities as compared to
17 historic performance and are in compliance with the
18 C.L.C.P.A. The draft order recognizes ongoing work
19 being conducted by the climate justice working group
20 and finalizing the criteria for disadvantaged
21 communities, but does not delay the C.E.F. from
22 beginning to shift its portfolio in this manner.

23 Therefore, the order adopts an interim
24 definition for disadvantaged communities' criteria
25 and requires additional steps for NYSERDA and New

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2 York Green Bank to undertake in developing its
3 approaches to meet this goal and ensure true benefits
4 are delivered to disadvantaged communities.

5 Lastly, the order addresses several
6 other administrative and process areas, including
7 transparency and clarity of reporting, as well as
8 improved coordination and driving more progress with
9 the utilities Energy Efficiency Program efforts,
10 particularly, in serving the low to moderate income
11 sector.

12 This concludes my presentation. David
13 and I are available to answer any questions you may
14 have.

15 COMMISSIONER EDWARDS: Thank you.

16 CHAIR HOWARD: Thank you, Peggie. I
17 have a couple of questions and then a couple of
18 comments. First of all, I am concerned about the
19 ongoing large cash balance that has occurred over
20 multiple years.

21 And I do appreciate NYSERDA's
22 reemphasis on moving the money and recalculating it
23 in projects actually going to fruition as opposed to
24 commitments made.

25 To that end, I have a question is that

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2 I'm very hopeful between now and '23, if we do not
3 see movement on these areas, particularly on movement
4 of the cash to program goals, I'm counting on Staff
5 to tell this commission where the deficiencies may
6 be, and particularly in those issues dealing with
7 moving the market.

8 We have been trying to move the market
9 now for some time and that I see is maybe the biggest
10 lag that we have seen. So changing consumer and
11 behavior will be critical before if we were ever to
12 ultimately make the C.L.C.P.A. goals a reality.

13 Also, a couple of comments,
14 particularly as it relates to our New York Sun
15 program, and our New York solar initiatives writ
16 large. I do believe that we are one of the nation's
17 leaders on solar development and deployment.

18 And I was very gratified by President
19 Biden's commitment to more solar deployment and
20 welcome yesterday's report from the Department of
21 Energy about realizing a goal of a 40 percent solar
22 generation for the United States by 2040 and 45
23 percent by 2045.

24 We will lead this effort and we need
25 to be helped to be funded to be first in line, and we

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2 are already on our way to meeting these dramatic
3 goals on decarbonization, particularly in the use of
4 solar.

5 And I do also want to commend Senator
6 Schumer's commitment to help fund not only the solar
7 initiatives, but the whole variety of issues on
8 energy efficiency, and in climate resilience.

9 But quite honestly, without that
10 massive amount of federal funding, this will and,
11 again, as I have commented multiple times, put a
12 disproportionate burden on ratepayers to meet our
13 goals and it will be absolutely necessary for
14 Washington to help us out and again, emphasize
15 because we're going first, we should get our funding
16 first.

17 And with that, I turn it over to
18 Commissioner Burman for comments.

19 COMMISSIONER BURMAN: Thank you so
20 much. I do have a question on the technical resource
21 manual committee and adding NYSERDA as a voting
22 member. I am concerned about that and I do
23 appreciate the concern of the stakeholders who are
24 not necessarily supportive of that.

25 Can you explain to me why Staff feels

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2 comfortable with allowing them to be a voting member,
3 and then, what the process will be kind of going
4 forward in handling that?

5 MS. NEVILLE: Certainly. So I'll
6 start with a very, very brief little bit of
7 background on the technical resource manual, we refer
8 to as the T.R.M.

9 The T.R.M. is a standard tool that
10 many jurisdictions have that is basically used to
11 have a common approach to estimating energy savings
12 for the most common types of measures offered in
13 programs.

14 Our T.R.M. has some other information
15 in there also including approaches to how we approach
16 custom energy modeling and whatnot. There seems to
17 have developed and I've been at this for quite some
18 time, I'm not exactly sure where this comes from.

19 But there seems to be a misconception
20 of the T.R.M. applies to utilities and not to
21 NYSERDA, that is an incorrect perception. I think
22 more importantly, if the T.R.M. -- if a program is
23 offering prescriptive measures, say, L.E.D. lighting,
24 we should have a standard approach for how we
25 estimate savings for L.E.D. lighting, regardless of

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2 who the program administrator is, who is incenting
3 that.

4 And so therefore, as we've come
5 through time, I think where the perception comes from
6 is NYSERDA had traditionally offered much more
7 complex and custom type approaches where you maybe do
8 custom engineering modeling and did not rely on
9 prescriptive algorithms in the T.R.M.

10 So I think that's where the perception
11 comes from. But the reality is, if it is appropriate
12 to use a standardized approach to estimating savings,
13 that should apply to any program administrator that
14 we have.

15 So the petition kind of points this
16 out that NYSERDA has always been involved with the
17 T.R.M. but had not had an opportunity to be a voting
18 member to bring forth measures, to comment on
19 measures and to help improve the estimation
20 approaches.

21 So we think this is a correction and
22 an appropriate correction. And beyond that, as we
23 have continued to try to find ways in which the
24 utilities and NYSERDA efforts coordinate with one
25 another, it's even more important that program

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2 administrators are using common approaches to
3 estimating savings, so that we don't end up in a
4 situation where the same measure would be installed
5 with two different estimation approaches.

6 COMMISSIONER BURMAN: Okay. I can
7 understand that. I will put up caution on this
8 approach. I'm not sure that having NYSERDA continue
9 as a nonvoting member is a problem. I am concerned
10 that adding them as a voting member may have
11 unintended consequence where NYSERDA intentionally or
12 not, tries to shape the vote in a way that if unless
13 others agree with them, they won't support a
14 reasonable approach.

15 And so their one vote can change the
16 course of the entire outcome. And so the goal for
17 me, as I see it, is to ensure that by adding them as
18 a voting member, that they're not actually chilling
19 the ongoing communication and the nature of the way
20 the T.R.M. committee has operated, and that they
21 don't somehow unintentionally or intentionally hold
22 up things because if they don't vote for it, there's
23 needs to be unanimous approval and so I would say, we
24 need to be very focused as we are in the order, we
25 talk about the Executive Council also coming to --

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2 back to us if there's an issue.

3 Staff and the Commission needs to
4 really be focused on making sure that our now
5 inclusion of them as a voting member, does not cause
6 unintended negative consequences. We are also
7 focused on that NYSERDA is to work more
8 collaboratively with the utilities and the order
9 charges the utilities, with now having to lay out
10 where they are complementing or not some of their
11 work product with NYSERDA.

12 I think that's fine, I think we should
13 have that conversation. I just want to make sure
14 that it doesn't now put a problematic burden on the
15 utilities, that if they are doing something, and it
16 doesn't match up with what NYSERDA is doing, that
17 somehow they're dinged for that.

18 It may be that NYSERDA is the one that
19 needs to change its operations to be more in line or
20 complimentary of the utilities activities, vice
21 versa.

22 So I just want to make sure that we're
23 kind of really looking at this and ensuring that this
24 new focus of collaboration doesn't become
25 collaboration only if you agree with where NYSERDA

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2 is, or only if you're solely aligned with where
3 NYSERDA is.

4 That's not to say that NYSERDA won't
5 have and does have a lot of value to add, it's just
6 -- it's not necessarily always going to be a pure
7 matchup. So we need to really, I think, be mindful
8 of that. Does that make sense? Does that --?

9 MS. NEVILLE: Sure. Let me just
10 comment, I guess, on three points to the T.R.M.
11 committee. Perhaps this might give you a little bit
12 more comfort level. Staff is very closely monitoring
13 and engaged with the T.R.M. management committee.

14 We actively work with them to make
15 sure that changes that are being made are sourced
16 properly and are based on credible and justifiable
17 information.

18 Over the last few years, we've further
19 tried to align our evaluation work with the T.R.M. so
20 that things are rooted and grounded in actual
21 evaluation work to improve those estimates. And that
22 would go for NYSERDA as well as the utilities. And
23 that would be something that Staff would continue to
24 monitor and you know, prevent any gaming of the
25 system, I guess if you will, on anyone's account.

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2 So hopefully that helps you to
3 understand kind of how the day-to-day work.

4 Related to the coordination efforts,
5 your point is taken, I think what the order is trying
6 to address and this is very challenging, quite
7 frankly, when we have asked a lot of each program
8 administrator to evolve and expand and greatly and
9 expeditiously get to these ambitious goals.

10 Right now, we have pretty much an
11 asymmetrical approach where NYSERDA is expected to
12 shift and change and coordinate and fill gaps of the
13 utility programs but utilities are not in the same
14 position prior to this order.

15 And we have run into, over the last
16 year to two years, specific proposals coming in
17 whether those be in efficiency programs or even
18 within rate case settings, where utilities are
19 proposing something that NYSERDA is actively already
20 doing.

21 And so from a total ratepayer
22 perspective, we want to be sure that any additional
23 activities are incremental benefit, and not
24 duplicative for the, you know, making sure that our
25 dollars can go as far as possible.

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2 That certainly is easier said than
3 done, and I think it's -- we've seen a lot of
4 improvements, I think from say, even five, six years
5 ago of ongoing relationship building between many of
6 the utility executive levels and program Staff, and
7 NYSERDA's just to try to keep aware of one another's
8 activities, but also to learn from each other, what's
9 working and how to evolve those.

10 So I think that will continue to be a
11 work in progress and we'll try to figure out ways to
12 make that most efficient and less administratively
13 burdensome but the intention, I think, is really to
14 try to be as appropriate with ratepayer's
15 expenditures as possible, so that we're making the
16 best use of these dollars.

17 COMMISSIONER BURMAN: Thank you. I
18 appreciate that. The other I think, sort of focus I
19 just wanted to mention is there's a lot of focus in
20 waiting for the Climate Action Council waiting for
21 decisions on the C.L.C.P.A., waiting for the climate
22 justice group to make some decisions.

23 I don't think it's as clear as it
24 could be in the order that we are not prejudging not
25 just what the Climate Action Council and the other

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2 entities may do.

3 But we're not prejudging how we may
4 actually decide things, those recommendations through
5 the scoping plan or then, you know, for us to
6 determine how it fits within our regulatory
7 framework, and then necessary processes that we have
8 in place from important perspective.

9 And so you know, for me, I want to
10 make clear that folks understand that we're not just
11 a rubber stamp of whatever does or does not get done
12 and that we will also have to clearly evaluate it and
13 look at it from the overall perspective, not just in
14 the silo of the Climate Action Council, but in our
15 overall jurisdictional regulatory responsibilities,
16 and how that fits or not.

17 The other thing, I guess I would be
18 looking for a little bit more information on how we
19 will be ensuring that NYSERDA going forward, is
20 carefully evaluating the metrics and the
21 implementation of what they are doing.

22 And to the extent that we are
23 concerned about the costs, and also the significant
24 dollars that have been collected, it's not to me just
25 about saying, okay, make sure you get those out the

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2 door and spend them, it may not necessarily be
3 appropriate.

4 So for me, it's about what are we
5 doing in ensuring that we're moving forward in a way
6 that is showing success and is showing forward
7 progress and I'm just kind of concerned in the focus
8 of saying hurry up and make sure you're spending,
9 because I'm not necessarily sure, especially as we
10 haven't put a hard stop on when collections will end.

11 I do sort of take a lot of what M.I.
12 has said, seriously and think that we do need to sort
13 of send signals about the impact on ratepayer
14 collections, and not this sort of ongoing padding of
15 increased ratepayer collections that may be there.

16 MS. NEVILLE: Right. So point taken,
17 and I think the order tries to speak to this and
18 hopefully it comes through in some areas.
19 Expeditious spending is not the goal, it's
20 expeditious and effective, right?

21 And so I think that is a fair point, I
22 think one that NYSEDA is keenly focused on as far as
23 trying to achieve these very ambitious goals with the
24 dollars allocated to them.

25 So I think that that point is taken.

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2 We have instituted and NYSERDA has definitely in my
3 work in oversight of this portfolio over the last
4 couple of years, I've been impressed with some of the
5 new things that they put in place internal to track
6 progress.

7 And I think you saw that in the
8 petition where they're proposing a shift from these
9 committed views to acquire views, that gives them a
10 whole different framework to be measuring what's
11 effective.

12 And so they've -- the investment
13 planning process that we have, as well as the
14 quarterly reporting, they have a variety of different
15 metrics, and kind of leading signs, you know, some of
16 this stuff is long term plays, not just in simple
17 1990 vintage D.S.M. programs, but they have developed
18 better internal tracking systems to monitor progress.
19 We've also modified our quarterly reporting, and we
20 have a dashboard now where we track things on a
21 quarterly basis.

22 So we, I believe, have put in place
23 many tools in order to help us further monitor. And
24 I think you see this in the item. And as the Chair
25 mentioned, where Staff that's our role, right, we'll

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2 be monitoring these things and if we start to see
3 things coming off of expectations, that's where we
4 would be engaging further and trying to really get
5 under the hood and see what's causing that.

6 That said, I will, you know, be
7 honest, in the sense that these are all very new and
8 different initiatives, market development alone has
9 nearly 70 different initiatives, some of which no
10 one's tried before.

11 So within that portfolio, there will
12 be some that don't hit marks, there will be some
13 failures. But if we don't pilot new and different
14 approaches, we're not going to learn from that. So I
15 think that's really a portfolio management exercise,
16 and to allow for some flexibility for us a little bit
17 of risk-taking to try to get to some more novel
18 approaches to this area.

19 COMMISSIONER BURMAN: Great. Thank
20 you so much.

21 I do want to thank you and the rest of
22 the Staff for all your hard work on these issues.
23 It's really important. I also want to thank NYSERDA,
24 because I think they have really tried to listen to
25 some of the concerns.

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2 And that goes, you know, to me, I'm
3 seeing a more willingness to engage in a way that I
4 think is helpful. And just my own concerns, again,
5 on the T.R.M. and other engagement with the utilities
6 and NYSERDA, making sure that we're carefully on top
7 of that in a way that is helping facilitate
8 productive communication and collaboration, rather
9 than more of a chilling effect.

10 I will be concurring on this order.
11 And I also appreciate that we have really tried to
12 set up some, I think, fiscal responsibility and some
13 guardrails in place on that. So thank you.

14 CHAIR HOWARD: Thank you, Commissioner
15 Burman. Commissioner Alesi.

16 COMMISSIONER ALESI: Thank you, Mr.
17 Chairman. I'm not sure I have any questions on this
18 at this point but I would like to make some
19 observations, if I may.

20 I believe that this is going to be
21 very helpful. As we strive to meet our carbon free
22 climate goals, it will allow for NYSERDA to deliver
23 the benefits of our policy objectives by putting
24 funds to work in the most efficient ways.

25 It should be noted as we pursue our

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2 climate initiatives, the implementation of funding
3 will also benefit disadvantaged communities. This
4 multifaceted approach will enable us to achieve a
5 clean and healthy environment as we heat our homes,
6 cook our food and light our way into a carbon-free
7 future. Thank you.

8 CHAIR HOWARD: Thank you.
9 Commissioner Edwards.

10 COMMISSIONER EDWARDS: Yes, I just
11 want to thank you and the team for putting this
12 together, especially the modifications, there's two
13 key points that I just want to emphasize what you
14 said. It said that the order strongly reinforces the
15 need for NYSERDA to put this funding to work
16 effectively and expeditiously.

17 It provides additional measures to
18 monitor as expenditures and set expectations, and a
19 greater emphasis on metrics, clarity, and are in line
20 with our energy and oversight transparency.

21 I just want to agree with you
22 wholeheartedly. Thank you for your work and, in
23 order for us to get this done and done timely. It's
24 going to take patience, integration, flawless as much
25 as possible, execution of initiatives, partnership,

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2 inclusive initiatives, and also holding myself
3 accountable. There's a lot that's in there to make
4 it work.

5 But it's only going to work if we make
6 it work. So I want to thank you and the team for
7 putting all these together and I look forward to the
8 partnership that we're going to have, ongoing
9 dialogue in order to get this done. Thank you very
10 much, Chairman.

11 CHAIR HOWARD: Thank you, Commissioner
12 Edwards. Commissioner Valesky.

13 COMMISSIONER VALESKY: Thank you, Mr.
14 Chair. First, I'd just like to second the comments
15 that you made earlier, Chairman Howard, in regard to
16 the leadership from the President and the senate
17 majority leader in the federal government in terms of
18 ensuring that we are able to meet the aggressive
19 goals that are set in our statute.

20 We have been a leader and I think
21 we'll continue to be a leader, but it will be
22 critically important for that federal support.

23 Peggie, I just want to thank you and
24 your entire team for the review of NYSERDA's
25 proposal, the changes, the very positive changes that

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2 you and your colleagues have made. I think they're
3 very important and they've been touched upon by
4 previous speakers.

5 So I want to acknowledge your effort
6 for that. And I also want to say, in taking a step
7 back, and looking at the whole of the product, and
8 the fact that the fund's overall performance is
9 generally trending toward the goals that were
10 established some five years ago by this commission,
11 with two exceptions in terms of the metrics that are
12 lagging, very logical explanations for that.

13 And therefore, as we check-in at this
14 halfway point, it's certainly, I think, important to
15 acknowledge the efforts made by our colleagues at
16 NYSERDA in managing this fund, which, you know,
17 certainly a reminder that the Commission that
18 established these goals happening well before the
19 C.L.C.P.A. I think ever was even legislation, let
20 alone statute, so I think that's really important.

21 And I also just want to Peggie, I know
22 Commissioner Burman indicated earlier the work of the
23 -- the continuing work of the Climate Action Council
24 and other related organizations, in four months,
25 we'll have a draft scoping plan from them, in 16

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2 months according to the law, that scoping plan will
3 be, in effect.

4 So the fact that you have recommended
5 and included in this order that we take another look
6 at this fund to coincide with the timeliness of the
7 scoping plan, I think that's really important.

8 There are so many pieces out there
9 that are all, at times, moving or can be perceived as
10 moving in their own direction and the more that we
11 can bring all of this together. And so that we
12 ensure and we as a commission do our part in ensuring
13 that everything is moving together and in sync toward
14 meeting these goals as we move along that process.

15 So I think that's important and I just
16 wanted to underscore that and, again, thanks for the
17 great work.

18 MS. NEVILLE: Thank you.

19 CHAIR HOWARD: Thank you, Commissioner
20 Valesky. Commissioner Maggiore.

21 COMMISSIONER MAGGIORE: Thank you, Mr.
22 Chair. So I'm going to be happy to be voting yes on
23 this order. The C.L.C.P.A. requires increased
24 sources of renewable energy and decreased energy
25 consumption.

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2 In my previous career, I was part of
3 the team that shepherded in some of the component
4 policies that exist within the C.E.F. I say that not
5 to take credit because many others are more directly
6 responsible than myself, but as an indication of my
7 alignment.

8 The other reason I mentioned my past
9 career is that I viewed and continue to view
10 something like the C.E.F. or even the C.L.C.P.A.
11 itself as tools to achieve a goal that is much bigger
12 than any one policy or package of policies can
13 achieve.

14 The C.E.F. will continue to help New
15 York maintain its position as a clean energy leader.
16 Indeed, a \$6 billion program puts real heft behind
17 the State's commitment to achieving clean energy
18 goals but there is a paradox about a program of this
19 size.

20 In addition to clean energy
21 obligations, this body has a statutory obligation to
22 ensure energy affordability. Further, the fight
23 against climate change will not be advanced if the
24 cost of doing business in New York rises past the
25 point, that the kind of economic growth that we

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2 experienced over the decade pre-pandemic is chased to
3 other states that aren't as committed to clean
4 energy.

5 The planet's climate does not
6 recognize state borders. As significant as the
7 C.E.F. is, the challenge of climate change requires
8 transformative change to how we live our lives on
9 this planet. As ongoing extreme weather events
10 remind us, we are past the point of saying that if we
11 don't change the way we live as it relates to energy
12 consumption, nature will change it for us.

13 \$6 billion spread out across a decade
14 is not nearly enough to foster the kind of societal
15 change that is necessary to have enough of an impact
16 in the struggle against climate change but a fund
17 twice as large or 100 times as large won't on its own
18 be enough.

19 The C.E.F. is a very important part of
20 the solution, but it is only a part. Climate goals
21 should continue to saturate a wide swath of state
22 policies.

23 Over the past 10 years, sustainable
24 development infused state policies in part, as a
25 result, New York's population grew by a number

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2 exceeding the entire population of five states. But
3 the increased population did not sprawl across New
4 York.

5 Already developed areas grew, in some
6 cases for the first time in my lifetime. New York,
7 Buffalo, Rochester, Syracuse, Albany all grew. This
8 did not happen on its own.

9 I mentioned this because there is a
10 negative correlation between energy consumption and
11 urban density. Decarbonizing what already exists is
12 an enormous task. Adding to our task is building
13 clean for a new population roughly the size of North
14 Dakota.

15 Make no mistake, the C.E.F. provides
16 many tools to advance towards these goals but they
17 cannot be the only tools. And utility ratepayers
18 cannot be the only source of funding for all the
19 tools necessary for the task.

20 So while happily voting yes on this
21 proposal, I join Chair Howard in his optimism with
22 President Biden's announcement yesterday and Senator
23 Schumer's work, and acknowledged the need for
24 additional assistance from the federal government and
25 I would further call on our fellow state policymakers

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2 to continue to find new ways to work climate goals
3 throughout the broad swath of state policy.

4 Finally, I'd like to thank Staff for
5 their great and hard work, and thank NYSERDA for what
6 they're doing. Thank you very much.

7 CHAIR HOWARD: Thank you, Commissioner
8 Maggiore. Commissioner Christian.

9 COMMISSIONER CHRISTIAN: Thank you,
10 Chair Howard. First off, I'm very encouraged by the
11 overall direction of the C.E.F. And though we're
12 moving in the right direction, it's clear that the
13 pace of that progress will need to be accelerated,
14 and the recent flooding from Hurricane Ida downstate
15 should serve as a reminder to all of us what's at
16 stake.

17 This order seeks to do that,
18 accelerate our progress, establishing new metrics and
19 requirements that will allow the State to better
20 allocate its resources in an efficient and
21 importantly inclusive manner to achieve the current
22 goals.

23 But more importantly, we'll have the
24 information needed to position future programs for
25 even greater success. Today's order should not be

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2 seen as the end of this Commission's efforts to
3 address climate change, but as one of many steps in
4 an iterative process that will continue for years to
5 come.

6 With that context, several items in
7 this order position estimate significant near term
8 progress above and beyond what has been done in the
9 past. First off, the acknowledgement that the
10 commitments of the past are insufficient and needs to
11 be expanded for us to achieve our climate and energy
12 goals.

13 And second and most importantly, some
14 of these has already been mentioned by Ms. Neville, a
15 commitment that 40 percent of the benefits of these
16 investments materialize in disadvantaged communities
17 and a further requirement that the Green Bank
18 allocate at a minimum 35 percent of its capital into
19 those communities going forward.

20 These two things alone would be
21 significant in and of themselves but when added to
22 the fact of significant increases in budget towards
23 certain programs, particularly the market development
24 budget, which is a significant increase in
25 investments in workforce development, and low and

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2 moderate income energy efficiency, I see this as a
3 very strong step forward towards achieving our goals,
4 again, in an efficient and inclusive manner.

5 I'm looking forward to the follow-up
6 items that we'll be addressing in the next few months
7 related to the C.E.F. as we align it more closely
8 with the requirements of the C.L.C.P.A. at the end of
9 the C.A.C.'s process.

10 I want to thank staff for their work
11 on this and I'm excited by the opportunity this
12 represents. Thank you.

13 CHAIR HOWARD: Thank you, Commissioner
14 Christian. I'll now call for a vote on this item.
15 My vote is in favor of the recommendation to modify
16 the Clean Energy Fund as discussed.

17 Commissioner Burman, how do you vote?

18 COMMISSIONER BURMAN: I concur.

19 CHAIR HOWARD: Commissioner Alesi?

20 COMMISSIONER ALESI: Yes.

21 CHAIR HOWARD: Commissioner Edwards.

22 COMMISSIONER EDWARDS: Yes.

23 CHAIR HOWARD: Commissioner Valesky?

24 COMMISSIONER VALESKY: Yes.

25 CHAIR HOWARD: Commissioner Maggiore.

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2 COMMISSIONER MAGGIORE: Yes.

3 CHAIR HOWARD: Commissioner Christian.

4 COMMISSIONER CHRISTIAN: Yes.

5 CHAIR HOWARD: Thank you very much.

6 The item is approved and the recommendations are
7 adapted. Thank you, Peggie and Dave.

8 MS. NEVILLE: Thank you.

9 CHAIR HOWARD: We'll now move to our
10 next item for discussion, Item 301, Case 20-E-0197.
11 As it relates to local transmission and distribution
12 planning Phase-II. It will be presented by Elizabeth
13 Grisaru from the Office of Electric and Gas, and
14 Water, and Zeryai Hagos, Deputy Director of Clean
15 Energy and Markets, and Mary Ann Sorrentino, chief of
16 Upstate Rates & Tariffs. And Dave Drexler will be
17 available for questions. Liz, can you please begin?

18 MS. GRISARU: Yes, I'm happy to. Good
19 morning. Can you hear me? Is this on? The green
20 light is on.

21 THE MONITOR: It's on.

22 CHAIR HOWARD: You're good.

23 MS. GRISARU: Okay. Good. Good
24 morning, Chair Howard and commissioners. I'm very
25 pleased to present to you today a draft order that

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2 advances this Commission's implementation of the 2020
3 Accelerated Renewable Energy Growth and Community
4 Benefit Act.

5 This statute, which I will refer today
6 as the Act, requires the Commission and New York's
7 utilities to develop transmission and distribution
8 investment plans that will help the State meet the
9 climate targets codified in the Climate Leadership
10 and Community Protection Act, that we have been
11 referring to today as the C.L.C.P.A.

12 To be clear, the statute requires a
13 new transmission planning process, one focused on
14 meeting the goals of the C.L.C.P.A. The Commission
15 took up the legislature's directives when it opened
16 this proceeding in May of 2020, and sought proposals
17 from the utilities for first transmission project
18 selection criteria and funding mechanisms, and
19 second, potential upgrade projects that would support
20 the State's climate goals.

21 Utilities responded with a filing in
22 November of 2020 that addressed both of the
23 Commission's directives. They identified two
24 categories of local transmission and distribution
25 upgrades, which they characterize as Phase-I and

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2 Phase-II projects.

3 Phase-I projects are traditional
4 utility investments that address system reliability
5 or resilience issues, and also have ancillary
6 C.L.C.P.A. benefits such as increasing local system
7 capacity to integrate renewable energy sources.

8 The Commission issued an order last
9 February, 2021, excuse me, providing guidance on
10 Phase-I projects. In contrast, Phase-II projects are
11 investments that would be made primarily for the
12 purpose of achieving C.L.C.P.A. goals.

13 The order before you today takes up
14 the C.L.C.P.A. investment criteria, funding options
15 and Phase-II upgrades proposed in that November
16 filing.

17 These issues are new, and in this area
18 the Commission would be breaking ground by
19 establishing a new category of transmission and
20 distribution investment that has not been an
21 objective of the utilities' planning and capital
22 spending programs up to this time.

23 Because the climate change is --
24 because the climate challenge, excuse me, the climate
25 challenge is so critical and because the Act requires

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2 the Commission to develop new processes, today's
3 draft order takes a deliberate approach.

4 The goal, as with everything we do, is
5 to meet the State's climate targets through the most
6 cost-effective expenditure of ratepayer dollar as
7 possible.

8 First, I note that this draft order
9 does not approve any specific Phase-II investments.
10 Rather, it requires the utilities to refine a number
11 of their proposals in accordance with the
12 Commission's guidance, and to resubmit the more
13 fully-developed proposals in future filings for
14 further consideration and evaluation.

15 I'll briefly review those topics that
16 require reconsideration. First, the order directs
17 the utilities to revise their proposed benefit cost
18 analysis after consulting with Staff and to resubmit
19 it within 90 days.

20 If other changes to their proposed
21 investment criteria are warranted, in light of
22 changes to the benefit cost analysis, the utilities
23 are required to file those as well.

24 Second, the draft order would require
25 the utilities to work with stakeholders, Staff,

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2 NYSERDA and the NYISO to develop and then file a
3 transmission planning process that meets the
4 standards for transparency, consistency of models and
5 coordination established in this draft order.

6 While the order recognizes that this
7 will be a significant effort, it is essential to the
8 implementation of the Act and a filing is required
9 within 90 days.

10 Next, funding for C.L.C.P.A. driven
11 Phase-II local transmission and distribution is
12 another issue that requires further development. The
13 draft order notes that mechanisms for cost recovery
14 and cost allocation for this new type of investment
15 do not exist at this time. The draft order approves
16 the utilities' proposal to charge the costs of Phase-
17 II projects across ratepayers under a volumetric load
18 ratio share allocation.

19 The draft also finds that a FERC
20 approved participant funding agreement among the
21 utilities could establish an equitable system for
22 sharing the costs of these projects. However, a
23 number of details still need to be explored to
24 determine exactly how such an agreement would be
25 implemented.

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2 A further filing on this topic is
3 required within 120 days after consultation with
4 Staff. The draft -- excuse me, the draft rejects the
5 utilities' proposal to bring their potential Phase-II
6 investments into the Commission's ongoing rate cases.

7 Rather, the Commission will establish
8 a specific forum for coordinated review of these
9 projects and their costs from a whole state
10 perspective on a repeatable cycle.

11 The draft order directs the utilities
12 to develop their first portfolio of Phase-II local
13 transmission and distribution projects through the
14 revised planning process, and to submit those
15 proposed upgrades to the Commission by January 1st of
16 2023.

17 Those filings will be required to meet
18 rate case standards and the Commission may accept,
19 reject or modify any Phase-II proposals. Only those
20 upgrades approved by the Commission would be eligible
21 for cost recovery.

22 While no Phase-II projects are
23 approved here, the order recognizes that there are
24 certain areas of the State where renewable generation
25 is already bottled, and where additional generation

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2 projects are either in development, or expected to be
3 developed in the future.

4 The draft directs the relevant utility
5 companies to address these particular areas of
6 concern with detailed Phase-II proposals, including
7 options based on their assessment of these areas'
8 development potential.

9 The proposals are to be filed within
10 180 days. Last, the draft order adopts Staff's
11 recent proposal for revising the way the utilities
12 calculate headroom on the grid. That is the system's
13 ability or capacity to integrate renewable
14 generation.

15 In order to support NYSERDA's ongoing
16 generation procurement programs, the order directs
17 the utilities to provide this updated headroom data
18 to Staff, NYSERDA and potential bidders no later than
19 February 1, 2022.

20 This step would provide bidders with
21 more transparency regarding the system's ability to
22 accommodate new projects, therefore, providing a
23 better foundation for the bids.

24 This concludes my overview of the
25 draft order and I'm very happy to take your

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2 questions.

3 CHAIR HOWARD: Thank you very much,
4 Liz. I have a couple of questions. When do you
5 estimate we will see specific proposals? Meaning,
6 see real maps with real lines that represent real
7 power lines.

8 MS. GRISARU: It's true. With respect
9 to the -- the -- the areas of concern that I -- I
10 mentioned, we should get those proposals within 180
11 days. So we should be able to see exactly what
12 upgrades or projects the utilities are proposing in
13 response to our request. So that is like 6 months
14 from now.

15 With respect to the larger potential
16 portfolio of Phase-II projects more generally, that -
17 - that is a submission I talked about as being made
18 at the January 1 of 2023, so that's a couple of years
19 out.

20 CHAIR HOWARD: All right. Thank you.
21 And when we get those 6 months from now, those some
22 specific proposals, will we also get specific costs
23 associated with them?

24 MS. GRISARU: Yes. As I mentioned, we
25 expect these to be rate case quality filings that

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2 would provide all of the information the commission
3 would need in the rate cases context to evaluate --
4 to evaluate the projects and the proposed
5 investments, including of course cost estimates.

6 CHAIR HOWARD: Thank you. And I have
7 couple of comments -- well, today, does usher in a
8 new era of transmission planning in New York State.
9 Remember these reminders, traditional planning by
10 utilities was to serve their native load,
11 specifically, and particularly based on a fossil and
12 nuclear based system.

13 This paradigm will redesign the system
14 to meet renewable goals statewide. And will require
15 an unprecedented level of cooperation between
16 transmission owners. And we have never seen that
17 before. It is truly something that will be nearly
18 Herculean in its effort, largely because we are going
19 in such a new and bold direction.

20 And again, like my previous comments
21 on the last item, New York State is leading the
22 nation in grid decarbonization. We are not just
23 walking the walk, we are running the run. And this
24 new initiative we know will cost billions of dollars.

25 And it is -- will be imperative to

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2 again ask the federal government to help New York
3 fund these projects in such a way that as not to
4 discriminate or overburden utility ratepayers. It is
5 clearly this level of commitment and investment under
6 this short period of time is unprecedented, and
7 really unsustainable purely on the backs of
8 ratepayers.

9 So that federal partnership will be
10 necessary to limit those impacts. And I do have
11 increased optimism that will be realized. Again,
12 when you're going first, you need the help. And
13 again, we are going first, and we are going fast. So
14 with that, that's my comments. I will now turn it
15 over to Commissioner Burman.

16 COMMISSIONER BURMAN: Thank you so
17 much.

18 Can you explain to me why staff has
19 recommended that we reject the Utility's proposal to
20 bring the potential Phase-II investments into the
21 Commission's rate cases?

22 MS. GRISARU: Yes, I'd be very happy.
23 And my colleague, Mary Ann Sorrentino may have some
24 further details on exactly that question. But my
25 understanding from working with the rates team is

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2 that the staggered schedule of rate cases, that's --
3 you know, that's what we live with.

4 And then if you try to layer on top of
5 that, an accounting for -- for -- an accounting that
6 attempts to approximate an equitable allocation
7 across the very same utilities, raises a whole bunch
8 of administrative complications that we thought, you
9 know, made it perhaps too unwieldy to do that way and
10 risked putting some burdens on ratepayers that we
11 could avoid by taking this other approach.

12 Mary Ann, do you want to add anything?

13 MS. SORRENTINO: I'll just add one
14 thing. If we are to do it through a separate
15 process, it would be -- it would be similar amongst
16 utilities. If we were to do it through utility rate
17 cases, you could have base rate recovery for one
18 utility and surcharges through another.

19 So we really thought that if you did
20 it consistently throughout the state, it would be
21 better from a ratepayer perspective with respect to
22 transparency.

23 COMMISSIONER BURMAN: Thank you. And
24 can you explain to me what you see as the next step
25 process including the timeline for establishing this

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2 specific forum for this coordinated review?

3 MS. GRISARU: Sure. We -- we -- we
4 didn't pick that date out of a hat. January 1, 2023
5 per the statute, per the Accelerated Renewable Energy
6 Growth Act is supposed to be the kickoff for the
7 Commission's first review of this transmission and
8 distribution planning program.

9 So -- so we thought that provided a
10 good sort of a touchstone, and also provided enough
11 time for utilities to engage in the revamped planning
12 process that we are contemplating and to produce an
13 effective and well-coordinated portfolio of potential
14 projects.

15 So it seemed like that statutory
16 review date gave us enough bandwidth of time for the
17 utilities to do what they need to do and so that's
18 why we -- that's why we landed there.

19 COMMISSIONER BURMAN: Okay. I can
20 appreciate that and the reasoning behind that. I
21 will just say, I am a little concerned, especially in
22 -- you know, for me making sure that we move forward
23 smartly, but expeditiously. And to the extent that
24 we may be able to, in some potential upcoming rate
25 cases, look at things before that.

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2 I don't want that -- this to seem like
3 we're saying, no, can't discuss it, even if it makes
4 sense. And so for me, it's just being cognizant of
5 the fact that we should be somewhat flexible in what
6 may work and not getting -- I -- I worry that we get
7 bogged down and that, that then punting to another
8 forum or proceeding winds up actually delaying in a
9 way that we never get to it.

10 And that it might be appropriate at
11 some point, if we see that to be able to address it.
12 So I just share that with you.

13 MS. GRISARU: If I could -- if I could
14 --

15 COMMISSIONER BURMAN: Sure.

16 MS. GRISARU: -- just to provide some
17 -- perhaps some reassurance. In our work through the
18 power grid study that was also initiated under the
19 same act. Utilities and staff identified this
20 category a Phase-I projects, which this Commission
21 addressed in February.

22 And we have good reasons to believe
23 that those Phase-I project will achieve significant
24 C.L.C.P.A. benefits. And in the Phase-I order that
25 Commission encouraged the utilities, in fact,

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2 directed the utilities to identify those projects and
3 to move them forward because they do capture
4 benefits.

5 So -- so I think we -- you know, the
6 fact that we are waiting to see the Phase-II
7 portfolio, yes, the -- the reasons why that's
8 necessary, but -- but the utilities and staff with
9 the Commission's encouragement are -- will be moving
10 forward on those Phase-I projects in the interim.

11 COMMISSIONER BURMAN: Great, thank
12 you. I appreciate that.

13 MR. ROSENTHAL: And let me add 2 more
14 points. 1 is -- this is Bob Rosenthal. January 1,
15 2023 is the deadline. I think that it actually could
16 be, you know, sooner than that. That's the deadline
17 that we're setting. Two, is the order identifies 3
18 areas of concern that we know about, that does not
19 foreclose the utilities from identifying other areas
20 of concern that I think we could take up sooner.

21 COMMISSIONER BURMAN: Okay. Great.
22 Thank you. I appreciate your comments on that. The
23 only other thing is that I do believe that there are
24 a lot of folks who are anxiously awaiting the next
25 steps in the bulk proceedings. And I wondered if you

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2 could comment a little bit on that and where we may
3 be going.

4 MS. GRISARU: I -- I take it you mean
5 the NYISO's offshore -- the solicitation for the Long
6 Island time.

7 COMMISSIONER BURMAN: Yeah.

8 MS. GRISARU: The only update I have
9 on that, Mr. Rosenthal may know more is that, I
10 believe proposals from developers are due within the
11 next 45 days or so. So the process is moving along
12 according to the NYISO's schedule.

13 COMMISSIONER BURMAN: Okay. Great.
14 And how will -- how will this fit from a looking at
15 what FERC is doing. There's a lot that's there, kind
16 of, on the horizon. There will be a lot of changes
17 at FERC with a new commissioner coming on. And I'm
18 just curious on how we're making sure that a lot of
19 this collaboration, not just on these issues, but
20 overall FERC-related issues that will impact us are
21 being looked at and monitored.

22 MS. GRISARU: From -- from just the
23 perspective of this order the -- excuse me. The --
24 the revamped planning process that we are directing
25 the utilities to build, we specifically point to the

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2 fact that we have multiple planning entities and that
3 one of our challenges is to integrate better the --
4 the wholesale level, the bulk planning processes of
5 the NYISO administers with all the other -- excuse
6 me. All the other initiatives that the utilities are
7 responsible for.

8 So we -- we expect this planning
9 process to, you know, to produce a -- I'll repeat the
10 same word, a coordinated statewide assessment that
11 will reflect what is going on in the NYISO's planning
12 processes and -- and respond to and integrate with
13 what's happening at the bulk level.

14 As you know, the Commission has a --
15 has a significant role in the shape of the public
16 policy planning process that the NYISO undertakes.
17 So we are in a sense building on that bringing the
18 rest of the system -- bringing all those parts of the
19 system together. As to what FERC is up to, defer to
20 Mr. Rosenthal.

21 MR. ROSENTHAL: The only thing that I
22 would add is, you know, that FERC issued, you know, a
23 few notices and created a working group with NARUC
24 regarding, you know, new transmission types of
25 processes. And so we do identify in this order, at

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2 least one of those, you know, notices that FERC
3 issued, given that we ourselves are creating a new
4 process.

5 We've identified FERC as the entity
6 that might -- maybe able to assist us in terms of
7 rate recovery associated with this new process. We
8 -- and I can tell you that we have begun, you know,
9 our discussions with -- with the NYISO about
10 potentially helping us just administer the cost
11 sharing aspect of that process.

12 COMMISSIONER BURMAN: Right. And this
13 obviously deals with, you know, small scale
14 transmission and we at the P.S.C. broke it up into
15 the 2 proceedings, distribution and bulk power. So
16 on that side of it, outside of the offshore wind, you
17 know, where's that process and next sort of phase of
18 it.

19 MS. GRISARU: So -- so again,
20 referring to the results of the power grid study, we
21 -- the -- we -- staff recommended that the Commission
22 pay very close attention to the -- to the cycle of
23 bulk system studies, so as to stay ahead of the --
24 the bulk system needs that we expect to -- to emerge,
25 particularly, as we get into 2030.

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2 So we -- we are right now continuing
3 to rely on those processes, we expect to take up that
4 question. We expect to bring back to this Commission
5 some further recommendations relating to the --
6 relating to the power grid study in a subsequent
7 order.

8 COMMISSIONER BURMAN: Okay. I think
9 I'm anxious for that. And I think there is a number
10 of stakeholders who are probably also anxious for
11 that. So I think anything we can do in terms of
12 looking at that and giving some indication of where
13 we may be, even if it's just on the timing aspect, I
14 think, is likely to be helpful.

15 So thank you, I appreciate it. I will
16 be concurring on this item.

17 CHAIR HOWARD: Thank you.
18 Commissioner Alesi.

19 COMMISSIONER ALESI: Thank you, Mr.
20 Chairman. I have no questions at this point, but I
21 will be supporting the item.

22 CHAIR HOWARD: Thank you.
23 Commissioner Edwards.

24 COMMISSIONER EDWARDS: I think you and
25 your team did a really good job of this. I love the

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2 fact that this flexibility that allows utilities to
3 modify their proposals, re-submit so that the winning
4 team all of us can hold them accountable to what they
5 submitted. I truly like that approach. And I
6 appreciate the work that's been done.

7 This -- this is really an important
8 day and it's a too really good, thoughtful, important
9 items that are going to move us forward. So I -- I
10 appreciate Chair you putting these two agenda items
11 on today, especially together. Glad to be a part of
12 this today. Thank you.

13 CHAIR HOWARD: Thank you.
14 Commissioner Valesky.

15 COMMISSIONER VALESKY: I would just
16 concur with certainly the importance of this item
17 today in this order today and its significance going
18 forward in -- in the larger picture. The only -- the
19 only question I was going to ask, Liz, and thanks for
20 your great work you and your team. Commissioner
21 Burman has already addressed that the issue of -- of
22 not agreeing with the utilities proposal of doing the
23 Phase-II projects as part of their rate case.

24 Haven't been here long enough to -- to
25 have experience, so I'll certainly take your

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2 recommendation as that this is certainly the best way
3 to go, but I would also echo Commissioner Burman's
4 thoughts about would not want the date of January
5 1st, 2023 to inadvertently cause us to not move
6 something forward more quickly if -- if such Phase-II
7 -- Phase-II project would be ready to do so.

8 And I guess the only follow-up would
9 be, so Phase-I proposals they are included in the
10 rate -- in the rate cases in Phase-II --

11 MS. GRISARU: Yeah.

12 COMMISSIONER VALESKY: -- will now
13 not. Is that correct?

14 MS. GRISARU: In the -- in the Phase-I
15 order, we -- we -- the Commission said that the rate
16 case process is the sort of preferred venue, the
17 preferred place to look at Phase-I projects because
18 they are essentially the same traditional utility
19 investments that the companies bring forward in the
20 ordinary course, they're not driven by C.L.C.P.A.
21 needs.

22 COMMISSIONER VALESKY: Right.

23 MS. GRISARU: So we said that's the
24 default mechanism, bring them into the rate case.
25 But we also put the burden on the utilities to

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2 identify. If -- if you see C.L.C.P.A. deadlines
3 moving up, and you think something needs to be done
4 sooner in order to help meet those deadlines and you
5 don't want to wait for the rate case.

6 We authorize the utilities to come in
7 by petition, you know, a specific Phase-I proposals.

8 COMMISSIONER VALESKY: Okay, good. I
9 think that maximum flexibility is really important.
10 Great. Thank you.

11 CHAIR HOWARD: Commissioner Maggiore.

12 COMMISSIONER MAGGIORE: I have nothing
13 really to add. But I would like to again, thank
14 staff for their -- their work on this and their
15 continued diligence on the issue. Other than that, I
16 do intend to vote yes, on this matter.

17 CHAIR HOWARD: Thank you.
18 Commissioner Christian.

19 COMMISSIONER CHRISTIAN: Thank you,
20 Chair Howard. I think your statements earlier, Chair
21 Howard, capture my sentiment towards this order. I
22 plan to vote yes. I -- I believe that the new
23 approach is going to not only make it -- maximize the
24 effectiveness of the investments in the near term,
25 but also maximize the ability to meet the goals of

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2 the system of tomorrow that we seek.

3 So I believe these changes, and this
4 direction is sound. And I want to thank staff for
5 putting this forward and making this up.

6 CHAIR HOWARD: Thank --

7 COMMISSIONER CHRISTIAN: Thank you.

8 CHAIR HOWARD: Thank you, Commissioner
9 Christian. I will -- I will now call for a vote.
10 And my vote is in favor of the recommendation to
11 adopt staff's straw proposal and direct utilities to
12 make additional filings as discussed. Commissioner
13 Burman, how do you vote?

14 COMMISSIONER BURMAN: I concur.

15 CHAIR HOWARD: Commissioner Alesi?

16 COMMISSIONER ALESI: Yes.

17 CHAIR HOWARD: Commissioner Edwards?

18 COMMISSIONER EDWARDS: Yes.

19 CHAIR HOWARD: Commissioner Valesky?

20 COMMISSIONER VALESKY: Yes.

21 CHAIR HOWARD: Commissioner Maggiore?

22 COMMISSIONER MAGGIORE: Yes.

23 CHAIR HOWARD: Commissioner Christian?

24 COMMISSIONER CHRISTIAN: Yes.

25 CHAIR HOWARD: The item is approved,

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2 and the recommendation is adopted. We now move to
3 the consent agenda. And will now ask for any
4 comments that any items on the consent agenda will
5 begin with Commissioner Burman.

6 COMMISSIONER BURMAN: Thank you so
7 much. I do want to mention a couple item 161 and
8 just in general, the Dig Safely programs.

9 As folks know, the Commission does
10 have a responsibility for developing and enforcing
11 regulations for the protection of underground
12 facilities known as Part 753, more commonly referred
13 to as 811, Call Before You Dig or Dig safely.

14 New York State has 2, one call
15 notification centers covering the state and
16 excavators may provide notice of intent to excavate
17 by contacting the appropriate one call notification
18 center. Dig safely New York covers all counties
19 except the Bronx Kings, New York, Kings, Richmond,
20 Queens, Nassau and Suffolk and New York 811 covers
21 all of New York City and Long Island.

22 This is a crucial time for energy
23 regulators to be involved in safety and the critical
24 issues we deal with are really important. I do
25 believe we can get to zero incidents. And we can do

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2 so in my regulatory lifetime.

3 But it requires all of us working
4 together, not just PHMSA and the state regulators but
5 also all stakeholders, utilities, as well as folks
6 involved New York Dig Safely and New York 811 and the
7 -- those folks who are excavators as well working
8 together.

9 For me, I do think it's important for
10 us to take a good look at what we are doing in this
11 area, and make sure that we are trending in a
12 positive way where we're seeing decreases in
13 incidents, and helping to identify areas for this
14 continuous improvement.

15 What that may mean, for me
16 specifically, I think, as a general observation, I
17 think we need to be very mindful of looking at
18 further engagement that may be able to happen with
19 our fellow partners, New York 811, and Dig Safely New
20 York, but also the municipalities and how we can
21 focus on that. Enforcement dollars, as originally
22 intended, really need to go for the training and the
23 retraining, both of excavators and of staff.

24 And that's really for us important to
25 make sure that we are utilizing those enforcement

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2 dollars to ensure that it is going there. And the
3 other thing is, we may need to look at whether or not
4 the fines that are -- are identified, if they're
5 really high enough to change behavior. I think that
6 for small excavators they may be. But to the extent
7 that we're looking, it's not just about the penalty
8 or the fine, but really, it's about whether it's
9 changing behavior and the continuous improvement of
10 that.

11 We've done a lot of good work,
12 especially with the municipalities in ensuring that
13 they are more mindful of ensuring training. But
14 there is a continual turnover of staff, new companies
15 come online, et cetera. And it's making sure that we
16 continually educate and work through those challenges
17 in a way that is helpful. I myself have utilized as
18 a homeowner, the Dig Safely Program. I found it to
19 be very helpful.

20 It's also helpful for, you know, folks
21 in -- in my family to see that what they thought was,
22 you know, not a big deal to dig that by calling Dig
23 Safely and having them come out to see just how many
24 things were underground, that could be a problem if
25 they started digging.

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2 So I just mentioned that because I do
3 think it's really important for us to do all we can
4 to make folks understand that this is a top priority
5 for us. On items 268, 380, 381 and 383 I will be
6 concurring. I do just want to mention on 381, this
7 is the tier 2 focus.

8 There is language in here that talks
9 in the order about prioritizing ESCOs and C.C.A.s.
10 We really do as a Commission need to really get under
11 the hood a little bit more on what we're doing
12 especially on C.C.A.s and make sure that we are being
13 successful and continuously improving in that area.

14 And that's really it. So 268 -- for
15 Secretary Phillips, 268, 380, 381 and 383 I'll be
16 concurring. Thank you.

17 CHAIR HOWARD: Thank you.
18 Commissioner Alesi, do you have any comments?

19 COMMISSIONER ALESI: No, thank you,
20 Mr. Chairman.

21 CHAIR HOWARD: Thank you.
22 Commissioner Edwards?

23 COMMISSIONER EDWARDS: No, I don't
24 have any comments. But I just want to thank
25 Commissioner Burman on her thoughts on Dig Safely, I

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2 agree with her on that. Thank you.

3 CHAIR HOWARD: Thank you very much.
4 Commissioner Valesky?

5 COMMISSIONER VALESKY: Just one --
6 comment on 1 item and certainly keeping with the
7 theme from earlier, from the item earlier on
8 transmission. Just want to highlight item number
9 373. This is the Article 7 project and the joint
10 proposal signed by New York Transco for the project
11 in Orange County.

12 And just highlight not only the staff
13 of this agency, but also D.E.C., Ag and Markets my
14 former agency and the Office of Parks. It's a good
15 example of -- of staff at multiple agencies
16 advocating on behalf of the constituencies that they
17 -- that they represent. And I think this is
18 important to note that item 373 is the -- the order
19 to grant the Article 7 Certificate to New York
20 Transco and that process continues. Thank you.

21 CHAIR HOWARD: Commissioner Maggiore?

22 COMMISSIONER MAGGIORE: I have no
23 comments. Thank you.

24 CHAIR HOWARD: Thank you.
25 Commissioner Christian?

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2 COMMISSIONER CHRISTIAN: I have
3 comments similar to Commissioner Burman's on item
4 161. And I have some questions regarding item 268,
5 the NiMo East Pulaski Substation Project. So I'll --
6 I'll start with my comments regarding item 161. Much
7 of this will follow what Commissioner Burman said
8 earlier.

9 But simply put, engaging and digging
10 without knowing what lies beneath can cause some very
11 significant negative consequences. Consequences to
12 the excavator involved, the property owners nearby,
13 the utility, customers, the surrounding community and
14 the environment. The near-term damage to property,
15 life and livelihood is often quite dramatic and quite
16 acute. Explosions are potential outcomes.

17 But the long-term damage, meaning
18 methane leaks cannot be understated. Fortunately,
19 the consequences of this particular incident were
20 relatively minor. And I want to add that my comments
21 here today are not specific to this incident but
22 serve to highlight a worrisome trend and raise
23 questions concerning how we approach these incidents
24 overall.

25 For violations such as this,

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2 essentially excavating without one call ticket, the
3 Commission has the authority to enact penalties of up
4 to \$2,500 for the first incident, and up to \$10,000
5 for subsequent incidents. And as Commissioner Burman
6 stated earlier, the purpose of these penalties is not
7 to generate revenue, but to drive compliance and
8 ensure public safety.

9 The logic being that the penalties are
10 high enough people will do their best to avoid them.
11 The penalty amounts are detailed in Article 36 of the
12 General Business Law where these maximum values are
13 established. These values have remained unchanged
14 for over 20 years.

15 Since joining the Commission I've
16 reviewed over 20 similar incidents where an excavator
17 has failed to follow the One Call System and use
18 proper protocols. I worry that these maximum penalty
19 amounts do not serve their intended purpose and are
20 an ineffective deterrent for these problems we face.

21 We should be striving for a goal of
22 zero incidents. And if the mechanisms we have in
23 place cannot achieve that they should be reviewed and
24 modified. And I look forward to working with staff
25 and my fellow commissioners to do just that,

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2 minimizing the need to discuss similar issues in the
3 future.

4 That said, I do want to thank staff
5 for all their efforts in this area and encourage them
6 to continue to enforce safety regulations and deter
7 conduct that can endanger the public welfare and the
8 environment. Now, I do have questions concerning
9 item 268. This is the project for the NiMo East
10 Pulaski Substation Project concerning battery
11 storage.

12 CHAIR HOWARD: I'll ask Marco Padula
13 our Director of Innovation to be available to answer
14 your questions, Commissioner.

15 COMMISSIONER CHRISTIAN: Thank you,
16 Chair. Thank you, Mr. Padula.

17 My first question concerns the
18 inception of the project, how it was originally
19 conceived? Can you share with us the results of the
20 initial cost benefit analysis and just generally
21 describe the original intent of the project when it
22 was originally conceived?

23 MR. PADULA: Sure. Can you hear me?
24 Excellent.

25 COMMISSIONER CHRISTIAN: Loud and

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2 clear.

3 MR. PADULA: So let me start by saying
4 that the -- the project really started with the
5 Commission's D-SIP. order, that's a Distributed
6 System Implementation Plan back in 2017, where the
7 Commission recognized that the need for storage
8 moving into the future from 2017 to now and
9 continuing into the future would really become more
10 and more important as an integrated new technology
11 that could be used as an alternative to traditional
12 T&D as well as help to integrate store of
13 intermittent resources as we're seeing more and more
14 today.

15 So what the Commission said in that
16 order was for all the utilities to develop 2 storage
17 projects, by the end of -- I think it was by the end
18 of 2018 and have those up and running so that the
19 utilities could actually get experience identifying
20 where storage could be used in -- in the system.

21 Also knowing that storage was an
22 infant industry really to kind of get that industry
23 moving in the right direction and demonstrating the
24 ability to provide grid functions. So this
25 particular project on -- on behalf of National Grid

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2 was identified in its rate case that it filed in
3 2017.

4 And it presented this storage facility
5 along with another one that I believe was in Buffalo.
6 It presented B.C.A. analysis of that portfolio. It
7 included 3 different measures in -- in its rate case
8 filing. And you could see from -- from that initial
9 rate case filing that the social resource cost tests
10 that we traditionally use was a little below one, the
11 other tests, the U.C.T. test and the RIM test.

12 U.C.T. was, again, a little bit below
13 1, but the RIM test was above 1. But again, you
14 know, I would caution, those are traditional very
15 strict rigid tests. But all the other benefits that
16 I -- that I -- that the Commission envisioned in
17 terms of the utility experience, stimulating the
18 market, getting the utilities ability to -- to
19 demonstrate how these resources can -- could be used
20 to satisfy grid functions, those really aren't
21 quantified in those -- in that specific measure so --
22 and nor did the Commission really require strict
23 interpretation of the B.C.A. itself just for
24 information.

25 Was that helpful?

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2 COMMISSIONER CHRISTIAN: Thank you,
3 Marco.

4 MR. PADULA: You're welcome.

5 COMMISSIONER CHRISTIAN: My next
6 question concerns the potential impact of the new use
7 of this battery storage system on other providers of
8 the services it will be providing. Can you speak to
9 that briefly?

10 MR. PADULA: Sure. So the -- the 2
11 megawatt battery project in the Pulaski area was
12 primarily built to mitigate a thermal overload of a
13 transformer in the National Grid Substation in that
14 area. In addition, it provides -- it can and does
15 provide peak load reduction.

16 And what other resources provide peak
17 load reduction in the area, I think is the question
18 that Commissioner Christian is asking is, there are
19 the demand response program participants, that's the
20 commercial system relief program. And those are
21 voluntary participants that play in that program.

22 And then looking at the other services
23 that National Grid wants to -- you know, the petition
24 really is asking to be able to use this to play in
25 the wholesale ancillary markets. There are, of

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2 course, other generation resources, like combined
3 cycle units, hydro units that provide ancillary
4 services.

5 But this 2 megawatts, you know, is a
6 very small piece of that ancillary service market as
7 well. So those are the other resources that provide
8 both peak demand reduction, ancillary service --
9 services as well.

10 COMMISSIONER CHRISTIAN: Thank you.
11 So in a nutshell, we're getting more bang for our
12 buck, is that safe to say?

13 MR. PADULA: Absolutely. You know, in
14 my opinion, the -- the -- the storage resources that
15 were installed in response to the Commission's order
16 to be integrated into the distribution system, are
17 doing just that.

18 And what this petition is asking the
19 Commission for is recognizing that there are other
20 wholesale services that the units can provide during
21 the times when it's not needed for that traditional
22 T&D reliability need. And any revenues that are
23 generated by that traditional use, really go directly
24 to the benefit of ratepayers who are funding these
25 resources from the -- from the start.

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2 COMMISSIONER CHRISTIAN: Thank you,
3 Marco. I'm pleased to see decisions paying
4 additional dividends above and beyond what's
5 expected. So this is a -- this is a good reward.
6 Thank you.

7 MR. PADULA: You're welcome.

8 CHAIR HOWARD: I will now call for a
9 vote on the consent agenda. My vote is in favor of
10 recommendation on the consent agenda. Commissioner
11 Burman, how do you vote?

12 COMMISSIONER BURMAN: I vote yes,
13 except for the items where I concurred.

14 CHAIR HOWARD: Thank you.
15 Commissioner Alesi?

16 COMMISSIONER ALESI: Yes.

17 CHAIR HOWARD: Commissioner Edwards?

18 COMMISSIONER EDWARDS: Yes.

19 CHAIR HOWARD: Commissioner Valesky?

20 COMMISSIONER VALESKY: Yes.

21 CHAIR HOWARD: Commissioner Maggiore?

22 COMMISSIONER MAGGIORE: Yes.

23 CHAIR HOWARD: Commissioner Christian?

24 COMMISSIONER CHRISTIAN: Yes.

25 CHAIR HOWARD: Thank you. The items

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2 are approved, and the recommendations are adopted.

3 Secretary Phillips, is there anything
4 further to come before us today?

5 SECRETARY PHILLIPS: There's nothing
6 further today.

7 CHAIR HOWARD: With that, I thank my
8 fellow commissioners and staff and we'll adjourn this
9 meeting.

10 (Off the record; 12:01 p.m.)

11 (The proceeding concluded.)

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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 73, 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 13th day of September, 2021.

11

12

13 ROBERT WURTZ, Reporter

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