

1 Monthly Meeting - August 1, 2016 - Albany, New York

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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MEETING OF THE PUBLIC SERVICE COMMISSION

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Monday, August 1, 2016
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

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COMMISSIONERS

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AUDREY ZIBELMAN, Chair
GREGG C. SAYRE
PATRICIA L. ACAMPORA
DIANE X. BURMAN

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CHAIR ZIBELMAN: Going to call this session
of the Public Service Commission to order.

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Secretary Burgess, are there any changes to
the final agenda?

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SECRETARY BURGESS: Good morning Chair and
Commissioners. There are no changes to this morning's
agenda.

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CHAIR ZIBELMAN: Okay. Well, we're going

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2 to start today's agenda with a man of impeccable timing.

3 Today is Steve Blow's last day at the
4 Commission and because of the matters before us, we
5 decided to start with the most important one and that is a
6 -- a resolution in -- in just honoring Steve for his --
7 his long service.

8 So I would like to read a -- propose a
9 resolution in recognition of Steve's career. He's one of
10 our most gifted attorneys and he's retiring from our state
11 service, so I'm going to read it briefly, but it will be
12 entered into the record.

13 So whereas Steve Blow has served the
14 citizens of the State of New York as an Assistant Counsel
15 of the New York State Department of Public Service, from
16 1979 through -- until 2016, before a lot of people in this
17 room were born. That's thirty-seven years.

18 And whereas -- it goes on to describe
19 Steve's significant contributions, particularly in the
20 areas of transmission and generation facility-siting and
21 his personal contributions to the department and his
22 colleagues. And it ends with -- it's resolved that the
23 New York State Public Service Commission expresses its
24 gratitude and deepest appreciation to Steven Blow, for his
25 dedicated and faithful service to the people of the State

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2 of New York, as demonstrated by his long career and
3 accomplishments as an advocate of the public interest and
4 his personal commitment to the mission of the Commission
5 to ensure that the public needs of New York's consumers
6 are met in a manner that is safe and reliable, but also in
7 a manner that is compatible with preserving our natural
8 environment.

9 I think we've all had the honor to work
10 with Steve. Something that this Commission always
11 recognizes, that our greatest assets are our people and
12 Steve is chief among them.

13 So, Steve, we're going to miss you a lot.
14 We very much appreciate everything you've done and I know
15 that for those that you're leaving behind, the fact that
16 you're not going to be here to help with the siting and
17 generation that we see before us, they may be writing you
18 and calling you a lot.

19 So thank you very much and congratulations.

20 Commissioner Sayre has a comment.

21 MR. BLOW: Thank you, Madam Chair and
22 Commissioners.

23 CHAIR ZIBELMAN: Before you leave, Steve,
24 you got to wait. You have to -- you have to endure all of
25 this.

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2 Gregg has a remark.

3 COMMISSIONER SAYRE: Steve, you may not
4 know this, but you used to strike fear into the hearts of
5 petitioners and practitioners before the Commission, or at
6 least you had that impact on me, personally. I always
7 dreaded getting a letter from Steve because it would be
8 ruling on my request for confidential treatment and it
9 would destroy, in a couple of well-turned paragraphs, my
10 weaker arguments for confidentiality. I don't think in
11 the course of a couple of decades of getting those letters
12 I ever had any basis to try and appeal any of Steve's
13 decisions to the Commission.

14 So congratulations, Steve. Great work and
15 have a wonderful time.

16 MR. BLOW: Thank you.

17 CHAIR ZIBELMAN: Diane?

18 COMMISSIONER BURMAN: You were one of the

19 --

20 CHAIR ZIBELMAN: I see you, Patty.

21 COMMISSIONER BURMAN: -- you were one of
22 the first people that I met when I started as a staffer on
23 my first day. You amazed me. You continue to amaze me.

24 Your in -- intellect is far beyond the most
25 intellectual person I know. Your ability to be kind and

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2 fair and just despite all odds, has been a testament to
3 who you are as a person, despite that it says Paul Agresta
4 there and I really just want you to know that I take this
5 as a personal loss to me personally and to the state as a
6 whole and I wish you well in your next venture.

7 Thank you.

8 MR. BLOW: Thank you so much, Commissioner.

9 CHAIR ZIBELMAN: Patty, do you want to
10 close this out?

11 COMMISSIONER ACAMPORA: Yes.

12 Hi, Steve. I'm sorry I'm unable to be
13 there with you today, but it's been an honor to serve with
14 you.

15 As Gregg said, you were never known as a
16 pussycat, but you were always known as a professional and
17 for thirty-seven years your service to the state of New
18 York -- we can't measure how much you've done for the
19 people of the State of New York.

20 And as I say to everyone when I wish them
21 farewell and good luck in their retirement, do collect a
22 lot of checks and stay healthy and enjoy your time of
23 retirement. You've certainly deserved it and we thank you
24 so much for your service.

25 And everyone knows this is not an easy

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2 place to work, as we will soon talk about later, but we do
3 thank you for your service to the people of the state and
4 for all you've done for all of us. Thank you very much
5 and God bless.

6 MR. BLOW: Thank you, Commissioner.

7 CHAIR ZIBELMAN: So you're dismissed.

8 MR. BLOW: Better give Paul back his seat.

9 CHAIR ZIBELMAN: Well, you could stay here
10 and do the next item.

11 COMMISSIONER SAYRE: Should be short.

12 CHAIR ZIBELMAN: Yeah.

13 Okay. We are now going to move to the
14 regular agenda.

15 And before I begin, I -- I do want to note,
16 you know, we have a lot of people in this room. I know a
17 lot of people are elsewhere in the building. I appreciate
18 and I think on behalf of, frankly all the Commission and
19 the staff we very much appreciate the -- the interest, the
20 compassion that has been shown about this matter. That we
21 have had thousands of comments, thousands of letters,
22 many, many hearings over the last not -- just this year,
23 but in the last couple of years since we started looking
24 at both the State Energy Plan and large scale renewables
25 and I think we're all better and richer for -- as a

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2 result.

3 Today we're -- we're going to be going
4 through the order. The Commission will have an
5 opportunity to ask questions and then I'm going to ask
6 each of the Commissioners for their comments in turn.

7 I would ask and I -- I understand that this is an
8 interest -- a -- a matter of critical interest to the
9 state. There's a lot of interest on a lot of people, for
10 a lot of different reasons and I would ask that all of you
11 maintain your decorum and allow us to do our business and
12 then we will allow -- everyone can then do what they want
13 to do afterwards.

14 So with that, let me just start off with
15 really a few opening comments and then I -- I'm going to
16 turn it over to Paul to go through the proposed decision
17 before us today. And this is regards to the Clean Energy
18 Standard.

19 So -- and unlike usual, I'm actually going
20 to read.

21 So there's no question that the topics
22 before us today and there are several that are of critical
23 importance to New York. These are questions that really
24 regardless of how we answer them, is going to have a
25 permanent impact on the energy landscape in the state.

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2 But like many complex challenges, they are
3 best answered by breaking them down into simple questions
4 and real solutions. For the Commission, our North Star
5 question always is what is in the best interest of the
6 electric consumers in New York, when it comes to the
7 planning, the development and the operation of the retail
8 electric system and the companies we oversee.

9 And today, we're going to be answering that
10 question within the context of a basic determination, that
11 based on the real experience that New York has had with
12 major climatic events, it has become apparent that
13 integral to the consumer interest, in an industry that is
14 so affected with the broad public interest, is to make
15 sure that in order for the New York electric system to be
16 reliable, to be efficient, to be resilient and to be cost-
17 effective, the electric industry we were rebuilding must
18 also be designed, built and operate to effectuate carbon
19 reduction and combat climate change.

20 So the questions really -- become really
21 simple and straightforward. Do we adopt the standard 50
22 by '30 and if so how do we implement it?

23 And second, if our goals are the twins of
24 ensuring fuel diversity and carbon reduction, can we get
25 there feasibly and practically if our nuclear plants of

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2 today provide a diverse source of power and 30 percent of
3 zero-carbon energy as well as other critical, local
4 benefits, abruptly retire from the system?

5 Now, it really may seem odd for an economic
6 regulator to be so worried about carbon, but that would
7 really be wrong. During the Paris Climate Talks, U.N.
8 Secretary General Ban Ki-moon reminded us that saving our
9 planet, lifting people out of poverty and advancing
10 economic growth, are really one and the same fight. When
11 done in the right way, the solutions for one of these
12 issues can be solutions for all.

13 As economists have reminded us, the economy
14 is a wholly-owned subsidiary of the environment and not
15 vice versa. By not effectively pricing in the cost of the
16 environment to our electric choices, we are, in fact,
17 causing economic inefficiencies.

18 Under Governor Cuomo's leadership REV as a
19 whole and the CES before us embodies a sentiment. The
20 proposed CES is an example of government recognizing that
21 proposed actions to prevent climate change is now both a
22 moral imperative, no longer a choice, but a necessity and
23 an economic one. The order details the billions of
24 dollars lost to the economy and electric consumers from
25 climate change and an electric grid that does not

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2 sufficiently value the importance of a diverse and clean
3 energy portfolio of resources.

4 More particularly, this Commission has, on
5 many occasions, recognized that for the 21st Century power
6 system, the environmental action is more often than not
7 the basic economic choice. Over the last decade, the cost
8 of renewables have fallen dramatically and with the scale
9 provided by the CES and the actions we are taking --
10 considering today, they can continue to do so.

11 We're now at a time and a place where when
12 done in accordance with sound physics and business
13 operations, choosing technologies that reduce energy usage
14 and portfolios of resources that combine renewable
15 technologies, like solar, with storage technologies that
16 shift and allow us to control our use of power, represent
17 the true efficient and economic choice as well as the
18 environmental one.

19 The very essence of REV is that we can now
20 apply science, math and smart regulation to change the way
21 power is produced, delivered and consumed to ensure that
22 our environmental solutions and economic benefits are
23 simultaneously achieved. We only need to look at the
24 actions that our utilities have already taken to
25 incorporate renewable resources as an alternative to

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2 traditional investment, to see the multiple economic
3 benefits to be achieved through integrating environmental
4 sensibility and to day-to-day utility operations and
5 despite the suggestions of some in this docket, all of our
6 decisions represent our broad and deep understanding of
7 the energy system and the technological and system
8 realities we must address.

9 Today's New York's energy mix, is a little
10 over 45 percent fossil based with the remaining elements
11 being made of -- made up of nuclear, hydro and renewable
12 resources. We actually have only about four percent coal
13 in our energy resource base and we're on the road of -- of
14 eliminating all coal into our mix.

15 Baseload nuclear load represents just over
16 30 percent of the energy produced. The owners of our New
17 York nuclear plants have informed us and shown that
18 because of the abundant supply of natural gas in the
19 market, the price of natural gas and natural gas
20 generation have dropped so low, that we -- we are at risk
21 of losing the zero carbon attributes that these plants
22 provide.

23 If these plants close abruptly, they will
24 in all likelihood be replaced by the attributes of
25 expanded fossil-fuel base generation, and this will of

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2 course impair our ability to achieve our environmental
3 goals.

4 The CES therefore proposes a bridge to pay
5 the nuclear units for their zero-carbon attributes so that
6 we can secure a renewable mandate and our carbon reduction
7 goals, in a cost-effective and realistic manner.

8 The CES that we're going to be discussing
9 today and voting on today, is in -- really in my mind an
10 essential and symbiotic compliment of all the actions that
11 this Commission has already taken under REV. It
12 incorporates our statutory responsibility to ensure that
13 long-term planning actions are taken by energy providers
14 in New York to secure a reliable, efficient, safe and
15 environmentally sound power system.

16 It respects the fact that we live in a
17 world of cooperative federalism with shared jurisdiction
18 with the FERC over the wholesale energy sector. It
19 enhances our objectives to use consumer choice and the
20 ingenuity of markets as valuable assets that will allow us
21 to achieve and exceed our goals. And it is pragmatic in
22 recognizing that the best way to achieve our environmental
23 goals, is to have a measured plan that is clear, that is
24 ambitious, that is economically sound and that is
25 technically -- technology and technically achievable.

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2 So with that I'm really looking forward to
3 our discussion today.

4 I'm going to turn it over to Paul to review
5 the order.

6 MR. AGRESTA: Thank you.

7 Good morning.

8 I'm going to give a brief overview of the
9 session item and then we can get to your questions.

10 This session item proposes the adoption of
11 the Clean Energy Standard, a long-range program to ensure
12 that the load-serving entities that secure the electricity
13 that serves customers in New York, do so in a manner that
14 conserves natural resources and preserves environmental
15 values.

16 Who are the load-serving entities? They
17 are the companies that buy power in bulk for resale to us
18 at the consumer level. They include the traditional
19 electric distribution companies, the competitive energy
20 service companies that we call ESCOs, LIPA, the Long
21 Island Power Authority, NYPA, the New York Power
22 Authority, various municipal utilities, electric
23 cooperatives and a class of entities known as direct
24 customers.

25 It is desirable that all of these load-

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2 serving entities do their fair share to achieve the Clean
3 Energy Standard. They will all share in the clean energy
4 benefits, so it's proposed that they should all share in
5 the obligation to make it happen.

6 To the degree that the Commission does not
7 have full jurisdiction over these entities, it is proposed
8 that they participate with the rest of their own accord.
9 Our understanding is that LIPA and NYPA have already
10 indicated a willingness to cooperate and participate.

11 One of the motivations for the Clean Energy
12 Standard is the goal of the State Energy Plan that 50
13 percent of New York's electricity is to be generated by
14 renewable sources by 2030. That goal is part of a
15 strategy to reduce statewide greenhouse gas emissions 40
16 percent by 2030.

17 This session item proposes that the
18 Commission adopt that goal and make it a mandate to be
19 achieved by the load-serving entities at the foundational
20 basis and essential component of the Clean Energy
21 Standard.

22 So what is the Clean Energy Standard? The
23 Clean Energy Standard consists of two major components.
24 The Renewable Energy Standard and the Zero-Emissions
25 Credit Requirement and those -- those two components are

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2 broken down further into three tiers of obligations.

3 So Tier One, which is under the Renewable
4 Energy Standard, is a proposed obligation on all load-
5 serving entities to invest in new renewable generation
6 resources to serve their retail customers, evidenced by
7 the procurement of qualifying Renewable Energy Credits or
8 RECs.

9 They would be acquired in quantities that
10 satisfy mandatory and minimum percentages that will grow
11 each year. The rate of growth proposed would be more than
12 twice the annual rate under the former Renewable Portfolio
13 Standard or RPS program.

14 Resources eligible to provide Tier One
15 compliance will mirror the eligibility rules currently
16 used for the Main Tier of the RPS, with the exception that
17 the former thirty-megawatt limit on low impact run-of-
18 river hydroelectric facilities is proposed to be
19 eliminated. The eligible resource categories include
20 biogas, biomass, liquid biofuels, fuel cells,
21 hydroelectric solar, tidal, ocean and wind. New hydro
22 impoundments remain ineligible.

23 Load-serving entities may satisfy their
24 obligation by either purchasing RECs required through
25 central procure -- central procurement by NYSERDA, the New

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2 York State Energy Research and Development Authority or by
3 self-supply by direct purchase of tradable RECs. Or in
4 the alternative, they may make alternative compliance
5 payments to NYSERDA in order to comply. Each load-serving
6 entity would demonstrate compliance to an annual-
7 compliance filing.

8 After careful consideration it is not
9 proposed that their load-serving entities as a matter of
10 first preference, be required at this time to enter into
11 Power Purchase Agreements to meet their obligations.
12 Mandating utilities to enter long-term Power Purchase
13 Agreements would present a significant financial risk to
14 rate payers and to utilities because there is no in -- no
15 assurance of a long term customer base from which to
16 recover the cost of power contracts. The potential of
17 having to resort to a delivery surcharge to recover costs,
18 limits competitive choice.

19 Similarly, it is not proposed that fully-
20 regulated electric distribution companies, be permitted at
21 this time to build utility-owned generation facilities to
22 meet their obligation. Utility-owned generation can cost
23 less than the alternatives in the near-term, largely
24 because utilities have lower finance costs, but utility-
25 owned generation also has the potential to inhibit entry

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2 by other market participants, which can result in less
3 competition and higher costs in the long run.

4 In addition, until there is more clarity
5 from the Courts, these approaches could also lead to the
6 potential for federal preemption, creating a risk that
7 would unacceptably slow the implementation of the
8 Renewable Energy Standard. And I'll talk more about
9 federal preemption in a minute.

10 So let's go to Tier Two. Tier Two is also
11 under the Renewable Energy Standard. It's a proposed
12 obligation on all customers to continue to provide some
13 more -- support to maintain certain existing renewable
14 resources, mostly small, hydroelectric facilities, less
15 than five megawatts in size, in the same manner as the
16 prior RPS Program Maintenance Tier.

17 The Tier Two methodology results in
18 potential contracts to support certain costs deemed
19 eligible by the Commission, on a case-by-case basis. It
20 is generally considered more cost-effective to preserve
21 the existing renewable energy attributes of these
22 facilities than to replace their contribution with new
23 facilities.

24 And then finally Tier Three, the Zero-
25 Emissions Credit Requirement is modeled after features of

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2 both Tier One and Tier Two. It is a proposed obligation
3 on all load-serving entities to preserve the zero-
4 emissions environmental attributes, of certain zero carb
5 and electric generating facilities, for which the
6 Commission has found that such preservation is a public
7 necessity.

8 It is proposed in a session item, that the
9 Commission find that there is a current public necessity
10 to preserve the zero-emission attributes of the
11 Fitzpatrick, Ginna and Nine Mile Point nuclear generation
12 facilities. New York's upstate nuclear plants avoid the
13 emission of over 15 million tons of carbon dioxide per
14 year, along with other air-pollutant emissions.

15 It is proposed that every load-serving
16 entity in New York State be obligated to purchase by
17 contract with NYSERDA, an amount of zero-emission credits,
18 representing that load-serving entities proportional share
19 of ZECs purchased annually by NYSERDA pursuant to the
20 Zero-Emissions Credit Requirement. So in other words,
21 everybody would just do their proportional share to keep
22 those resources.

23 The load-serving entities proportional
24 share is determined based on the proportion of electric
25 energy load served by the load-serving entities in

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2 relation to the total electric -- electric energy load
3 served by all load-serving entities in New York control
4 area. The load-serving entity NYSEDA contractual
5 relationship, will require load-serving entities to
6 periodically purchase ZECs during a programming or based
7 on initial forecast of load and the balancing
8 reconciliation at the end of each program year.

9 The compliance period shall be for twelve
10 -- I'm sorry, for six two-year tranches, a total of twelve
11 years, commencing April 1, 2017 and will continue until
12 March 31, 2029. Each load-serving entity will demonstrate
13 compliance through an annual compliance filing.

14 Now both the Tier One RECs and the Tier
15 Three ZECs are based on similar principles, in relation to
16 federal law. Both are Attributes Purchase Programs, of
17 the kind that FERC, that's the Federal Energy Regulatory
18 Commission, both are of the kind that FERC was describing
19 when it ruled that REC programs for the -- for purchasing
20 attributes, are a FERC commodity created by states, that
21 is not within the wholesale electricity jurisdiction of
22 FERC.

23 Federal Law preempts contrary State Law,
24 pursuant to the Supremacy Clause of the U.S. Constitution.
25 Under the Federal Power Act, FERC has exclusive authority

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2 to regulate the sale of electric energy at wholesale in
3 interstate commerce. The Federal Power Act calls it the
4 sale of electricity for resale. That's what they mean by
5 wholesale.

6 States, however, retain the power to
7 regulate the retail sale of electricity end use customers.
8 All Commissions act -- all Commission actions must take
9 place within the Cooperative Federalism Structure, Energy
10 -- Energy Regulation and the myriad State and Federal
11 Court cases, describing the jurisdictional boundaries.

12 The Clean Energy Standard has been
13 purposefully designed to be within the retail sales
14 authority of the Commission. States may not seek to
15 achieve ends, however legitimate, through regulatory means
16 that intrude on FERCs authority over interstate wholesale
17 rates. But states may encourage production of newer clean
18 generation through measures untethered to a generator's
19 wholesale market participation.

20 Now, there's one primary difference between
21 the RECs methodology and the ZECs methodology, that should
22 be discussed a little further.

23 Tier One RECs have the benefit of many
24 developers that are willing to compete to be awarded RECs
25 contracts. That level of competition is sufficient to

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2 establish the value of RECs, in an open procurement
3 solicitation.

4 Unfortunately, for Tier Three ZECs, there
5 are only two potential bidders among the qualified
6 facilities. That is too few to fashion any kind of
7 competitive process to establish the value of ZECs.
8 Instead the only real alternative is to establish the
9 value of RECs administratively.

10 The session item takes the approach of
11 valuing and paying for zero-emission attributes or ZECs
12 based on a formula that starts with the best available
13 published estimates of the social cost of carbon. These
14 estimates were developed for the United States
15 Environmental Protection Agency, in coordination with
16 other federal agencies and they were prepared by a group
17 called the U.S. Interagency Working Group.

18 That value is then adjusted downward to
19 subtract a fixed baseline portion of that cost already
20 captured in the market revenues received by the eligible
21 facilities due to the Regional Greenhouse Gas Initiative
22 or RGGI Program. In other words, if you take the social
23 cost of carbon, the RGGI Program results in activities
24 that internalize part of that cost into the cost of
25 electricity. So some -- some of it has already been

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2 internalized, so the remainder is what we're using to set
3 the price or set the value for ZECs.

4 In later years in the program, a number of
5 adjustments are built into the formula to adjust for
6 changes in value over time. This approach in which ZEC
7 payments for zero-emissions attributes are based upon the
8 social cost of carbon, less RGGI effects, is fully
9 consistent with the Commission's approach in setting
10 guidelines for benefit-cost analysis adopted in the REV
11 program. So this is not the first time this has been
12 used.

13 I'm not going to take the time now to
14 recount the extensive procedural steps including White
15 Papers, technical conferences, environmental impact
16 statements, public statement hearings, public notices and
17 the thousands of comments that were received and analyzed
18 before these recommendations were made for you. They are
19 described extensively in the session item.

20 I will note, however, the over-the-top
21 effort of many, many people on staff, to get this item
22 before you in a timely manner, so as to give you two
23 important opportunities.

24 The first opportunity is that there
25 currently are very favorable, federal incentives available

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2 for the development of new renewable resources. If you
3 act today to address the Tier One issues, it is very
4 likely that your action will affect both the 2016 and 2017
5 procurements in a favorable way, that will ultimately
6 result in less cost to consumers.

7 The second opportunity, if acting today, is
8 that your actions will be just in time to not foreclose
9 your options as to how to address the risk of losing the
10 zero-emissions attributes of the nuclear facilities.
11 Unlike other generation facilities, our understanding is
12 that when nuclear generators cease operations, succession
13 is -- is generally permanent. The plant owners are facing
14 imminent business decisions with important consequences
15 and your action today may make all the difference.

16 So this concludes my presentation. There
17 are many other details in the session item that I'm not
18 going to present but we have an extensive team of
19 experienced staff here that stands ready to address any
20 questions you may have.

21 Thank you.

22 CHAIR ZIBELMAN: Thank you, Paul.

23 And so what we're going to do now is -- is
24 really we're going to turn it to questions. But before I
25 do, I do want to echo Paul's last statement and I think we

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2 could say it once and say it a thousand times.

3 This has been an incredible endeavor, not
4 only of all the parties to this proceeding, but frankly
5 this staff. And I think that the Commissioners will agree
6 that the -- that the order before us is not only extremely
7 thoughtful and responsive and certainly well thought out
8 and well articulated, but reflects the professionalism of
9 our staff and -- and frankly the compassion and passion
10 that they bring to work everyday for what they do and I
11 want to thank them now and thank them again because it --
12 it was an incredible piece of work.

13 And if we don't do it, we're going to have
14 to wish Paul happy birthday because we made him work till
15 midnight on his birthday. So with that, let me turn it
16 over to questions and who would like to -- any -- want to
17 begin, Gregg?

18 COMMISSIONER SAYRE: I'd like to echo the
19 Chair's comment, that I am extremely impressed by the --
20 the hard work, the detailed analysis, the professionalism
21 and the good writing of -- of staff that went into this
22 item.

23 But I would like to ask staff, have you
24 examined other options for retaining the nuclear unit,
25 such as increasing the RGGI price rather than using ZECs?

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2 CHAIR ZIBELMAN: Raj.

3 MR. ADDEPALLI: Good morning, Commissioner.

4 Let me take a shot at answering that
5 question.

6 In short, yes. We did locate other
7 mechanisms to provide this financial support that would be
8 needed. RGGI would be one of them. However, we all know
9 that RGGI is a multistate compact and -- program. Making
10 any changes is not unilateral and New York State alone
11 cannot change the whole RGGI regime. It will take some
12 time before changes are made in RGGI.

13 And I should also note, notwithstanding the
14 existence of RGGI, many other states use other means to
15 supplement the revenue resources for clean-energy
16 resources such as the RPS standards that are in place.
17 That said, another factor we should think about is should
18 RGGI be the vehicle to -- to provide the additional
19 financial support? What that means is you would have to
20 increase the RGGI price significantly enough to meet the
21 financial needs of these ailing nuclear plants.

22 And what does that mean? So increasing
23 RGGI prices significantly would translate to increasing
24 the energy locational marginal prices. And those
25 increased prices would be paid to all the output and

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2 hence, that would also lead to increased consumer cost.
3 So increasing RGGI is not without cost. It could lead to
4 a -- a much more significant in -- consumer cost than what
5 is being presented here.

6 The second alternative would be if there
7 are changes to a wholesale market price mechanisms, that
8 could provide the financial support. At this time there
9 are no specific concrete proposals to -- to make changes
10 to the wholesale market. We would like to work with all
11 the participants there to see if changes can be made over
12 time and the proposal in front of you suggests down the
13 road, should there be other mechanisms that get developed,
14 then we should take a re-look at this particular mechanism
15 that we are proposing to adopt today.

16 So we've looked at other mechanisms. What
17 we are proposing to you right now is the solution that we
18 can offer to meet the needs.

19 COMMISSIONER SAYRE: Thank you.

20 CHAIR ZIBELMAN: Any further questions?

21 Pat, are you --?

22 COMMISSIONER ACAMPORA: Yeah, I have a
23 question.

24 What specific changes to the Staff
25 Responsive Proposal are being made in this order and why?

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2 MR. ADDEPALLI: Let me take a shot at that
3 and others can jump in as needed.

4 CHAIR ZIBELMAN: I don't notice anyone's
5 jumping up and saying let me have it, let me have it.

6 MR. ADDEPALLI: So the Staff Responsive
7 Proposal, as Paul described, had a particular formulaic
8 approach for determining the ZEC payment levels and it
9 contemplates updates in every two years in the tranches,
10 one through six starting with tranche two.

11 Some of the parties have suggested changes
12 -- suggested changes to the formula and let me just
13 describe a couple of suggestions that were made, that we
14 found pretty compelling. And we're responding to that in
15 this final -- in the proposal in front of you.

16 The first one, the way the formula is
17 structured is, as Paul described, we will -- the ZEC
18 payment contemplates paying based on the social cost of
19 carbon, less the RGGI built in baseline level.

20 In order to come up with the social cost of
21 carbon, there are mechanics in there that would translate
22 the cost from a dollar per ton to a dollar per megawatt
23 hour and that requires marginal emission rate assumption,
24 that goes into that conversion.

25 And some of the parties have pointed out,

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2 instead of locking in that particular conversion factor
3 for the twelve years, it should be updated because the
4 emission rate would go down as there are more renewables
5 in the mix of the state resource mix and I think that's a
6 -- that's a good argument. And the proposal in front of
7 you adopts changes to the emission rate as a function of
8 increased penetration of renewables in the resource mix
9 and this would inure to the benefit of consumers, as it
10 would lower the ZEC price level down the road as more
11 renewables are penetrating in the resource mix.

12 The second suggestion that folks have made
13 deals with a little bit more of what is called a basis
14 differential. That is today we have zonal-locational
15 marginal prices and the formula -- ZEC payment formula
16 contemplates changes to the forecast energy and capacity
17 prices every two years to be reflected as a reduction in
18 the ZEC payment level. That is, if those prices go up,
19 market forecast prices, then the ZEC payment would go down
20 accordingly from the initial tranche level.

21 But what the generator essentially receives
22 is not necessarily the zonal-locational marginal price.
23 It is a little bit different from its -- at its -- and the
24 difference is called a basis differential and the way the
25 formula works is if the basis differential goes down, the

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2 generator could get more revenues. So some of the parties
3 have suggested that this basis differential is -- should
4 not be held constant but should be updated over time as
5 the topology and the congestion patterns in the region
6 change.

7 We believe that's a -- that's a legitimate
8 concern that should be addressed and so what we are
9 proposing in this update, is that in future tranches, we
10 will -- the formula would consider the latest known -- the
11 basis levels and accordingly would adjust the formula to
12 reflect the change in basis beyond a certain dead ban.

13 And to the extent the basis differential
14 goes down from the current levels, then the ZEC payment
15 levels would go down as well. But if the differential
16 goes up, consumers would not pay more than the social cost
17 for carbon as prescribed in the formula. So those are two
18 major formulaic changes that we made in response to
19 comments from parties.

20 The other two, at a very high level, the
21 Staff Responsive Proposal suggested that there should be
22 some performance payment -- performance plan for these
23 generators. We all should note that the way the formula
24 is structured -- the payment is structured, it's on a per
25 unit output basis, per megawatt hour of output. So

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2 naturally the generators should have the incentive to
3 maximize performance and maximize output because they
4 would get two revenue streams with increased output. One,
5 from the market, the energy revenues and, two, from the
6 ZEC payments increased revenues up to a cap.

7 However, notwithstanding that, we would
8 like the generators to continue to have an incentive to
9 perform at -- at the highest levels possible. They have
10 been operating over ninety-five percent capacity factors.
11 These are really working horses and we want them to have
12 that incentive to be at a high level.

13 So the -- the meat that we put on the
14 performance mechanism is -- should the performance slip
15 below a certain level -- if the performance slips below a
16 certain level in a given tranche, then in the next tranche
17 the quantity purchased by NYSERDA from the unit, would be
18 reduced, which means they would get fewer ZEC revenues.
19 So this is an additional mechanism or a tool to ensure the
20 generators have the motivation to perform at the highest
21 levels.

22 And finally the last proposed change is on,
23 what we would call facility-closure contingency and what
24 this means is the ZEC price that's being paid is a uniform
25 price for all the four units that have -- that we believe

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2 would be qualified. And some of the parties have
3 suggested what changes would or should be made, should one
4 of the four units not be available during this period and
5 clearly there are concerns that one or two may be shut
6 down, if the proper incentives are not in place.

7 So this mechanism provides that formulaic
8 incentive to have all of the units available. Should one
9 of the units not be available, for whatever reason down
10 the road, then this formula adjusts again to reduce the
11 quantity of ZECs that would be purchased by NYSERDA from
12 the owners. This would provide an additional incentive
13 for the owners to maintain and keep the -- all of the four
14 units operational through this contract period.

15 So those are the four major changes that we
16 are proposing to make from the Staff Responsive Proposal.
17 There are other minor changes, but these are the four
18 major changes.

19 COMMISSIONER ACAMPORA: Thank you.

20 CHAIR ZIBELMAN: Any follow up for Raj?

21 Any further questions, Pat?

22 COMMISSIONER ACAMPORA: I remember in the
23 proposal here, that the geo -- New York Geothermal had --
24 had sent comments and so I'm wondering what we will be
25 doing for them as you know geo is close to my heart and I

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2 want to make sure that they're included in all of this as
3 a renewable.

4 CHAIR ZIBELMAN: Tina, can you take that?

5 MS. PALMERO: Sure. Absolutely.

6 CHAIR ZIBELMAN: Give Raj a break.

7 MS. PALMERO: And Commissioner, it doesn't
8 surprise me that you ask this question because I do recall
9 ever since you came to the Commission, geothermal has been
10 near and dear to your heart.

11 So, yes, you are correct. The -- the
12 geothermal industry proposes that a Thermal Renewable
13 Energy Credit known as a T-REC be applicable to geothermal
14 heat pumps, to recognize the fact that they utilize
15 renewable geothermal energy and have the ability to reduce
16 system-wide carbon emissions.

17 Staff also recognizes that including
18 geothermal heat pumps as an eligible technology, could add
19 to the additional sources of competitive RECs to the
20 overall compliance pool, which could reduce costs for
21 participants. The comments from the New York geothermal
22 industry also acknowledge that their proposal does have a
23 lot of administrative complexities involved in determining
24 the mechanisms by which geothermal can be converted into
25 T-RECs.

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2 So during the implementation phase that is
3 discussed in the Draft Order, staff proposes that we put
4 together a process for parties to consider, on how to
5 address these complexities and to explore some of the
6 other administrative mechanisms that might be employed to
7 accommodate geothermal heat pumps as an eligible
8 technology.

9 COMMISSIONER ACAMPORA: Will you look at
10 what other states are doing, Tina?

11 MS. PALMERO: Yes. As a matter of fact
12 several of us sat in on a webinar, where we heard staff
13 from New Hampshire explain their program. They are one of
14 the first states to provide for this T-REC concept. So
15 staff, along with NYSERDA, will continue to engage with
16 them to -- to see how they address some of these
17 complexities, especially measurement verification
18 evaluation, so we can -- we can learn from -- from their
19 experiences.

20 COMMISSIONER ACAMPORA: All right. Thank
21 you.

22 CHAIR ZIBELMAN: If I could -- I can just
23 add, I think this is a -- a sort of a more of a universal
24 recognition that -- that's embraced in the order. We're
25 really embarking now on the first phase of what we see as

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2 a multiphase implementation.

3 The orders we're deciding today will --
4 will allow us to move forward with both the REC program
5 and the ZEC program, but it contemplates and I think staff
6 adroitly talked about this, an implementation phase as
7 opposed to an implementation order because there will be
8 multiple elements of implementing this -- the Clean Energy
9 Standard as well as supporting the triennial reviews and
10 the annual reviews.

11 So one of the expectations that I have is
12 that we will continue to work this issue. We're going to
13 always look for ways to improve how we're achieving the
14 standard and making sure that the technologies that we
15 know will help us in the state, to get where we're going
16 to go have their appropriate place.

17 And so clearly, you know, the geothermal
18 industry brought up the concept of the T-REC. I think
19 there are probably other solutions as well, but it is just
20 like everything else is, you know, until we actually focus
21 on something and then look at it as a potential solution,
22 that's how we bring it back to the Commission and that's
23 really the process we're going to be following here.

24 So any further questions?

25 Commissioner Burman?

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2 COMMISSIONER BURMAN: Thank you very much.

3 First, I want to thank staff, in particular
4 the folks who've spent tireless hours with me and
5 including over the weekend, to go through this in
6 painstakingly detail. I know it was painful for me and
7 I'm sure being with me was painful for many of you. But I
8 do recognize the hard work that has gone into this and I
9 very much appreciate it.

10 I really have a couple of threshold
11 questions and some of this, Paul, you said in your
12 comments. So I just want to make sure that it's clear.

13 In kind of ticking through the list, when
14 we talk about the eligibility of Tier One. Can you
15 reiterate what it is that is changing, continuing where,
16 you know, specifically what's been modified? Anything and
17 everything that might deviate from the current process.

18 CHAIR ZIBELMAN: Would Paul, or Scott or --
19 I think that's better for Tina.

20 MS. PALMERO: Sure. I'll -- I'll take this
21 one.

22 CHAIR ZIBELMAN: Tina will go and then --.

23 MS. PALMERO: Okay. So -- so Commissioner
24 Burman, the -- the eligibility list, for the most part,
25 mimics what was eligible in the RPS program and I believe

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2 Paul had stated this in his presentation, with the
3 exception of the lifting of the thirty-megawatt limit on
4 run-of-river hydro facilities.

5 What staff proposed in the White Paper and
6 -- and what we recommended to the Commission in the -- in
7 the Draft Order is that that thirty-megawatt limit be
8 lifted. However, we will -- we still recommend that there
9 will not be any new storage impoundments.

10 So the old RPS program had the ability for
11 resources to be eligible, if they added incremental
12 generation to already -- to -- to facilities that have
13 already had impoundments. So if they wanted to add
14 incremental generation that was eligible, we're going to
15 keep that eligibility.

16 The lifting of the thirty-megawatt on the
17 run-of-river facilities, and by, you know, definition,
18 run-of-river doesn't include brand-new big storage
19 impoundments, so we'll lift the thirty-megawatt limit.

20 So, if a fifty-megawatt run-of-river
21 facility wanted to be developed, that would be eligible
22 for Tier One.

23 So we're lifting the thirty-megawatt, but
24 still we are including the no new storage impoundments for
25 -- for existing facilities and that -- that was already in

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2 the RPS. So really just lifting the thirty-megawatt run-
3 of-river is what we're doing.

4 COMMISSIONER BURMAN: Okay. And so that
5 means that the out-of-state, out-of-country hydro is
6 included in meeting the goals?

7 MS. PALERMO: So if a out-of-state, out-of-
8 country hydro project was being developed, a brand new
9 facility being developed, it would have to follow those --
10 our eligibility rules. So let's say a fifty-megawatt run-
11 of-river, new, that would be eligible out of state, out of
12 country. If a Canadian hydro facility, if a developer
13 wanted to add some incremental renewable generation to an
14 existing impounded facility, say adding a new turbine to
15 increase the capacity of that facility, that would also be
16 eligible as a Tier One. Any -- the incremental portion
17 would be eligible.

18 CHAIR ZIBELMAN: We -- we also want to add
19 the deliverability component because that's critical as
20 well.

21 MS. PALERMO: That's correct.

22 There is the deliverability component
23 that's also stated and that had also been a eligibility
24 requirement in the RPS Order -- or in the RPS Program.

25 MR. AGRESTA: And I'd just like to add that

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2 upgrades to existing hydro facilities are not uncommon.
3 NYPA over the last decade has done a -- a significant
4 number of upgrades to their facilities and has increased
5 hydro share of our overall portfolio in the state by a
6 significant amount without any new impoundments.

7 MS. PALERMO: And the same for the RPS
8 Program. There have been several hydro facilities that
9 have added incremental generation that have been included.

10 COMMISSIONER BURMAN: Okay. Thank you.
11 Because I'm just looking for clarification, so I
12 appreciate that.

13 And then on the -- I call it NYGATS. I
14 don't know if that's what everyone else does.

15 MR. AGRESTA: NYGATS.

16 COMMISSIONER BURMAN: Isn't that what I
17 said?

18 MR. AGRESTA: I thought you said NYGATS,
19 but --.

20 COMMISSIONER BURMAN: Right.

21 CHAIR ZIBELMAN: That was the European
22 pronunciation.

23 MR. AGRESTA: Right. Right.

24 COMMISSIONER BURMAN: On that what has
25 changed, been modified, replaced, deleted, all the above

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2 or stayed the same.

3 CHAIR ZIBELMAN: But on the NYGAT -- on the
4 -- the GATS Program, Tina, you're the most familiar. Why
5 don't you start and then we could add --.

6 MS. PALERMO: Well, NYGATS is going to be -
7 - is -- is newly developed. NYSERDA -- it -- it's
8 actually up -- up and operating now, so we didn't have a -
9 - a NYGATS system in the old RPS program. So when you ask
10 what's -- what's new and different about NYGATS, well,
11 it's a -- it's a new system that's actually going to track
12 all generation. So this will be used for compliance.

13 The order discusses in one of the
14 appendices, what the tracking system will do and so it
15 will not only track all the RECs from renewable generation
16 but it will prevent double counting and will allow NYSERDA
17 to use that platform to ensure that and -- and we use that
18 platform to ensure compliance with the RPS program.

19 So all the LLCs will be required to
20 register on the GAT system. And as I said, you know, all
21 the RECs will be tracked in that system as well for
22 compliance.

23 MR. AGRESTA: It -- it also makes
24 administration of the program much easier than it
25 otherwise would be. You can just log on to the system.

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2 You can buy and sell RECs on the system and you can
3 demonstrate your compliance.

4 If you didn't have the system you would
5 have to go out and figure out where buyers and sellers are
6 and arrange transactions and you'd have to find out
7 whether things were eligible or not and, you know, it just
8 simplifies the whole matter. It's going to make
9 everybody's life much easier.

10 CHAIR ZIBELMAN: But by -- I would also
11 note that, you know, having a generation of attribute
12 tracking system is -- is consistent with what we see
13 other states or nearby states who also use renewable
14 energy credit options. So what New York is really doing
15 is -- is actually not only helping implement our own
16 system but really supporting a -- a much broader and I
17 think economic regional market for renewables, which will
18 be helpful to all this.

19 COMMISSIONER BURMAN: Thank you.

20 And then for NYGATS -- NYGATS was in
21 Appendix C.

22 And then for Tier Two, same question as to
23 the eligibility and any changes to that.

24 MR. AGRESTA: There's no changes in
25 eligibility to Tier Two from the old RPS Maintenance Tier.

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2 COMMISSIONER BURMAN: And any changes to
3 process?

4 MR. AGRESTA: Not really, no.

5 MS. PALERMO: No. Not -- not proposed, but
6 the order does speak to the fact that if, you know, staff
7 believes that there should be further considerations, we
8 can put that out in one of the implementation phases for
9 parties consideration.

10 MR. AGRESTA: But then it would have to
11 come back to the Commission.

12 MS. PALERMO: Right.

13 COMMISSIONER BURMAN: Okay. And then can
14 you explain the NYSEERDA role, especially as it pertains to
15 holding the RECs?

16 MR. AGRESTA: Well --

17 MR. WEINER: Go ahead.

18 MR. AGRESTA: -- if you want to build new
19 -- new renewable generation --

20 COMMISSIONER BURMAN: I think Scott has --.

21 CHAIR ZIBELMAN: Well, it --.

22 MR. WEINER: No, no. Go ahead.

23 COMMISSIONER BURMAN: Okay.

24 MR. AGRESTA: -- if -- if you want to build
25 new renewable generation, generally a developer needs a

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2 long-term contract, a long-term commitment because they're
3 making a significant capital investment. So NYSERDA
4 provides the opportunity to give developers a twenty-year
5 contract which is an extremely favorable term that will
6 keep the price of the RECs down. Many developers will be
7 competing against each other to get those contracts.

8 That's different than the LSEs who all have
9 -- the load-serving entities, who all have different load,
10 that they can't count on for twenty years. So by NYSERDA
11 buying the RECs in a long-term contract, the developer
12 gets what it needs to build the plant and then NYSERDA
13 then resells the RECs to the load-serving entities on a
14 short-term basis, so that they can meet their annual
15 compliance targets without taking on the risk of long-term
16 contracts.

17 If you're a small load-serving entity and
18 you lose a big customer and you had a long-term contract,
19 you know, your business might fail. So this -- this tries
20 to accommodate both sides of the marketplace.

21 CHAIR ZIBELMAN: Within that, do you want
22 to also talk about the role of the ACE -- the Alternative
23 Compliance Mechanism? Because I think that's important.

24 Maybe, Scott, do you want to?

25 MR. WEINER: So, as Paul mentioned in his

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2 remarks, there are a number of ways that an LSE can
3 demonstrate compliance. And one is, again, a well-
4 established market mechanism, the Alternative Compliance
5 Payment. So an LSE has the opportunity to elect to make
6 this payment in lieu of acquiring RECs.

7 As these programs have operated, LSEs will
8 rationally look for the lower-cost method of compliance
9 and the Alternative Compliance Payment cost are
10 traditionally set above the anticipated REC price, so that
11 LSEs will be incented to financially support renewals by
12 the acquisition of the RECs.

13 The process for determining the ACP and the
14 establishment of the ACP, will all be proposed during an
15 implementation proposal that will be considered by the
16 Commission. The first year's ACP is provided for in the
17 order that's before you today.

18 COMMISSIONER BURMAN: And what happens with
19 folks entering into a contract with NYSERDA, in -- in this
20 process?

21 MR. WEINER: In -- in what sense what
22 happens?

23 COMMISSIONER BURMAN: Explain to me how we
24 now go from this market-based focus with NYSERDA and
25 entering into contracts with, for example, energy-service

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2 companies.

3 MR. AGRESTA: Okay. So the -- the main
4 purpose of the contract between the load-serving entity
5 and NYSERDA is to establish a schedule, so that, for
6 instance, NYSERDA is going to offer RECs for sale to the
7 load-serving entities. There has to be a way for each
8 load-serving entity to get an opportunity to get their
9 fair share of whatever NYSERDA has procured. So they
10 basically get a right of first refusal.

11 And then there has to be a time period by
12 which all the load-serving entities make that decision.
13 That would be in the contract. When the payments are due
14 to NYSERDA would be in the contract.

15 What kind of reconciliation process after
16 the -- during the settlement period would all be in the
17 contract. It's not a long-term commitment. It more sets
18 up the parameters of how the mechanics work on a day-to-
19 day basis, during the compliance year.

20 COMMISSIONER BURMAN: And who can trade the
21 RECs and who can retire them?

22 MR. AGRESTA: Okay. So the proposal is at
23 least for now that the NYSERDA procured RECs would only be
24 given out to the load-serving entities for compliance and
25 that they would not be tradable. But it's -- we're also

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2 allowing in the order for tradable RECs, so if someone
3 creates a REC outside of the NYSERDA procurement process,
4 it's still -- that REC is fully tradable so you can buy
5 it, you can sell it, you can have -- you can have too
6 many, you can have too few. You can do whatever you want
7 with those RECs.

8 Eventually during the implementation phase,
9 we will consider whether it would be a good idea or not to
10 make the NYSERDA RECs tradable, too. But until we get the
11 system working and see how it's going to work the -- the
12 main concern that we have is we want to make sure that
13 when NYSERDA procures RECs at extremely good prices, that
14 rate payers get the value of that and we don't want that
15 value lost in some trading process.

16 COMMISSIONER BURMAN: Is NYSERDA set up to
17 do all this in short order?

18 MR. WEINER: Yes.

19 CHAIR ZIBELMAN: I think NYSERDA and staff,
20 in terms of that, since the staff issued the White Paper
21 in January and in looking both in terms of where we were
22 headed with this program, I've actually been working and
23 thinking through the implementation steps with the view
24 that they're going to be -- will certainly be ready to go
25 for this year and then over the next year will be, I'm

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2 sure, making a series of implementation-type decisions.

3 But I -- I know that there's been two
4 fairly significant staff teams that have been thinking
5 through and sweating the details and I believe they are
6 ready.

7 COMMISSIONER BURMAN: Okay. Thank you.

8 And can you go over again, under this
9 order, who is a load-serving entity for purposes of what
10 we're doing today?

11 MR. AGRESTA: Everybody.

12 Okay. So we have the -- the six
13 distribution companies. That's Con Ed, Niagara Mohawk or
14 National Grid, NYSEG, RG&E, O and R, Central Hudson, all
15 of the ESCOs, LIPA and NYPA. There are a bunch of
16 municipal utility companies in New York.

17 There are a very small number of electric
18 cooperatives in New York and then there are some companies
19 that are direct customers and they are actually load-
20 serving entities already on the New York ISO system. They
21 -- they buy their power generally for their own
22 consumption.

23 So it's -- it's any -- it's any company
24 that actually sells the power for consumption.

25 COMMISSIONER BURMAN: Okay.

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2 MR. AGRESTA: The final consumption.

3 COMMISSIONER BURMAN: And --

4 MR. AGRESTA: As opposed -- as opposed to
5 the wholesale market, which is regulated by FERC, which is
6 sales for resale.

7 COMMISSIONER BURMAN: Okay.

8 MR. AGRESTA: So if you're not going to --
9 if you're not going to sell to the end-user, then you're
10 not a load-serving entity.

11 MR. HOGAN: Paul, just to clarify from a --
12 we have jurisdictional LSEs where the Commission is -- is
13 -- can mandate this and then we have other LSEs, LIPA,
14 NYPA, who have stated they're going to, as you mentioned
15 earlier, stated they're voluntarily going to participate.
16 So I don't know if there's any distinction that needs to
17 be drawn there.

18 CHAIR ZIBELMAN: Thanks.

19 I mean, LIPA is a load-serving entity and
20 NYPA is acting in that capacity when we're talking about
21 this. But I think fundamentally to answer Commissioner
22 Burman's question in our system of -- of, you know, of how
23 we work, there are producers of power generators and they
24 often sell to wholesalers or retailers, who then turn
25 around and sell it to consumers.

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2 The one assumption is, is that there's some
3 very large customers who function as their own buyer of
4 wholesale energy and resell essentially to themselves and
5 they are considered load-serving entities because of their
6 -- they're both the ultimate consumer. But the end
7 product here, and I think this is what's -- we can talk
8 about it more, but is very important, is that these
9 obligations will be applied statewide.

10 And so every consumer in the state buys
11 energy from a resource and that -- that are a -- a load-
12 serving entity of some type. And that load-serving entity
13 will have in its resource mix, the requirements that we
14 are imposing here, or in the case of LIPA and NYPA, are
15 voluntarily submitting to have those same requirements
16 met.

17 COMMISSIONER BURMAN: What will be the
18 process, not only for the jurisdictional entities, but the
19 non-jurisdictional entities in terms of sharing with them
20 what this means, what the next steps are, how this applies
21 or does not apply? And especially with the non-
22 jurisdictional ones, what the process may be because they
23 are voluntarily potentially participating, which may have
24 many different meanings.

25 So I'm just trying to get a sense of

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2 exactly what we're doing from an educational outreach
3 perspective.

4 MR. AGRESTA: Okay. So the -- the initial
5 step is in addition to the normal service of this order,
6 on whoever the parties are, is the staff is in the process
7 of compiling a list of all the load-serving entities and
8 will be sending a hard copy of the order, along with a
9 letter explaining the program and offering to have them
10 come in and talk to us so they can understand what the
11 requirements are.

12 So every load-serving entity will be
13 directly notified by mail, by staff, as part of the
14 service process of the order.

15 And then I don't know what other activities
16 you may have planned, Scott.

17 MR. WEINER: Well, consistent with that and
18 as part of the briefings that Paul mentioned, staff and
19 NYSERDA will be providing regular communications to LSEs
20 on compliance methods and obligations. And this will be
21 in the form of writings, in the form of briefings and the
22 like.

23 With the first actions to come through --
24 really assuming that this order is adopted today, the two
25 staff teams will be meeting first thing tomorrow morning

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2 to begin that communication planning.

3 COMMISSIONER BURMAN: Okay. The -- the
4 other question I have is we move -- we moved this from the
5 delivery charge to the supply charge and I'm trying to
6 fully understand what that means pro and con.

7 CHAIR ZIBELMAN: Raj, do you want to start?

8 MR. ADDEPALLI: So there are different ways
9 of collecting costs and in this proposal in front of you,
10 the obligation is being placed on ESCOs and other LSEs,
11 utilities and other LSEs. So the initial allocation of
12 the cost, at least for the ZECs, is going to be on the
13 prescribed number that you have in front of you on the ZEC
14 payment, but it's going to be on a volumetric basis,
15 statewide.

16 Similarly for the REC cost, too, NYSERDA
17 may spread them around on a -- on a volumetric basis.
18 Once the LSE receives an invoice as to what its obligation
19 is based on, its load ratio share, then they would have to
20 collect those costs from their customers and the tool that
21 they have is the supply charges because that's all they
22 supplied to the consumers. So this charge would not
23 appear in the future as a delivery charge but would be
24 baked into the supply charge.

25 As to how an ESCO charges its consumers,

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2 it's up to the ESCO and their pricing schemes.

3 CHAIR ZIBELMAN: I think -- I think there's
4 another aspect of this that I think is -- is worthwhile
5 bringing in at this point, which we -- we talked about
6 when we decided last year in the Clean Energy Fund to
7 eliminate additional delivery surcharges. And that --
8 that's really the fact that consumers are not monolithic.
9 That there are a lot of consumers in New York who are very
10 interested in -- in actually doing even more than the
11 state is asking in terms of the renewable component of
12 their mix and by putting these on the -- on the supply
13 charges, consumers can use two different things and not
14 have what would amount to a non-bypassable delivery
15 charge.

16 And we ran into problems with that when we
17 were looking at the self-direct program with energy
18 efficiency. If it's in the delivery surcharge, it's hard
19 to give consumers their full credit. So, one, is that we
20 are talking about energy, so it really does belong in the
21 commodity portion of the bill.

22 But, secondly, it's very consistent with
23 our REV approach towards looking at voluntary consumer
24 action or self-initiating consumer action, that where
25 consumers are doing this based on personal choice as

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2 opposed to a government requirement and reflecting that in
3 -- in their total energy bill. And, frankly -- anyway,
4 that's the intent of what we're trying to do today, which
5 is just to really provide that choice.

6 So I -- I think by moving it on the
7 commodity supply, it -- it really provides that advantage
8 for people to do a lot more and have that flexibility.

9 COMMISSIONER BURMAN: Okay. Great.

10 I just have -- I just need to think for a
11 second.

12 What happens if there are unintended
13 consequences? What does the order provide in terms of a
14 glide path to address some of the things, that maybe we
15 haven't thought about in terms of --?

16 CHAIR ZIBELMAN: Scott, do you want to
17 address that?

18 MR. WEINER: Sure.

19 There are two review processes -- regular
20 review processes that are provided for by the Draft Order.
21 There will be an annual staff review. We call it a
22 divergence review in the order.

23 It's really to take a look to see if the
24 glide path and the assumptions that underlie that
25 particular year's activity are staying on track.

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2 And importantly, the order also provides
3 for what we call triennial reviews. Every three years the
4 Commission will be taking a review of the results, looking
5 at the procurement schedules, looking at the targets that
6 have been set and seeing whether any adjustments should be
7 made. So both annually and triennially by the Commission
8 there will be reviews and a constant hand on the policy
9 throttle if you will.

10 COMMISSIONER BURMAN: Thank you.

11 And I just have one last question. I think
12 this is a Jeff Hogan question.

13 Have we looked at what this means for the
14 financial health of the utilities, especially to the sub -
15 - sub issue of declining sales that might be expected?

16 MR. HOGAN: Right.

17 So we have looked at the financial health
18 that we would expect the -- the Clean Energy Standard
19 Order would impact them. As far as declining sales,
20 obviously the growing use of behind the meter has already
21 been a factor in that, and so load has been relatively
22 flat as behind the meter has stepped up.

23 Energy efficiency has also been attempting
24 to do that. So we see load as being relatively flat, even
25 going down slightly. In New York with our revenue

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2 decoupling mechanisms, there really hasn't been a
3 financial concern because we make the companies whole so
4 that we can recover the distribution costs in that way.
5 Here, again, the amount of the cost for the RECs and ZECs
6 and will be tied to -- tied to the supply charge and
7 collected from customers there.

8 So I don't see any impact on the utilities
9 from any declining sales perspective.

10 CHAIR ZIBELMAN: Let me just add, I mean, I
11 -- I think the -- the revenue decoupling mechanisms we've
12 used historically has made utilities indifferent. But
13 actually what we're trying to do under REV is to keep --
14 make them economically animated by energy efficiency, so
15 that utilities are aligned with consumer interest in
16 reducing demand, when it's economically efficient and it's
17 to their shareholder interest as well as to the consumer
18 interest.

19 And I think the -- the way the investment
20 community has seen this is -- is that rather -- and this
21 is really the heart of REV, rather than fearing
22 distributed-energy resources and energy efficiency as a
23 compromise to the utility model, what we're doing under
24 REV is to make it the benefit to the utility model, so
25 that for -- in the long run, utilities are actually

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2 looking for activities that help them to reduce demand.

3 In terms of the grid supply, utilities are
4 really indifferent. It's -- it's just a pass-through to
5 them, although I think the order contemplates -- or -- or
6 we will always contemplate if there's advantages that we
7 can look at, to get better alignment. We'll want to --
8 we'll want to be there. But in terms of the source of the
9 electrons, utilities are generally neutral.

10 MR. HOGAN: I would agree.

11 And, you know, of course the -- the REV
12 orders have -- have laid that out. There's the mechanism
13 changes that -- that are being discussed to try to
14 encourage the utilities to -- to achieve exactly that.
15 Lower -- lower -- lower usage by customers in cost-
16 effective ways.

17 COMMISSIONER BURMAN: Great.

18 The -- where I was going with this also and
19 I think it's a combination of you and Raj, so I'm just
20 putting Raj on notice to listen --.

21 CHAIR ZIBELMAN: He's his boss anyway, so
22 he has to.

23 COMMISSIONER BURMAN: Is that, you know,
24 we're looking at a number of different actions that we've
25 taken since REV has started. Actually pre-REV and -- and

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2 during REV and not post-REV yet, but post some of the
3 actions. So we're looking at already existing, for
4 example, energy-efficiency programs and other things that
5 will likely continue, if not in the short-term, it --
6 needing to examine what that means for the long-term with
7 some of that and whether we ramp up or ramp down.

8 And then looking at the utility DSIPs, it's
9 clear that it indicates investments that will be required
10 to create the platform. Looking at REV-demo projects we
11 see that embedded in that are a number of different
12 potential investments that may come. And then looking at
13 what we do, you know, with a lot of the net -- net-
14 metering issues, not just Value D, but others, you know,
15 that may or may not have an impact.

16 So from my perspective, what I'm looking at
17 is similar to comments that I made back in July of 2015
18 and as it relates also to comments that I made at our June
19 2016 session, on the standard interconnection requirements
20 and folding that into the State Resource Planning Study
21 Report, how do we envision that and what's in this order?
22 How do we envision the State Resource Planning Process?

23 I'm not asking for necessarily specifics on
24 timing, though that's helpful to the extent you have it,
25 but how do we envision that taking a look at all of what

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2 we're doing here, even though that may be focused somewhat
3 on the wholesale side, as it interconnects on the other
4 side? How do we dovetail all of that?

5 CHAIR ZIBELMAN: Raj, do you want to --?

6 MR. ADDEPALLI: Yeah.

7 Commissioner, on the State Resource Plan,
8 what it is trying to do, it's -- it's a stakeholder
9 process working with the ISO. The utilities and staff and
10 other parties -- is trying to assess how would the system
11 look like in twenty -- fifteen years, 2030, with an
12 expected change in the resource mix between now and then.

13 So the way the analysis is being done is
14 what happens in a so-called base case or reference case,
15 with very little change between now and then, but not
16 necessarily including CES in that, but now also consider a
17 so-called change case, that is if the CES has adopted how
18 would the resource mix look. And then assess with this
19 change in resource mix, how does it affect any of the
20 reliability parameters and what are the tools to address
21 the changes that may be needed to accommodate the
22 renewables?

23 So it's an analytical exercise that's being
24 undertaken that would inform all of us significantly in
25 the coming years, as to what changes if any need to be

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2 made to the system, to continue to make it -- keep it
3 reliable. So what we are adopting now would flow into
4 that analysis more concretely now to help inform the
5 planners and -- and the operators and the decision makers,
6 to take the necessary steps in the coming years. So this
7 would help -- help in that process.

8 I don't know if that answers your question.

9 CHAIR ZIBELMAN: If I can add to that, what
10 I'm hoping is, you know, we can -- the Commission actually
11 started the State Resource Planning Process, almost two
12 years ago now, after the polar vortex and we really
13 started to think about what are going to be the investment
14 needs moving forward. And I -- I think since that time, a
15 number of intervening events have occurred to help shape
16 the -- the nature of the inquiry.

17 What I'm -- what I'm looking forward to is,
18 through that process, just like we've seen on the DSIPs,
19 is we come up with a base understanding of the
20 implications of the decisions and then we -- stakeholders
21 will start looking at solutions, so that we're not
22 necessarily with -- just looking at traditional solutions
23 but thinking about new technologies, smart transmission
24 technology, storage and -- and also demand response, but
25 that it becomes really part and parcel of what we're

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2 looking at REV, which is the creation of a two-way system,
3 that is fast-acting, fast-responding, more nimble and all
4 the various elements we would expect for a 21st Century
5 grid.

6 So the State Resource Plan is -- helps
7 develop the base case. The process that I -- I hope that
8 staff will be engaged in with the ISO and others, will
9 make sure that the solutions are the best solutions for
10 the state.

11 MR. ADDEPALLI: Exactly.

12 You just outlined a series of tools that --
13 that could be used and that will be the focus of Phase Two
14 of the study.

15 CHAIR ZIBELMAN: And I -- I would note in
16 this regard, the New York ISO -- I've had opportunity to
17 speak to -- to the CEO about this and they definitely are
18 all in, in saying that moving forward, that they want a
19 process that really takes a look at the best of the best
20 and the most efficient solutions of the state. And we
21 very much are looking forward to working with them in --
22 in that regard.

23 So -- anyway, questions?

24 Okay. I'm going to then -- any further
25 questions?

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2 Let me just -- I'll just start and talk
3 about briefly -- hopefully, more briefly than I did
4 before, about why I think this order is -- is -- is good
5 and addresses our needs.

6 With respect to the Renewable Energy Credit
7 Program -- Renewable Energy System, there's a number of
8 different things that I think are -- are very critical.

9 One, is I -- I do believe that it's
10 important that we look at this as a statewide program.
11 Environmental impacts are not local. They are -- they're
12 global and certainly they're statewide and -- and turn --
13 in terms of looking at the payment for attributes and the
14 value of a cleaner grid, it's important that -- that all
15 of New York participates and contributes their fair share.

16 I am extremely appreciative of the fact
17 that NYPA and LIPA have recognized this importance and
18 have indicated to us that they certainly intend to comply.
19 And I -- I know we'll be working with staff to ensure that
20 that compliance is consistent with the outcomes we want to
21 achieve.

22 The second and obviously one of the more
23 complicated issues that we had dealt with in this state,
24 is the choice of mechanisms for compliance. And really
25 since 2015, we've been talking about the fact that when it

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2 comes to new renewable development, the issue with
3 durability is very important.

4 The idea of having long-term pricing is
5 very important and I -- I really look forward actually to
6 seeing the results from NYSERDA's last auction, where we
7 expanded the terms of the payments to twenty years, to see
8 what that impact is going to be. But clearly, I -- I
9 think without question that for any developer knowing what
10 the payment scheme is going to be like for a long time as
11 they look to finance and knowing what that finance will --
12 knowing that -- what those revenues will look like, will
13 be very important.

14 That being said, I know there was a -- a
15 lot of discussion in this record around the use of Power
16 Purchase Agreements and a lot of debate. Clearly the
17 Commission's primary interest is to see renewables get
18 built in New York and that it be done in the lowest-cost
19 way possible. We're not, you know, it -- it certainly
20 didn't leave or fall on deaf ears for us, that the value
21 of having a Power Purchase Agreement where the cost of the
22 renewable attribute is bundled with the cost of energy and
23 capacity, could provide investors' confidence because
24 their -- they can then secure their revenues.

25 But as Paul mentioned, we do act within the

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2 terms of a federal cooperate -- nature. We do worry about
3 litigation risk and we also believe in the market and that
4 people can make voluntary activities outside of
5 requirements and this Commission can -- that can achieve
6 good results.

7 For that reason, I think that the order
8 strikes the appropriate note. We're looking at durability
9 of the REC payments.

10 We are not going to be requiring Power
11 Purchase Agreements -- bundled Power Purchase Agreements
12 at this time. And also, we're not going to be looking at
13 utility development and ownership of new generation.

14 On the same token, you know, I -- I want it
15 to be very clear, we are starting on this process. We
16 want it to be successful. If as we look at the
17 implementation of the plan, we're not getting the results
18 that we want and need for consumers we obviously, as we
19 always do, will look at what needs to be changed.

20 But for this -- at this point, I'm very
21 confident that with the durability of the REC payments,
22 the scale we're talking about and the other aspects of the
23 order that I think are very important.

24 One of the things we heard about was that
25 one of the problems of the previous RPS Program, was the

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2 uncertainty of when auctions would be held and that they
3 were cancelled and the timing. So all of that is being
4 addressed and I think with the regularity, the certainty,
5 the view we have, the volume we're looking at, we're going
6 to yield very good results from the state and certainly
7 we'll use our review processes to make sure that -- that
8 that occurs.

9 The other aspect of the order I thought was
10 important, but -- but worth noting, is the Tier Two
11 decision. There are a number of smaller hydro facilities
12 in particular, who have talked about -- to us, that they
13 are suffering the same issues, that in terms of not being
14 able to make a go of it because of the low cost of natural
15 gas. Clearly we don't want to see existing renewables
16 have to shut down and then to replace them with new and
17 more expensive resources. We want to maintain those
18 units.

19 I think the -- the idea of the Tier Two is
20 to look at the maintenance programs we've always had in
21 place for existing renewables and expanding that makes
22 sense. I know that there is a concern that there are some
23 projects that are under contract with NYSERDA right now,
24 that if once the contract is over and they sell their
25 power outside of the state which, again, would mean they

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2 have to be replaced. I don't think that's an immediate
3 issue. Certainly, if it becomes a problem and it -- we're
4 not able to meet our mandate, that's something that the
5 state can certainly look -- look at, but it's nothing we
6 need to do right now.

7 I -- and I also, you know, we are certainly
8 cognizant of the cost issues that some of the consumers
9 have talked about. And so in making these decisions we
10 want to be mindful of that.

11 The other issue that I think is important
12 that this order talks about, is the creation of demand.
13 You know, one of the things we've been -- we've been
14 working with, in the last several years in New York is the
15 recognition that consumers are really not monolithic and
16 that there are many consumers in this state, many
17 businesses that have recognized an environmental
18 sustainability and economic sustainability and economic
19 wealth are one and the same thing and that they want to
20 actually do more than is required. We also recognize that
21 introducing demand can actually create value because with
22 the supply we're creating, we also have an obligation to
23 look at demands.

24 So, one of the things that the order does
25 contemplate and -- and as everyone involved in our

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2 proceedings knows, we are also looking at the changes and
3 modifications in the retail market. One of the issues I
4 think is very important is to think about how we will
5 label New York -- how we will label green products in the
6 state. If, in fact, our mix itself has a certain
7 component of green, we wouldn't want consumers to be
8 confused if they say I want to buy a green product and
9 they think they're doing something when, in fact, the mix
10 itself is just that, green.

11 So, as part of the ESCO Reset Order, we
12 were talking about development of products. I think it's
13 important that we create a product that is very clearly
14 what we call green energy and that at a minimum, this has
15 to be in excess -- well in excess of what we would be
16 doing year over year in the program.

17 So, you know, in my mind what I would like
18 to know as a consumer, that if I'm signing up with an --
19 an ESCO and I'm buying what is a green product and they
20 say that it's a green product, I -- I want to know that it
21 -- that those megawatts are really green. It's not just
22 what I could buy from any entity and it should be at least
23 fifty percent or maybe a hundred percent and there are
24 real green electrons behind that.

25 The other thing that I -- I think -- that

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2 the order contemplates doing in creating demand and I'm
3 particularly excited about, is the concept of a -- a New
4 York green product. I mean, here's an -- here's an idea
5 that I think we as consumers think about all the time.

6 When we go and we buy anything in a store
7 and it advertises a certain content, we like to know that
8 that content is there. I think a lot of New Yorkers would
9 very much like to be able to say that the electricity
10 they're buying is New York green and that it's truly
11 coming from green revenues produced in New York.

12 So one of the things that we're looking at
13 in this order, is creating that product, what that content
14 looks like so when a consumer is buying New York green,
15 they know that somewhere in New York there's a wind
16 turbine blowing, there's a solar plant, there's a biomass
17 plant, and that it's truly part and parcel of the energy
18 mix we're developing in this state.

19 And lastly, the other aspect of this order
20 that I -- I think is -- is innovative and will be
21 important to many folks, is the concept that we know in
22 New York, that there are customers who would prefer to buy
23 simply one hundred percent renewable products. Well, we
24 want that to happen if those products are resulting in new
25 renewable development in New York because that's really

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2 where we want to go. And so we're going to look at and
3 I've asked staff to look at, the development of a product
4 that is a hundred percent green, a hundred percent
5 produced in New York and a hundred percent committed to
6 helping us meet our goal.

7 And if it does that, then I think it's fair
8 to say to those customers, if you truly don't want to buy
9 nuclear, we will allow you not to be -- not to be required
10 to contribute to that program. But it has to be real, it
11 has to be new, it has to be green and it should be in New
12 York. So we're asking staff to look at that and we'll see
13 how we can make that happen.

14 The other question I think that is really
15 important that this order talks about is the importance of
16 energy efficiency. The staff and this -- and the
17 Commission has, over the last several years, really looked
18 into this issue. We are absolutely committed to
19 maximizing energy efficiency. We believe that, of course
20 the -- that reduction of consumption continues to be the
21 most promising way to help us achieve our climate -- our
22 climate goals in a way that's also low cost.

23 We have an ongoing proceeding under the
24 Clean Energy Fund. We have assembled a group of the --
25 what we call the Clean Energy Advisory Council. They're

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2 hard at work.

3 It's a diverse group of resources of people
4 and what we've asked them to do is say what are the
5 targets, what can we achieve, what are the best programs
6 and we're going to be pursuing those alongside of what
7 we're doing in the Clean Energy Standard, to ensure that
8 what we're doing is maximizing value to consumers up --
9 across the entirety of the value chain.

10 The other aspects of the order I think are
11 important, is the recognition that New York is -- is
12 blessed and I think that's -- I'm saying that in all its
13 meaning, to have really the potential of terrific offshore
14 wind resources. We want to be able to maximize the value
15 of those resources to the state.

16 So one of the things we know is going on
17 already is that NYSERDA is putting together a blueprint
18 for offshore wind to see how we can best develop it in the
19 state and we're asking in this order, that they add to
20 that blueprint decision, what are the best procurement
21 mechanisms. We're not doing a carve-out for offshore wind
22 in this order, but we are certainly cognizant of the fact
23 that we don't want to under -- underestimate the benefit
24 of that resource and -- and its -- and its potential for
25 New York.

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2 The other things that we've talked about
3 already are geothermal and also electric vehicles. One of
4 the things that we're talking about after all, is carbon
5 reduction. But carbon reduction can also happen on a
6 heating sector. It also can happen in the transportation
7 sector.

8 In other orders, the Commission has already
9 looked for ways to maximize that and we think that could
10 be of value. While it's not a necessary part of the Clean
11 Energy Standard, as we move forward, we need to think
12 about that the ultimate goal is -- is reducing carbon and
13 that these resources need to be blended into the total mix
14 and the way we price energy on -- at the retail level.

15 And lastly is the issue of the review
16 process. As -- as Scott mentioned in response to, I
17 believe a question from Commissioner Burman, like
18 everything we do and -- and something that Commissioner
19 Acampora always reminds us about, is we shouldn't be -- we
20 should be humble enough to recognize that sitting here
21 today, we're making the best decisions on the best
22 information.

23 But facts should dictate our actions, and
24 so as things move forward while we're not going to change
25 the ultimate direction, we will adjust if -- if the facts

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2 don't materialize as we -- as we expect them to be.

3 And we will be doing these triennial
4 reviews as a Commission, to make sure that we are on track
5 to meet our goal. This -- this review is not to change
6 the target. The target is where we're going to go. It's
7 going to make sure that we're achieving it in the best
8 possible way for New Yorkers, as we -- as we proceed and
9 the technology changes.

10 Our goal ultimately is -- always will be,
11 to get to the 50 by '30. As I said previously in my
12 opening remarks, this is -- comments, is no longer a
13 choice. I believe it's a moral and an economic imperative
14 that we get there.

15 In terms of the ZEC program, I think it's
16 very clear in the order about the importance of
17 maintaining fuel diversity and environmental attributes of
18 nuclear resources. I -- I entered into this industry in
19 1988 and from the get-go the issue of resource planning
20 and portfolio mixes and the -- really the harms that can
21 occur if your diverse -- if you don't have a diverse
22 resource mix is -- it became apparent and so we -- we
23 definitely want to make sure that as we're looking at
24 moving towards a renewable future, we don't take actions
25 that impair our -- our carbon goals and that we recognize

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2 the attributes of nuclear.

3 I think that the mechanism that the staff
4 ultimately recommended to us, based on the many comments
5 that we received and a lot of thought, really recognizes
6 the fact that unlike the REC Program, which would be based
7 on auctions and a nuclear program, that has to be an
8 administratively set price and the best price is really
9 the price we decided to do and the benefit-cost analysis,
10 where we looked at the societal cost of carbon and the
11 avoided cost of carbon, as the right value for that
12 attribute.

13 The program we're looking at really is
14 consistent with -- with that analysis. It represents
15 really the fact that we will never be paying an attribute
16 that is more than the value, the carbon value that it
17 produces. And as Paul described in the order details, it
18 makes appropriate adjustments as we go on, to ensure that
19 is always the case.

20 The other aspects around this program is,
21 again, the issue of durability. We know our nuclear plant
22 owners make investments. These investments are long-lived
23 and in order for them to make it as confidence, they need
24 to have the program last.

25 But the other thing that we heard during

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2 the course of the public meetings and heard and -- and in
3 our comments, is we don't want to do this program only to
4 have a nuclear-plant owner decide to retire a plant and
5 then we -- we don't get what we want in terms of carbon
6 reduction. So the durability works both ways.

7 The contract from NYSERDA provides the
8 confidence to the units, but it also provides the
9 confidence to consumers that the units will be there. And
10 it allows us, as -- as Raj explained, to make appropriate
11 adjustments if that doesn't happen. So I think it -- it
12 meets all needs.

13 Again, as I said before, I -- I think this
14 is a pragmatic approach. I know there was a suggestion
15 that we look at RGGI prices. I think Raj expertly
16 described why that doesn't make any sense from a -- a need
17 basis or an economic basis and that while what we're
18 essentially doing is incorporating the -- really the
19 wisdom of many, many economists that talk about the fact
20 that failing to include the cost of carbon attributes in
21 our retail pricing, really can result in an inefficient
22 market.

23 So basically in my mind the -- the -- the
24 decision is -- is fairly clear and if I could turn back
25 really to the issues that we have before us and they're

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2 the concept of not paying for the nuclear attributes and
3 shutting them down now and looking at energy efficiency
4 and renewables as a substitute, is really not a practical
5 solution. We could not possibly replace those carbon
6 attributes, and as a result, in all likelihood, we would
7 result -- we would have an increase amount of fossil fuel
8 in our midst and our goals of carbon reduction would not
9 be met because those fossil fuels, those attributes simply
10 don't exist there.

11 And so this is not an anti-gas movement.
12 This is actually a pro-diversity and a recognizing the
13 importance of fuel diversity and carbon reduction as an
14 integral part of a utility system.

15 One of the things that I -- I wanted to
16 note and I was looking at these comments and I will close
17 here, Secretary Moon also observed last year that really
18 this generation's the first generation that's going to
19 have the opportunity to eliminate poverty. But it's also
20 the first -- last generation that may have a real
21 opportunity to save the planet.

22 As I said before, I don't see any other
23 choice but to recognize, that for the future the
24 environmental solution is the economic solution and vice
25 versa. I believe the actions that we're taking today, we

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2 can all be proud of because we are becoming part of that
3 solution.

4 And, again, I applaud the hard work of the
5 staff, their thoughtfulness, their -- frankly their
6 commitment and I certainly intend to vote for this order.

7 So thank you.

8 Commissioner Sayre?

9 COMMISSIONER SAYRE: I will be voting in
10 favor of this item. I'd like to start out by stating some
11 things that I generally support, that are advanced by the
12 proposed order.

13 I support Governor Cuomo's standards of
14 fifty percent of energy generated by renewables by 2030
15 and a forty percent reduction of statewide greenhouse gas
16 emissions by 2030. I support a broadly-diverse mix of
17 generation including fossil, nuclear, solar, wind, hydro,
18 biomass and geothermal. I support economic development in
19 New York State including both the creation and the
20 retention of good jobs in the energy industry. I support
21 the creation of voluntary markets for renewable energy
22 resources and energy efficiency and I support a
23 modernized, efficient and resilient electricity network.

24 This order advances all of these goals and
25 it does so in a way that ensures that the total benefits

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2 exceed the total cost. Going back to first principles
3 here, a key decision point is whether we are going to
4 recognize and quantify the social costs of carbon
5 emissions as part of our public interest analysis in this
6 decision.

7 In my view, we would be failing in our
8 obligation to make decisions in the public interest, if we
9 were to ignore these costs. It is true, as some
10 commenters have pointed out in this case, that the costs
11 of carbon reduction that are within our jurisdiction, are
12 costs to be paid by New Yorkers, but the benefits end up
13 spread across the entire planet.

14 If, however, everyone ignored the planetary
15 benefits because of local costs, we'd have a classic
16 tragedy of the commons. A situation where a resource, in
17 this case the atmosphere, that is nominally free is
18 overused, to the point that it is severely damaged and
19 everyone suffers.

20 Like the Chair, I am proud to have a small
21 part in a strategy that will have a positive, worldwide
22 impact and to keep New York in a leadership position of
23 taking concrete steps to solve a worldwide problem.

24 On the topic of Zero-Emission Credits for
25 nuclear power generation in New York, I am convinced that

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2 the benefits of the proposed program, in terms of holding
3 down carbon emissions, retaining good jobs and an
4 important tax base and maintaining a broad diversity of
5 generation resources, outweigh the costs that we're asking
6 ratepayers to pay. I've lived about fifteen miles from
7 one of these upstate nuclear plants for the last twenty-
8 five years and I can say that Ginna has been a good
9 employer, a good neighbor and a good taxpayer.

10 I don't see the ZEC Program going on
11 forever, but I am convinced that we need it now. I do not
12 see any way that we could quickly replace the output of
13 the upstate nuclear plants with renewable energy.
14 Realistically, we -- we would need to produce more natural
15 gas and probably build more natural-gas generating
16 stations, than we otherwise would need if the nuclear
17 plants shut down in the near future and I don't think
18 that's the result we want.

19 So overall on balance, it's my view that
20 the recommendation is in the public interest of all New
21 Yorkers and I support it.

22 CHAIR ZIBELMAN: Okay. Diane?

23 COMMISSIONER BURMAN: Does Pat want to --?

24 CHAIR ZIBELMAN: Oh, Pat, do you want to --
25 sorry. Pat, you want to go?

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2 COMMISSIONER ACAMPORA: Sure.

3 Thank you.

4 And I too would like to thank staff who has
5 worked so hard and so long on this order. Also thanks to
6 the thousands of comments that were submitted in this case
7 and as by my questions before, we can see that some of the
8 suggestions were greatly appreciated and have been
9 implemented in this order.

10 This was a monumental task and as usual,
11 the staff delivered an order to the Commission, that we
12 have looked at and studied for a long time. And one of
13 the most important things I've learned in my career, is
14 that when you have to make a decision, you have to always
15 weigh can -- part of this decision, does it benefit the
16 good of most and I believe that this order does.

17 When I served in the legislature, I would
18 use the example of when we voted on the budget. It's a
19 huge document that is delivered and it covers so many
20 areas as does this order and there are parts of the state
21 at times that do need more assistance than other parts of
22 the state. But we are a state as a whole and for New York
23 to continue to be a leader, we have to think about that.

24 And so as the Chair had said, I'm always
25 confident then, when we do something as huge as what we

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2 will do today, that we always build into it, a process by
3 which we can go back and fix something if it needs fixing.
4 And I'm very pleased with the review part of this order
5 because that allows us to do just that.

6 And so I think as we go forward New Yorkers
7 deserve to have a 21st Century energy plan and I thank the
8 Governor for laying out his State Energy Plan and giving
9 us the charge to work upon that. And I want to also thank
10 our Chair because she's really kept this process on
11 course.

12 So New Yorkers deserve affordable, safe and
13 reliable and really what we're talking about here today,
14 clean energy and the ability to make choices. So I
15 support this order and I will be voting in the
16 affirmative.

17 Thank you.

18 CHAIR ZIBELMAN: Thank you.

19 Commissioner Burman.

20 COMMISSIONER BURMAN: We have seen an
21 increased public focus in all that is happening on the
22 energy-regulatory front. In fact, some may say the public
23 is more engaged than ever before, on what is happening in
24 the energy sector at both the federal, state and local
25 level. Spirited debate and discussion on energy topics

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2 have become the norm.

3 We live in the greatest country that allows
4 such free expressions and opinions. Clearly there are
5 many competing views and perspectives in this discussion
6 item today.

7 I am well-mindful that not everyone will be
8 happy with the decisions made here and in fact
9 specifically with my rationale. I ask that folks
10 understand. We make these decisions weighing the entire
11 record and within the framework of our appropriate
12 regulatory and legal authority.

13 I am also cognizant that energy regulation
14 is a continual process and to do it right, we must strive
15 to continually work together. It is not just the
16 regulator that has a stake in these discussions and their
17 outcome, but rather all of us, including the parties in
18 this proceeding, many of whom are here in person today,
19 whether physically or on the web.

20 We must ask ourselves within our
21 appropriate jurisdictional authority, are we doing what we
22 need and how are our needs are identified and acted upon.
23 In fact, the central issue for me, when we embarked on the
24 Reforming the Energy Vision, has always been, are we
25 ensuring we are doing what we need to, to maintain and

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2 improve the reliability and the resiliency of our energy
3 grid.

4 These themes of reliability and resiliency
5 are not new ones. In fact, at our July session, I spoke
6 about being a young, wheelchair-bound child in a New York
7 City hospital in 1977, when the New York City twenty-five-
8 hour blackout occurred after lightning struck. Ironically
9 affecting Indian Point among other plants, but that was
10 not the only event that touched me personally.

11 The August 2003 blackout, which in what was
12 described as a blink of the eye, left nearly eight states
13 in the Northeast and Midwest without electricity. I was a
14 young mother, just starting back at work after the birth
15 of my youngest and experienced the initial horror and fear
16 of not knowing what had shut down our electrical grid and
17 then losing a freezer full of breast milk.

18 But my loss of frozen milk was not the
19 worst of it. Others were evacuated from office buildings,
20 stuck in subway cars and tunnels. Elderly and sick New
21 Yorkers at risk in sweltering heat, rushed to hospitals.
22 Airport delays and loss of essential telecommunication
23 services. I hold close those events and others, as a
24 sharp reminder of the need for a reliable and resilient
25 grid.

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2 All the bells and whistles don't matter if
3 the lights go out and we're struggling to get them back
4 on. It is not lost on me that we are grappling with these
5 issues before us today, during another hot summer. I have
6 carefully examined the record and believe that the first
7 threshold issue for me is if the anti-nuke sentiment
8 expressed in the record is enough to stop any regulatory
9 action.

10 I very much understand the concerns and the
11 passions of those who oppose nuclear, purely on their
12 personal desire not to have this in our fuel mix.

13 However, after a careful review of the
14 public comments, I see that the majority of those opposing
15 nuclear remaining in our fuel mix, are outside the
16 communities of those upstate plants most at risk of
17 retiring and the majority of those public comments in
18 support of the nuclear plants live, or work, or both, in
19 those communities.

20 Thus, I do place more weight on those who
21 support nuclear as remaining in our fuel mix, so that
22 addresses for me the critical threshold issue. The next
23 two become is there a critical need and if so how do we
24 act upon it.

25 After further examining the record, I

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2 believe it is critical for us to decide today how we
3 should respond to our nuclear fleet at jeopardy of
4 retiring. With a low-carbon state focus we have to find a
5 way to appropriately save our nuclear fleet. There is a
6 tremendous risk to the loss of this precious fuel source
7 and simply remaining purely reactive and doing nothing. I
8 cannot state strongly enough, that with the implications
9 of the nuclear shutdown timeline, there is a real
10 imperative to get in front of this and address in the
11 short-term.

12 The Ginna plant initially came to us as a
13 reliability issue and it remains so today. We are now
14 faced with the immediate need to refuel Fitzpatrick, or it
15 will likely shut down. These are not decisions we can put
16 off solving, as once they are shuttered, we cannot take
17 back our inaction. There are preliminary steps involved
18 in acquiring fuel to keep nuclear plants operating and the
19 potential of Fitzpatrick, is contingent upon Tier Three
20 being in place before September.

21 Bottom line, preventing the premature
22 closure of carbon-free, twenty-four-seven nuclear
23 facilities is, in my opinion, a wise energy policy. The
24 key however is how to do this in a balanced way.

25 I am disheartened that it has taken us to

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2 this critical point, where we have no choice but to act
3 quickly, even if it is not the most optimum approach.

4 Thus, like some of the comments we received
5 who support the Nuclear Tier Three approach, I am
6 concerned about the costs.

7 We need to be mindful that the short-term
8 solution to attain nuclear generation is necessary, but
9 through other stakeholder energy planning activities, we
10 may need to examine other long-term solutions for the
11 energy future. In the long-term I do agree with many
12 commenters that the ultimate goal should be to examine
13 potential market mechanisms to retain efficient nuclear
14 generation and to incent renewable resource development,
15 so that our objectives can be harmonized with the
16 wholesale market.

17 As you know, the Clean Energy Standard sets
18 forth a 50 percent renewable goal in New York by 2030. To
19 meet this goal, it is important to focus on both the
20 nonrenewable 50 percent side, as well as the 50 percent
21 renewable side. To reach any of our energy goals, we need
22 to have a modernized infrastructure in place to move
23 electricity as well as other fuel sources.

24 I support valuing and adopting a new
25 technology-neutral market based strategy for reducing

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2 carbon emissions. Fuel sources are going to have to
3 include nuclear, renewable, electric transmission and yes,
4 natural gas. There is no question for me fuel diversity
5 is very important.

6 This Draft Order recognizes that we desire
7 to maintain and improve fuel diversity in the electric
8 sector. An over reliance of any one fuel source puts our
9 system at risk.

10 In fact, going back to the 1977 blackout
11 where Indian Point was affected and the electric grid went
12 dark, it was gas generators that were used at the hospital
13 I was at and many other critical facilities. In fact,
14 there was a growing fear that if the lights continued to
15 be dark for much longer, we might run out of gas for the
16 necessary backup power.

17 Moreover, when restoring power, there is a
18 recognition that there can be power plants, they need to
19 be powered up gradually. The amount of electricity
20 generated, has to match the demand to keep the system in
21 balance.

22 Many plants of different types were shut
23 down in the August 2003 power failure, including nuclear.
24 Nuclear plants can take time to restart, so supply
25 shortages may occur for hours and days after power

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2 restoration begins. Having a diverse fuel mix that can be
3 called upon when needed, includes more than just nuclear
4 and renewables and provides us with very real reliability
5 benefits. Interesting, in response to the 1977 blackout,
6 the Governor of New York State, then requested the Public
7 Service Commission, which was then and still is today
8 legally responsible for the regulation of the rates and
9 services of private electric utilities in the state, the
10 Public Service Commission was called upon to investigate
11 the causes of the power failure and make recommendations
12 to prevent a reoccurrence. The study was to be conducted
13 in three phases. First, the events leading up to the
14 power failure and the analysis of the twenty-five-hour
15 restoration process and then a detailed review of the
16 feasibility of specific recommendations made to the
17 utility. The investigation was intended to aid the Public
18 Service Commission in making decisions regarding system
19 reliability and its relative merits and costs.

20 The final report at released in 1977, began
21 with an introduction which stated the following. The
22 economic losses alone from the blackout are
23 uncalculatable. There is no way of even estimating the
24 magnitude of the personal and social cost suffered by the
25 people and communities affected.

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2 Hence, the report concentrated upon
3 reviewing the operations of the utility, then the New York
4 Power Pool and other member utilities during the power
5 failures, including an identification of steps necessary
6 to avoid future blackouts. There was a special, very
7 important emphasis, on improving system reliability
8 planning procedures.

9 I would come back to the system planning,
10 but it again shows my central focus now on system
11 reliability and resiliency, was as important in 1977 as it
12 is now. It is the bread and butter of what we do as
13 regulators.

14 We need fuel diversity and a robust energy
15 delivery system. These are both necessary for a reliable
16 and affordable energy system. But looking collectively at
17 what we have done in past actions, the Commission does
18 have a record of supporting investment in natural gas
19 infrastructure.

20 For example, in the NYSEG rate case the
21 Commission recently allowed NYSEG to invest in expanding
22 its natural gas distribution system, to address increasing
23 customer demand and regional economic development
24 strategies.

25 We've also approved in recent years, new

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2 natural gas power plants.

3 It is important for stakeholders to
4 recognize the Commission has an obligation to ensure
5 reliability and to meet customer needs. We have an
6 obligation, an ongoing and immediate one to assure that we
7 are carefully looking beyond the four corners of this
8 order, which today is focused on nuclear and renewable and
9 looking at all of our system planning and ensuring that
10 the infrastructure needs of both our natural gas and
11 electric transmission systems are being done
12 appropriately.

13 As more consumers are relying on natural
14 gas for heating, we must watch how that impacts the
15 availability of natural gas in the electricity sector and
16 we need to work towards ensuring we do all we can to
17 ensure a vibrant, robust energy system. We should take
18 heed from the critical situation before us today on the
19 nuclear fleet and be mindful of the other fuel sources
20 that we need to ensure are prepared to be there when we
21 need it. Ensuring a diverse supply of electricity and a
22 robust pipeline delivery system are complimentary actions
23 to fulfill our agency's primary mission related to
24 reliability, affordability and environmental protection.

25 I am cognizant of the fact that the full

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2 item before us today is the subject of much debate and
3 conflicting analysis with respect to cost to ratepayers,
4 as well as cost and benefits. I don't see the same
5 critical imperative to address aspects outside the nuclear
6 Clean Energy Standard piece.

7 However, I do understand that they are
8 intersected and just like nuclear and renewables, it also
9 goes to electric and transmission. So when I look to it,
10 I look at where are the pathways. What are we doing to be
11 able to make sure that we clearly take into consideration
12 all of the different planning tools that we're doing, not
13 only at the Commission, but as the state as a whole.

14 I have been laser-focused on the State
15 Planning Resource Study and I am glad to see that in the
16 order it addresses that. I do think that there are some
17 things in this order that may not sit well with all of us,
18 but I think overall we need to be very careful and we need
19 to make sure that we look carefully.

20 And while the order has implementation
21 processes and looks to come back for some unintended
22 consequences, we need to really be sure that we are
23 including an -- an inclusive way the stakeholders that can
24 help us make the right decisions and not do so blindly.

25 It is important that we consider the

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2 cautionary comments of the New York Independent System
3 Operator. The ISO pointed out that further analysis will
4 be needed to determine transmission upgrades that may be
5 necessary to accommodate the renewable resources that come
6 online in response to the Clean Energy Standard.

7 So, again, it is critical that we continue
8 to work collaboratively with the ISO and other
9 stakeholders -- holders on our State Resource Plan and
10 identify potential issues and continuously update our work
11 as the Clean Energy Standard and other initiatives are
12 implemented. I look forward to that. We need to be
13 mindful of what we can do better and we need to work now
14 to help incorporate many of the things that reappear and
15 look towards the State Resource Plan to help us there.
16 The challenge and the goal of New York State Energy Policy
17 is to balance reliability, environmental sustainability
18 and the cost of energy supply, to meet the -- the needs
19 and demands of consumers and to support the growth of our
20 state's economy.

21 There are certain things in the order that
22 talk about other open dockets and to the extent that I
23 have expressed opinions publicly on those and may not have
24 voted the same way, I am going to, on balance, look at
25 this and concur because I concur for a rationale that is

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2 different from my colleagues.

3 Thank you.

4 CHAIR ZIBELMAN: Thank you, Diane.

5 I just -- I -- I do want to -- to note just
6 as one point, I do believe that the mechanism that we're
7 paying for attributes both in the REC Program and in the
8 ZEC Program, is fully consistent with the wholesale
9 market. It's something that the FERC has reviewed on
10 numerous occasions and there is no inconsistency.

11 It's very complimentary with these markets
12 because it's paying for the environmental attribute, which
13 FERC has recognized is outside of its jurisdiction and
14 appropriately resides within the states, who have the
15 responsibility around energy adequacy and issues of -- of
16 fuel choice. So I don't -- I don't believe you meant to
17 say it was inconsistent.

18 Obviously, as the order points out, the
19 world is changing. If the clean power plant comes around
20 or other programs comes around that -- that look at these
21 very same issues, we will look at it because we're always
22 looking for the best way. But the way we're doing now, I
23 think, is fully consistent with the -- the FERC -- the
24 FERC markets.

25 And then I can't resist, but as good as gas

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2 can respond, batteries respond even faster.

3 So, with that I am going to move to a vote.
4 So all those in favor of the recommendation to adopt the
5 Clean Energy Standard as described in the draft order,
6 please indicate by saying aye.

7 COMMISSIONER SAYRE: Aye.

8 COMMISSIONER ACAMPORA: Aye.

9 CHAIR ZIBELMAN: Opposed?

10 COMMISSIONER BURMAN: I concur in -- based
11 on my comments at session.

12 CHAIR ZIBELMAN: Recognizing your comments
13 and that there are three in favor of the order, the
14 recommendations are adopted.

15 Thank you very much.

16 We're done.

17 We have another item in front of us so
18 let's just -- I think we can do this quickly. We're going
19 to move to the Consent Agenda.

20 Do any of the Commissioners wish to recuse
21 from voting on any of the items on the Consent Agenda?

22 COMMISSIONER BURMAN: On Items 261 and --
23 and 361, I will be abstaining in -- as I have done in
24 orders similar to this.

25 CHAIR ZIBELMAN: So let me take a vote.

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All those in favor of the Consent Agenda
with the notation that Commissioner Burman just made,
please indicate by saying aye.

COMMISSIONER SAYRE: Aye.

COMMISSIONER ACAMPORA: Aye.

CHAIR ZIBELMAN: Opposed?

There being no opposition, the
recommendations are adopted. Well, thank you all. I
think we had a chance to make history today and I
appreciate it. Thank you.

The meeting is adjourned.

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2 STATE OF NEW YORK

3 I, Hannah Allen, do hereby certify that the foregoing was
4 reported by me, in the cause, at the time and place, as
5 stated in the caption hereto, at Page 1 hereof; that the
6 foregoing typewritten transcription consisting of pages 1
7 through 92, is a true record of all proceedings had at the
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 8th day of August, 2016.

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13 Hannah Allen, Reporter

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**RESOLUTION
OF
THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK**

WHEREAS, Steven Blow has served the citizens of the State of New York as an Assistant Counsel of the New York State Department of Public Service from 1979 until 2016; and

WHEREAS, during that period of time the Public Service Commission implemented a new regime of State regulation of the siting of major electric and gas transmission and major electric generation facilities designed to minimize any adverse effect upon the environment and upon the quality of life of the people of the State which such new facilities might cause and to provide a forum for the expeditious resolution of all state and local siting matters in a single proceeding to which access will be open to all to enable public participation in these decisions essential in the public interest; and

WHEREAS, the implementation of the new regime created countless legal, policy and practical issues in need of development and resolution in order to centralize the siting of major facilities; and

WHEREAS, Steven Blow dedicated his career, intellect and expertise to assisting the Commission in tackling such important legal and policy issues in such a way that he emerged as a leader within the Office of General Counsel, the Department of Public Service, and the State on such issues, and supervised the adoption of the former Article X regulations as well as a major overhaul of the Article VII regulations; and

WHEREAS, Steven Blow also carried his full weight as an Assistant Counsel working on countless other matters including telephone service regulation, petitions, rate cases and other projects; and

WHEREAS, Steven Blow has greatly relieved the burdens of the Department by serving for many years as the agency Records Access Officer and as a recognized authority of all question that arise under the State Administrative Procedure Act; and

WHEREAS, Steven Blow has developed special expertise on the Environmental Conservation Law, including particularly, SEQRA, the State Environmental Quality Review Act, and has shared that expertise broadly with his colleagues; and

WHEREAS, Steven Blow also carried his full weight as an Assistant Counsel working on countless other matters including telephone service regulation, petitions, rate cases and other projects; and

WHEREAS, Steven Blow has used his talents as a teacher and mentor to guide and inspire a new generation of attorneys in the Office of General Counsel and to transfer to them his high standards for the development of a case record in a manner that encourages the creativity of independent trial staff teams to develop their own public interest solutions; and

WHEREAS, Steven Blow has the full admiration and personal affection of his colleagues in the Office of General Counsel and the Department of Public Service; it is therefore:

RESOLVED, that the New York State Public Service Commission expresses its gratitude and deepest appreciation to Steven Blow for his dedicated and faithful service to the people of the State of New York as demonstrated by his long career and accomplishments as an advocate of the public interest and his personal commitment to the mission of the Commission to ensure that the public needs of New York's consumers are met in a manner that is safe and reliable, but also in a manner that is compatible with preserving our natural environment.

Chair _____

Commissioners _____

*At a session of the Public Service Commission
Held on August 1, 2016, in the City of Albany*

Secretary

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