

PSC Monthly Meeting - 6-15-2017

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, June 15, 2017
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS

GREGG C. SAYRE, Chair

DIANE X. BURMAN

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2 (The meeting commenced at 10:31 a.m.)

3 CHAIR SAYRE: I'd like to call this
4 session of the Public Service Commission to order.
5 Secretary Burgess, are there any changes to the final
6 agenda?

7 SECRETARY BURGESS: Good morning.
8 There are no changes to the -- to this morning's
9 agenda.

10 CHAIR SAYRE: The first items this
11 morning are a series of reports on Energy Utility
12 Safety Reliability and Service Quality Performance in
13 2016. Mike Worden, Director of the Office of
14 Electric Gas and Water, will begin with an overview
15 of these items, which will be followed by
16 presentations for each.

17 Mike, please begin.

18 MR. WORDEN: Over here.

19 Good morning Chairman Sayre and
20 Commissioner Burman.

21 As you said, the first four items
22 today will provide the Department's report on utility
23 performance in providing electric, gas, and customer
24 service in New York State for 2016. This will
25 include reports on gas safety metrics presented by

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2 Mike Pasinella, electric safety provided by Benjamin
3 Dunton, electric reliability provided by Christian
4 Bonvin, and service quality provided by Sonny Moze.
5 As you can see, I think we're all lined up in order
6 here so we've done our service here today.

7 You don't typically hear a lot about
8 these areas unless there are problems. In part,
9 that's really because the Utilities and Staff are
10 doing a good job in making sure that good service is
11 provided in New York State. This is really one of
12 the bread and butter areas for not only the
13 Commission, as part of the Public Service Law, but
14 for the Department.

15 Section 65 of the Public Service Law
16 requires that the Utilities provide safe and adequate
17 service and just and reasonable charges. And I know
18 we spend a -- a lot of time on just and reasonable
19 charges that you see in rate cases and whatnot, but
20 we also spend a lot of time on safe and adequate
21 service. And I can assure you that significant
22 Department resources go into making this happen, and
23 we take this charge very seriously.

24 So today, I believe we have a good
25 report for you. New York service is amongst the

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2 best, nationally. And overall, the Utilities are
3 most -- meeting most of the targets often referred to
4 in many instances as reliability or customer
5 performance mechanisms, gas performance mechanisms
6 that are set in rate cases.

7 In and of itself, the fact that we
8 didn't meet every target is -- is -- doesn't really
9 present a problem in my mind. These targets are set
10 with the intention of making them fair, so that the
11 utility has an opportunity to meet them, but also, so
12 that -- so that they're tough. We don't want to set
13 targets that are so easy to make that is just gives
14 an appearance that we have tough standards in New
15 York State. The Commission has done a good job in --
16 in balancing that.

17 So for me, what's a good job with
18 respect to these targets, is -- is two things. One
19 is that I don't see any significant adverse trends
20 amongst the targets, in other words, a target, a gas
21 safety metric or some other particular target that
22 the Utilities are continuing to fail on a regular
23 basis.

24 The other thing is we're not seeing a
25 lot of adverse trends. We do see fluctuation from to

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2 time. Many of the targets are affected by things
3 such as weather and other factors. But overall, the
4 trend lines that we see in New York State are good.

5 So we're always striving to do better,
6 not only in terms of seeking better utility
7 performance, but seeking better ways to set targets
8 and to do it in a way that's more meaningful, going
9 forward.

10 So with that, I'm going to turn it
11 over to Mike Pasinella, and he'll present the gas
12 safety metrics.

13 MR. PASINELLA: Thank you, Michael.

14 Good morning Chair Sayre, Commissioner
15 Burman.

16 Item 102 is the 2016 Gas Safety
17 Performance Measures Report. It is for information
18 only and evaluates critical areas of gas safety.
19 This annual performance measures report examines the
20 New York State natural gas local distribution
21 companies, or LDCs for short, performance in four
22 areas pertaining to safety. Those areas include
23 damage prevention, emergency response times related
24 to gas leak and odor calls, leak management, and
25 compliance with the pipeline safety regulations.

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2 These areas are further integrated
3 into the LDCs' specific rate plans to ensure adequate
4 performance. Failure to perform at a targeted level
5 may result in a negative revenue adjustment. Two of
6 the LDCs missed certain targets during 2016, which
7 will be further discussed later in this presentation.

8 The performance measures report
9 originated from a collaborative effort with the LDCs
10 over a decade ago to develop measures by which
11 efforts and performance in maintaining safe gas
12 distribution systems can be monitored. This report
13 is intended to serve as a management tool by allowing
14 Staff to analyze trends, identify areas in need of
15 improvement, and to provide LDCs with feedback on a
16 timely basis.

17 Overall, the data shows that
18 performance and damage prevention, emergency response
19 and leak management greatly improved since that time.

20 Next slide, please.

21 The damage prevention measure monitors
22 the LDCs' ability to minimize damage to buried
23 facilities caused by excavation activities which is
24 the leading cause of natural gas pipeline failures
25 and accidents, both statewide and nationally. There

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2 are four components to the damage prevention measure:
3 damages due to mismarks or inaccurate marking of the
4 LDCs' buried facilities, damages caused by LDC crews
5 and their contractors, damages resulting from third-
6 party excavator error, and damages resulting from
7 lack of notification by the excavator of its intent
8 to excavate to the one-call center, also referred to
9 as no-call damages.

10 These four components combined make up
11 the overall damage prevention performance measure,
12 which improved roughly 13% statewide during 2016,
13 when compared with 2015.

14 National Grid Upstate was one of the
15 larger contributing factors to this improvement in
16 performance with a 20% improvement in their total
17 number of damages, going from 300 in 2015, to 240 in
18 2016. While all four categories improved in
19 performance, the categories directly under the LDCs'
20 control, company and company contractor error and
21 mismarks, experienced the greatest improvements. All
22 LDCs, however, experienced varying combinations of
23 improvement and decline among the four damage
24 prevention categories.

25

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2 Since mid-2007, the majority of the
3 LDCs have participated in an effort to provide Staff
4 with details of damage due to no calls for possible
5 enforcement actions. Most have responded that
6 Staff's efforts to increase enforcement is beneficial
7 and has contributed to greater awareness of the one-
8 call regulations.

9 More recently, LDCs have been
10 encouraged to report all damages, regardless of
11 cause, to Staff. This increased reporting, combined
12 with Staff's review of the damage specifics, is not
13 only expected to result in continued improvement in
14 the no call damage category, but also the excavator
15 error category.

16 As mentioned previously during this
17 presentation, two of the LDCs missed their respective
18 targets for the 2016 calendar year. Central Hudson
19 missed both its mismark and company and company
20 contractor error targets. And Consolidated Edison
21 missed all three of its mismark, company and company
22 and contractor error, and total targets.

23 For Central Hudson, this is the second
24 year in a row where it struggled in its performance
25 for both of these damage prevention categories.

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2 During 2016, Central Hudson made several program
3 changes to aide in its performance related to these
4 two categories. Among those changes were an increase
5 in field inspections, increased public awareness, and
6 provision of training documents to excavators.

7 For Consolidated Edison, during an
8 operational audit of its self-reported data, it was
9 discovered to have overreported its total number of
10 one-call tickets. This overreporting greatly
11 impacted performance related to its damage prevention
12 targets. Therefore, the historic data has been
13 corrected in this report to reflect its actual
14 performance for the previous years.

15 Next slide, please.

16 I will now discuss the emergency
17 response time measure. This measure tracks the LDCs'
18 ability to respond promptly to reports of gas leak
19 and odor calls by examining the percentage of calls
20 that fall within various response times. There was a
21 notable increase in the volume of calls received by
22 LDCs for the previous three calendar years.

23 After years of declines, these
24 increases can largely be attributed to greater public
25 awareness. This greater awareness has been elevated

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2 in recent years by notable incidents and LDCs'
3 efforts to enhance their public awareness programs.

4 There are three specific emergency
5 response goals. Respond to 75% of emergency calls
6 within 30 minutes; 90% within 45 minutes; and 95%
7 within 60 minutes. Statewide performance was mixed
8 during 2016, with the 45- and 60-minute measures
9 improving slightly over 2015. Continuous improvement
10 in this category will require LDCs to effectively
11 manage their resources by positioning qualified
12 responders in locations when and where they
13 anticipate gas leak and odor calls to occur.

14 The LDCs that tend to perform better
15 are combination LDCs in urban areas, where more
16 resources are available, or larger gas LDCs with a
17 greater number of employees.

18 Next slide, please.

19 The leak management measure describes
20 LDCs' performance in effectively maintaining leak
21 inventories. It measures the year-end backlogs of
22 leaks requiring repair, which are classified as Type
23 1, 2A, and 2 under the regulations. Type 1 leaks are
24 an immediate hazard that must be addressed to protect
25 life and property. Type 2A leaks are monitored every

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2 two weeks and must be repaired within six months.

3 Type 2 leaks are monitored every two months and must
4 be repaired within one year.

5 The final leak classification within
6 the regulations is a Type 3 leak. These leaks are
7 not considered hazardous, must be surveyed annually,
8 and do not have a required repair timeframe. For the
9 repairable year-end backlog LDCs' performance in 2016
10 improved for the second -- second consecutive year.
11 When compared to 2003, there has been nearly a 95%
12 improvement.

13 In looking at the combined total leak
14 backlog, which includes Type 3 leaks, you will see in
15 this report that National Grid Long Island, accounts
16 for over half of this total. This lagging
17 performance has been identified in both the
18 accelerated leak-prone pipe replacement program and
19 increase to its leak management program in its most
20 recent rate plan will improve performance moving
21 forward.

22 Note, although Type 3 leaks are, by
23 definition, not a safety hazard, they do contribute
24 to lost gas, costing money, and also impacts the
25 environment. On that note, the downstate LDCs have

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2 been working with the Environmental Defense Fund to
3 identify and rank the larger volume Type 3 leaks to
4 prioritize their repair.

5 As LDCs work to eliminate aging
6 infrastructure from their distribution system, with
7 encouragement from the Commission, the volume of
8 backlog leaks is expected to decline.

9 Next slide, please.

10 For the final measure, staff conducts
11 statistically-based audits, inspections, and
12 investigations of the LDCs to determine their
13 compliance with the gas safety regulations. Each
14 noncompliance identified represents an area where the
15 LDC failed to meet these minimum requirements as
16 prescribed. The -- the data varies greatly from year
17 to year, which is due in part to Staff's five-year
18 audit cycle. The -- the regulations are either
19 identified as high risk, in which an audit is
20 conducted annually, or other risk, which an audit is
21 conducted on a two- to five-year frequency, but does
22 not exceed five years.

23 In 2016, noncompliances were
24 identified in all 11 of the major LDCs operating
25 service territories. Staff is concerned with any

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2 noncompliance of the minimum pipeline safety
3 regulations and recommends that all of the LDCs
4 strive to eliminate the occurrences.

5 Mechanism at -- mechanisms have been
6 incorporated into most LDC rate plans, which attach
7 an associated regulatory liability for each
8 noncompliance identified, similar to the other
9 performance measures previously discussed.

10 This report will be transmitted to an
11 executive level operating officer at each LDC Staff
12 recommends that all LDCs reevaluate their current
13 policies regarding their specific public outreach and
14 excavating training efforts. The LDCs will be
15 directed to submit these self evaluations to the
16 safety section of the Office of Electric, Gas, and
17 Water within 45 days of receiving this report from
18 Staff.

19 The LDCs' analysis should include
20 specific details on how the LDC plans to improve
21 performance, should evaluate the effectiveness of
22 their past efforts, and should outline incremental
23 efforts going forward.

24 Next slide, please.

25

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2 Thank you, Chair Sayre, Commissioner
3 Burman. This concludes my presentation on the 2016
4 Gas Safety Performance Measures Report. I would be
5 happy to answer any questions.

6 CHAIR SAYRE: Thank you, Michael.

7 At this point, I'll say what I've said
8 before at several sessions, which is call 811 before
9 you dig. Contractors, you know what you're supposed
10 to do. If you don't, you can expect enforcement
11 action from the PSC.

12 Do-it-yourself homeowners, if you're
13 just putting in a posthole for a mailbox, or
14 replacing a piece of a sidewalk or pulling out a tree
15 stump, call 811 and get the utility facilities
16 marked. There's no charge for that. You'll save
17 yourself a world of hurt.

18 Commissioner Burman, do you have any
19 questions or comments?

20 MS. BURMAN: Yes. Thank you.

21 First, I just want to clarify. If
22 there's a major safety issue, it's taken care of
23 right away? What's the process?

24 MR. PASINELLA: Major safety issue?
25

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2 MS. BURMAN: We talked about the leaks
3 and the backlog. I just want to make sure that if we
4 identify --.

5 MR. WORDEN: Any major safety issue,
6 whether it be gas or electric, is taken care of
7 immediately.

8 MS. BURMAN: Okay.

9 MR. WORDEN: And we take steps to make
10 the area safe prior to -- you know, if -- if it takes
11 a little time, a day or something to fix it, the area
12 would be made safe.

13 MS. BURMAN: Right. But we have
14 procedures in place so that if there is a major gas
15 safety issue, we do take care of it --

16 MR. WORDEN: Absolutely.

17 MS. BURMAN: -- and expect it to be
18 taken care of right away. I think that's important.

19 I want to go to slide two, which is
20 the damage prevention slide, which is the statewide
21 total damage rate for a thousand one-call tickets.
22 And I know there's four aspects of damage prevention.
23 You said mismarks, company and contractors,
24 excavation error, and no-calls. And traditionally,
25 we've broken out this slide into those four aspects.

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2 And traditionally, excavator damage --
3 or excavator error has been one of the higher reasons
4 that there's damage. And so, I'm just -- from the
5 one-call -- so I'm just wondering if that's still the
6 trend that out of the four the one that seems to be
7 the highest is excavator, or has it shifted?

8 MR. PASINELLA: That is true. It is
9 still excavator error.

10 MS. BURMAN: Okay. And do we have a
11 percentage on what that is as it breaks out?

12 MR. PASINELLA: Percentage, I can get
13 that --

14 MS. BURMAN: Okay.

15 MR. PASINELLA: -- percentage for you.

16 MS. BURMAN: Yeah, because I think
17 it's important for us to look at -- you know, again,
18 we do this from 2003 back, you know, to the current.
19 So I think it's important to see if the trend is
20 continuing. Traditionally, it has decreased in all
21 four areas, so we are showing progress. And I'd just
22 like to make sure, if there's an increase, which I
23 don't believe there is, that we identify that.

24 But to the extent that it is showing
25 the pattern of our continued vigilance and

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2 improvement -- because, frankly, the reason we do the
3 performance measures and monitoring is for us to
4 identify areas that need improvement. And it's
5 really a regulatory toolkit, not only for the
6 company, but for ourselves to look at and make
7 improvements or see where things have been
8 successful. So I just want to make sure that we have
9 that information available.

10 The other part that I want to look at
11 is on the emergency call volume. We'll go to slide
12 three where we look at emergency response. But also
13 from the perspective that we've also looked at the
14 total number of emergency calls statewide, I'm
15 wondering if the emergency call volume --
16 traditionally, our emergency call volume has been
17 relatively flat the same for each year, except we did
18 see, and I think it was from a lot of educational
19 awareness, public awareness -- we did see in 2013,
20 2014, 2015, an increase in emergency call volume,
21 which I think is -- you know, in some ways that's a
22 positive because it means that people are being made
23 aware to call.

24 So I'm just curious if we've seen an
25 uptick in emergency call volume and then how we're

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2 handling that load, as well? And you may not have
3 the answer now, but it is something that, for me, as
4 a trend, I want to make sure we're looking at.

5 MR. PASINELLA: I can look into that
6 trend and get you an answer back.

7 MS. BURMAN: Okay. And then on the
8 slide five, which is the compliance with gas safety
9 regulations -- and we do do compliances and identify
10 it through audits. And I'm just curious if we have
11 the number of noncompliances that have been
12 identified through audit processes, and if that seems
13 to be the same in other years, or if its increased or
14 decreased?

15 MR. PASINELLA: That information is
16 presented in the report. And it does vary on a five-
17 year cycle based on what is audited.

18 MS. BURMAN: Okay. And do we do a
19 deep dive with our auditing folks to look at other
20 ways that we can improve what's coming out of the
21 audit that would be helpful to us?

22 MR. WORDEN: So this -- this is one
23 area where I would say that we've been doing a deep
24 dive over the last year or two. And we continue to

25

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2 take a deep -- deep dive. It's a relatively new area
3 for us in terms of setting targets --

4 MS. BURMAN: Right.

5 MR. WORDEN: -- and stuff, so we're
6 learning as we go.

7 MS. BURMAN: Right.

8 MR. WORDEN: We have made some
9 adjustments in recent rate cases. We made an
10 adjustment in the KEDLI/KEDNY rate case. And you
11 know, so we're -- we're continuing to look at that
12 and continue to refine how we -- we use that
13 information.

14 MS. BURMAN: Right. Yeah, I think
15 that's very important is, you know, we have worked in
16 a collaborative effort on these issues. And to the
17 extent that we are making sure that, again, our
18 auditing processes and our annual reviews are done in
19 a way that actually helps to make successes and --
20 and increase the overall gas safety performance so
21 that we are doing what we're all committed to do as
22 it relates to gas safety.

23 I really -- first of all, I want to
24 recognize Michael. I know this is your first time
25 presenting, so congratulations. And I -- I am very

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2 blessed to work with all Staff, but in particular the
3 gas safety staff, not only here at the Department,
4 but across the nation in working and looking at how
5 can we focus on gas safety issues and what role we
6 can take to improve that. I -- I have learned a lot
7 and I really think it's important that we continue
8 that dialogue.

9 As we noted, the Gas Safety Report
10 started as a collaborative effort with the LDCs back
11 in 2003. So that's why we use that as our -- as our
12 baseline for looking and seeing our improvements
13 throughout. So it's worth noting that the existence
14 of this Gas Safety Report is really through the
15 collaborative effort. And it's our 14th annual
16 report.

17 This underscores the important
18 continued role that the Department and the Commission
19 gives to ensuring our gas safety systems are being
20 maintained and operated in a safe manner. The
21 integrity and reliability of the gas system is
22 paramount, and with that safety is absolutely of
23 critical importance. As well as of critical
24 importance is collaborative efforts that will help us
25 to increase that performance.

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2 We need to look at the challenges and
3 opportunities that are available to us. How can we
4 improve in areas of exploring new emerging
5 technologies? How do we deal with our aging
6 infrastructure -- so that could help us with our gas
7 performance -- gas safety performance?

8 And in particular for me, is the
9 importance of safety and, in particular, the
10 compliance with our gas safety regulations. That's
11 an essential element in ensuring safe and adequate
12 service.

13 As Commissioners -- as Chair Sayre
14 noted, I do want to take the opportunity, also,
15 whenever we talk about gas safety we really need to
16 continually remind folks that before you dig, call
17 811. And if you smell gas, leave the area
18 immediately and then call 911 or your utility. Don't
19 assume somebody else is doing it. Again, it's very
20 important to leave the area immediately and then call
21 from a safe area.

22 I also do want to take a moment to
23 recognize a youngster from Little Falls, New York,
24 Bailey Smith (phonetic spelling). She has gone
25 through the Dig Safely New York school program. She

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2 attended June 6 of this year, the Agricultural Safety
3 Day in Herkimer, New York. And that produced -- and
4 that age group that goes to the Agricultural Safety
5 Day in Herkimer, is really the ages of seven through
6 twelve, primarily fourth, fifth, and perhaps some six
7 graders.

8 And Bailey was the first in New York
9 to complete the take-home book. This means that she
10 goes home, she observes the markings, she shares it
11 with her family, and they document that and certify
12 that she has properly looked at the areas that need
13 to be looked from a dig safely perspective, and
14 reinforce that. So really, my shout-out to Bailey
15 Smith. Educational training does start with our
16 children. And I appreciate that she was through the
17 Dig Safely New York program and we work very closely
18 with them to help in promoting opportunities like
19 that. So thank you, Bailey.

20 Thank you. I have no further
21 questions.

22 CHAIR SAYRE: And I'd like to express
23 my appreciation of Commissioner Burman, and your
24 focus on gas safety both here and at NARUC.

25

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2 Our second item for discussion is Item
3 302, Case 17-E-0173, which is the 2016 Electric
4 Safety Performance Report presented by Benjamin
5 Dunton, Power Systems Operations Specialist.

6 Benjamin, please proceed.

7 MR. DUNTON: Good morning, Chair Sayre
8 and Commissioner Burman.

9 Today I will be providing an overview
10 of the Electric Safety Standards and the Utilities
11 Compliance for 2016.

12 Next slide, please.

13 I will start with some background
14 information on the electric safety standards. The
15 original electric safety standards were adopted by
16 the Commission in January of 2005. The standards
17 include stray voltage testing of all electric
18 facilities on an annual basis, visual inspection of
19 the electric facilities on a five-year cycle, and the
20 adoption of the National Electric Safety Code, or
21 NESC, as a minimum, the standard for utility
22 construction maintenance and operations.

23 The overall goal of these safety
24 standards is to safeguard the public from exposure to
25 stray voltage, and to identify and mitigate any

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2 potentially harmful conditions before safety hazards,
3 and/or reliability deficiencies develop.

4 Since 2005, there have been several
5 modifications to the order. These modifications were
6 as a result of lessons learned from previous years'
7 activities and the results of effectively administer
8 and manage the Utilities' efforts. New York safety -
9 - electric safety standards continue to have some of
10 the most stringent requirements when compared to
11 other states across the nation. 2016 marked the 12th
12 year of -- for the electric safety standards, or the
13 second year of the third five-year cycle.

14 Next slide, please.

15 With the latest modifications to the
16 safety standards order, starting in 2013, the
17 Utilities are required to test their underground
18 system and streetlight facilities on an annual basis,
19 while manual testing their overhead distribution and
20 transmission facilities on the same five-year cycle
21 as the inspection requirements. Voltage findings of
22 one volt or more are required to be recorded and
23 mitigated.

24 In total, there were 547 voltage
25 findings of one volt or more, or approximately .05%

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2 of the roughly 1 million facilities tested in 2016.
3 This graph shows the historical findings for manual
4 stray voltage testing, going back three years. The
5 red sections show the findings between 1 volt and 4.4
6 volts, and the green sections show the findings that
7 are 5.4 -- excuse me -- 5.5 volts and greater.

8 The 2016 total number of stray voltage
9 testing findings is slightly down from 2015 and 2014.
10 Streetlights continue to be the largest facilities
11 grouping with stray voltage findings. For example,
12 in 2016, out of the total 547 findings, streetlights
13 accounted for 329 of them.

14 Next slide, please.

15 Mobile stray voltage testing was added
16 to the safety standards in 2011 and require 12 mobile
17 surveys in New York City, 2 mobile surveys in
18 Buffalo, and 1 mobile survey in Yonkers, White
19 Plains, New Rochelle, Albany, Niagara Falls, and
20 Rochester each year. These locations were selected
21 due to their population density, 50,000 or more, and
22 the number of stray voltage findings in each city.
23 Again, any voltage finding of one volt or more is
24 reported and mitigated.

25

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2 In 2016, there were approximately
3 9,900 voltage findings in the three utility service
4 territories where mobile stray voltage testing is
5 required.

6 This graph represent -- presents the
7 total number of stray voltage findings across the
8 state, using the mobile testing units for the past
9 three years. Blue represents Con Edison findings,
10 green represents National Grid's findings, and purple
11 represents Rochester Gas and Electric's findings.
12 Con Edison makes up the majority of the mobile stray
13 voltage findings, based largely on the number of
14 scans completed, and the size of their underground
15 system.

16 Next slide, please.

17 This graph shows a voltage level
18 breakdown for the information provided on the
19 previous slide of mobile stray voltage findings. For
20 the past two years, the majority of the mobile stray
21 voltage findings continue to be low voltage in
22 nature, and located on nonutility and streetlight or
23 traffic signal facilities. As seen here, green is
24 nonutility, red is streetlight or traffic signals,
25 and blue is utility underground facilities.

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2 Next slide, please.

3 In addition to testing programs, the
4 Utilities are made aware of potential stray voltage
5 locations through information provided to them by the
6 public. The Utilities are required to respond to all
7 shock reports, including reports involving domestic
8 animals and regardless of whether or not injuries
9 occur. This graph shows report shock -- reported
10 shock incidents for the past three years. Green
11 represents shocks that were caused by customer-owned
12 equipment and red represents shocks that were caused
13 by utility-owned equipment. As seen here, shock
14 incidents were down in 2016.

15 Next slide, please.

16 Per the electric safety standards, the
17 Utilities are required to complete visual inspections
18 on 20% of their facilities each year, so that 100% of
19 the Utilities' transmission distribution facilities
20 will be inspected at least once every five years.
21 Since 2016, this was the second year of the third
22 five-year cycle, all of the Utilities were to have
23 completed inspections on 40% of their facilities by
24 year's end.

25

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2 This graph shows the inspection
3 breakdown and completion level for each of the six
4 investor-owned utilities at the end of 2016. As
5 represented here, all six completed the 40%
6 requirement.

7 Next slide, please.

8 At this time, I can answer any
9 questions. Thank you very much.

10 CHAIR SAYRE: Thank you.

11 Commissioner Burman, do you have any
12 questions or comments?

13 MS. BURMAN: My -- and first of all,
14 thank you, Mr. Dunton. I understand this is also
15 your first time presenting. So congratulations, as
16 well.

17 Can you explain to me the
18 streetlighting and the focus on that and what we're
19 doing? Because it does seem like there's a -- a
20 subset of concerns that we need to address with the
21 streetlighting and voltage -- stray voltage issues?

22 MR. BONVIN: So I can answer this
23 because I have a little more background from the
24 beginning of the --

25 MS. BURMAN: Yeah.

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2 MR. BONVIN: -- when the safety
3 standards were first developed. Streetlights,
4 because of their nature and exposure level, and most
5 of them are aluminum, things of that nature, there's
6 a lot of issues with them and a lot of opportunities
7 for stray voltage to be found on them, there's been
8 numerous attempts to mitigate that. It involves
9 everything from paint to different bases, connections
10 in the bases and different things.

11 Despite all that, those efforts, we
12 still continue to see a sizeable number. As a
13 result, we continue to keep a very focused effort on
14 that. For example, we continue to make sure manual
15 testing is done on all of them on a yearly basis, as
16 well as doing the mobile testing. And it's -- it's
17 kind of one of those areas where we knew it was a
18 problem when we were first learning about it, so
19 that's why we incorporated it. And a lot of the
20 streetlights that are tested are actually not
21 utility-owned facilities, but are owned by either
22 cities or the towns or, you know, others. And they
23 are all being required because they are, you know,
24 just that known exposure potential.

25

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2 MR. WORDEN: I would add to that that
3 the -- the streetlights is -- is a little bit of a
4 mixed bag in terms of ownership. New York City owns
5 all of the streetlights in New York City. So a large
6 number of the streetlight problems that we've seen
7 are in New York City. The city does have a -- a very
8 aggressive program and have taken a number of steps
9 to try to mitigate the effects of this problem with -
10 - working with Con Edison as to what's the best means
11 of doing that. So we continue to work on that.

12 And you'll notice one of the slides
13 showed the -- some -- an -- an uptick in 2016, in
14 incidents on mobile testing. And that was because
15 Con Edison started doing some more targeted
16 inspections. So they, in effect, did more
17 inspections with mobile devices than they had done
18 the previous year. So that was really the reason we
19 saw the uptick, not necessarily that it meant that
20 there was something adverse that happened that was
21 sending the trend in the wrong direction.

22 MS. BURMAN: So I -- I very much
23 appreciate the explanation on that. And I did focus
24 on this last year, as well. And it's not to suggest
25 that we have a significant problem with streetlights.

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2 But to the extent that, for me, what's
3 important is these performance measures and these
4 annual reports are to draw out where we need to be
5 laser focused, what else we're doing, make sure that
6 if others need to be involved in the -- in some of
7 these issues of concern, to the extent that we have a
8 large statewide initiative, which is a positive thing
9 on streetlight replacements, we do need to recognize
10 that one of the concerns that will need to be
11 addressed is the awareness of this issue, especially
12 as it will go to some of our non-jurisdictional
13 entities who -- who will be involved in the
14 streetlighting.

15 And so, I just want to, again, like I
16 did last year, focus on this issue and make sure that
17 we are incorporating it in a more formal fashion in
18 our street lighting replacement initiative, and --
19 and upgrades, so that we can really make sure that we
20 are following through on part of the trends that
21 we're seeing here on the annual report.

22 I know that, you know, it may be being
23 done in an informal way, but to the extent, even for
24 me, when we have streetlighting petitions that come
25 before us, I just want to make sure that we are, in

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2 some way, making the relevant parties aware in a more
3 formal fashion.

4 Okay. I have no other questions.

5

6 [End of Audio]

7

8 170615jan1 Janet CHAIR SAYRE: Thank
9 you, Commissioner.

10 The third item for discussion is Item
11 301, Case 17-E-0164, the 2016 Electric Reliability
12 Performance Report presented by Christian Bonvin,
13 Chief of the Electric Distribution Systems.

14 Christian, proceed please.

15 MR. BONVIN: Good morning, Chair
16 Sayre, and Commissioner Burman.

17 Item 301 is a report on the electric
18 reliability performance in New York State for 2016.
19 The information presented today focuses on statewide
20 performances. However, our report provides
21 individual analyses for each of the major electric
22 utilities.

23 Next slide, please.

24 The ability of a utility to provide
25 electric service -- reliable electric service is

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2 fundamental to the Commission and the Department.
3 And we use several means to monitor and evaluate
4 service reliability. Part 97 of our Rules and
5 Regulations require the electric utilities to
6 maintain and submit detailed interruption data for
7 our review.

8 From this data, we calculate two
9 primary measures, the frequency of service
10 interruptions, and the average duration of the
11 interruptions. Both of these measures are common
12 industry accepted calculations. By their nature, the
13 frequency and duration measures fluctuate as
14 conditions change year to year.

15 To account for severe weather, the
16 interruption data associated with major storms is
17 uniquely identified. By reviewing the statistics
18 with and without major storms, we are able to compare
19 and trend the data over time. Additionally, because
20 of the inherently lower frequency due to its system
21 design, Con Edison's data can skew the overall
22 results. As a result, we evaluate the statewide
23 measures both including and excluding Con Edison's
24 data.

25

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2 The reliability data is also collected
3 by cause code or reason for the interruption. By
4 doing so, it enables us to identify areas where
5 increased work activity may be needed or confirm that
6 specific programs are effective.

7 Finally, reliability performance
8 mechanisms, or RPMs, are established within rate
9 cases. The RPMs include performance targets and
10 negative revenue adjustments for failing to meet the
11 targets. All utility RPMs account for frequency and
12 duration. Certain utilities' RPMs may also include
13 other specific measures.

14 Next slide, please.

15 This graph presents the last five
16 years' performance for duration on a statewide basis,
17 excluding major storms. To provide some context, a
18 measure of two, for duration, means that the average
19 customer affected by an outage in the year was
20 without service for two hours. Overall, on a
21 statewide basis, the Utilities have been performing
22 well with regard to duration performance.

23 A 2016 overall statewide interruption
24 duration index of 1.85 hours is better than 2015, and
25 better than the five-year average, which is

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2 represented by the dashed lines on the graph. 2016
3 was the best statewide duration performance since
4 2009. The statewide interruption duration index,
5 excluding Con Edison, was 1.79 hours in 2016, which
6 is also better than the five-year average.

7 Next slide.

8 This graph presents the last five-
9 years' performance for frequency on a statewide
10 basis, excluding major storms. For frequency, a
11 performance of one means that, on average, each
12 customer was interrupted once during the year.
13 Statewide, the frequency of interruptions excluding
14 major storms, was 0.67 and 1.07 when excluding Con
15 Edison's data. Tree contacts and equipment failures
16 are the two leading causes for interruptions. The
17 frequency of outages was worse in 2016, primarily due
18 to outages resulting from tree contacts at several
19 utilities.

20 Next slide.

21 A more detailed view of the tree-
22 related interruptions shows that tree contacts
23 increased in 2016 for nearly every utility. The
24 largest contributors to the tree-related
25 interruptions were limbs and trees outside the

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2 clearance zones, maintained by routine trimming
3 programs.

4 Discussions with the Utilities have
5 indicated that insects and diseases have resulted in
6 the rapid decline of trees. One of the more
7 prevalent issues involves the emerald ash borer
8 beetle. It was indicated to us that the impacted ash
9 trees from the beetle may go from a healthy state to
10 a dead tree in as little as six months. As a result,
11 we are working with the Utilities to review the
12 impact of the emerald ash borer, and identify actions
13 that could be taken going forward to mitigate any
14 concerns with the respect to electric reliability.

15 Lastly, I would note that Central
16 Hudson failed its RPM for frequency, and PSEG missed
17 its frequency metric. Central Hudson has -- has a
18 petition seeking relief from the negative revenue
19 adjustment associated with the missed target. Staff
20 is currently reviewing the petition, and
21 recommendations based on this review will be
22 presented to you at a future session.

23 Staff is also working with PSEG Long
24 Island, to better identify why it missed its metric.

25

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2 This includes reviewing a recently received report
3 that was prepared for LIPA and PSEG.

4 That concludes my presentation. I'll
5 be happy to answer any questions at this time.

6 CHAIR SAYRE: Thank you.

7 Commissioner Burman, do you have any
8 questions or comments?

9 COMMISSIONER BURMAN: On -- can you
10 pull up slide 19?

11 I just -- first of all, you -- you
12 have traditionally presented this item and I do
13 appreciate your continued efforts from year to year,
14 not only at session, but it in all that you do in
15 going out with other Staff to make sure that we're
16 maintaining the reliability of the system.

17 This slide, in particular, is new this
18 year. I think that's great. And what's also new is
19 that we are identifying, without a commissioner
20 having to ask, where PSEG Long Island fits. I think
21 it's very helpful to our overall statewide oversight
22 that we have an understanding of that utility, even
23 if we, as the Commission body, don't formerly
24 regulate it. So I -- I just want to recognize that
25 this is a very important slide, but it also helps us

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2 look at these different issues and to the extent that
3 we are identifying at the -- at the front-end PSEG
4 Long Island in the -- in the whole pie. I think
5 that's a good thing.

6 It isn't -- you know, each year we may
7 have one or two utilities that fail to meet a metric.
8 Central Hudson, in this case, is. Last time, it was
9 another utility. And so we look at that and take
10 into consideration, again, what are the lessons
11 learned, what does it mean, what is it from a fact-
12 based perspective. You know, obviously the beetle is
13 -- is one element of it.

14 So just thank you, and I look forward
15 to the continued drilling down of the information
16 that we get, and also hearing from the Utilities,
17 their perspectives on our report that -- will -- that
18 the staff will be issuing. So thank you.

19 CHAIR SAYRE: Thank you, Commissioner.

20 Our fourth item for discussion, we'll
21 go back up the list to Item 201, Case 17-M-0281, the
22 2016 Energy Utility Service Quality Report, presented
23 by Sonny Moze, Utility Consumer Program Specialist.
24 Martin Insogna, Chief Consumer Advocacy, is available
25 for questions.

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2 Sonny, please begin.

3 MR. MOZE: Thank you, Chairman Sayre.

4 Good morning Commissioner Burman.

5 This item summarizes the electric and
6 natural gas utilities' performance for 2016 on
7 matters of customer service quality. These include
8 two types of measures, standardized indicators
9 reported by all of the Utilities, and customer
10 service performance incentives which provided by
11 Utility and include negative revenue adjustments for
12 unsatisfactory customer service performance.

13 Next slide, please.

14 The data provided by each Utility in
15 each monthly performance indicator reports allows
16 Staff to track customer service performance. The
17 performance indicators are, as reflected on the
18 chart, PSC complaint rate; appointment kept; billing
19 accuracy, adjusted bill percentage; telephone answer
20 rate, is the percentage of calls answered within 30
21 seconds; meter reads, estimated reading percentage;
22 and customer satisfaction survey.

23 Next slide, please.

24 Customer service performance
25 incentives help to align shareholder and ratepayer

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2 interest by providing protentional earning,
3 consequences to shareholders that reflect the quality
4 of service to utility customers. Every major gas and
5 electric company in New York State has these
6 mechanisms in place.

7 For all of the Utilities, the customer
8 service performance incentive mechanism contain
9 targets for PSC complaint rates and survey measures
10 of customer satisfaction. Some also include targets
11 for other more specific utility performance.

12 Recently, the Commission has adopted
13 positive shareholder incentives for Utilities that
14 can successfully reduce terminations and maintain
15 reduced bad debt levels. These incentives encourage
16 further progress to all the Commission's energy
17 affordability goals and improved treatment of low-
18 income customers, while avoiding increases in
19 uncollectable expense.

20 Next slide, please.

21 We are pleased to report that all the
22 Utilities made their respective customer service
23 incentive targets for the calendar year of 2016
24 reporting period. As a result, no negative revenue
25 adjustment is applicable to any of the Utilities.

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2 For the most part, the electric and gas utilities'
3 performance has steadily improved over the last
4 several years, and this trend continued in calendar
5 year 2016.

6 For example, NYSEG and Orange and
7 Rockland each improved their performance on PSC
8 complaint rate from 2015 levels. And Central Hudson
9 improved its performance on PSC complaint rate and
10 customer satisfaction. National Fuel Gas and St.
11 Lawrence Gas each had only one escalated complaint.
12 And Con Ed gas has no escalated complaints for their
13 2016 reporting period.

14 In addition, Central Hudson achieved
15 positive revenue adjustment in the form of five basis
16 points, approximately \$474,000, for reducing
17 terminations. St. Lawrence Gas achieved a positive
18 revenue adjustment of \$6,000 for reducing
19 terminations. And Orange and Rockland achieved a
20 maximum positive revenue adjustment of \$800,000 for
21 reducing both its residential service terminations
22 and uncollectables for this reporting period.

23 These positive revenue adjustments are
24 automatically deferred under each Utilities'

25

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2 respective rate plan, and no Commission action is
3 required at this time.

4 In summary, the customer service
5 performance incentives currently in place at the
6 Utilities in New York State exhibit strong standards
7 for performance and put significant amounts of
8 shareholder earnings at risk for nonperformance.

9 Overall, the customer service
10 performance incentive mechanisms implemented by the
11 Commission, coupled with Staff's ongoing monitoring
12 efforts, appear to have been affective in encouraging
13 companies to make customer service a corporate
14 priority, and providing criteria for ensuring that
15 the quality of customer service remains at high
16 levels.

17 Staff will continue to monitor
18 customer service quality provided by Utilities to
19 ensure the fair and appropriate treatment of utility
20 customers across the state, and will continue to
21 promote performance based ratemaking strategies
22 relating to customer service quality as alternative
23 to traditional cost-of-service regulation.

24
25

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2 This completes my presentation on the
3 Energy Utilities Customer Service Performance Report
4 for 2016. I'll be glad to answer any questions.

5 CHAIR SAYRE: Thank you, Sonny.

6 This is a good news report. I think
7 it is strong evidence that incentive-based regulation
8 can work to drive the behavior that we want from
9 Utilities. And that will inform my thinking in the
10 future as we continue down the road with our REV
11 proceeding which is looking forward to possible
12 changes in our mode of -- of utility regulation.

13 Commissioner Burman, do you have any
14 questions or comments?

15 COMMISSIONER BURMAN: Can you pull up
16 slide 22?

17 Just looking at this, I note that PSEG
18 Long Island is not in this slide. Can you give me a
19 sense of where they would fall, what the distinction
20 is between them, other than that we don't directly
21 regulate them? I do think it's important, especially
22 for when we look at National Grid Long Island, but an
23 overall picture of customer service performance
24 incentives, especially since PSEG Long Island and
25 LIPA do look at what we're doing. Commissioner --

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2 Chair Sayre, mentioned REV. They do look to what the
3 Commission is doing in their rollout of their
4 initiatives, as well. So it's important to me that
5 we get a sense of where they would fall.

6 MR. INSOGNA: Commissioner Burman,
7 PSEG Long Island does face similar performance
8 metrics as part of its rate plan. So they're being
9 measured on -- on many of the same criteria that --
10 that we measure the -- the other investor-owned
11 utilities. We regret the omission that we did not
12 include them in our report. We will certainly do so
13 on a going-forward basis. As we sit here today, I'm
14 not aware that they missed any targets. But I'd have
15 to get back to you to confirm that.

16 COMMISSIONER BURMAN: Okay. And we
17 can probably update that slide, as well, so that we
18 were looking at -- everybody's looking at the same
19 thing.

20 MR. INSOGNA: Certainly.

21 COMMISSIONER BURMAN: I do think it's
22 important, especially because we can all learn from
23 each other, even the ones that we may not have direct
24 oversight on. And especially, I do want to encourage
25 the Utilities to be working together, as well, in

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2 learning some lessons from each other on, you know,
3 similar -- similarities in customer service
4 performance.

5 So thank you, so much.

6 CHAIR SAYRE: Thank you, Commissioner
7 Burman.

8 We will move to the fifth item for
9 discussion, Item 101, Case 16-G-0369, the proceeding
10 as to the Rates, Charges, Rules and Regulations of
11 Corning Natural Gas Corporation for Gas Service
12 presented by Administrative Law Judge Sean Mullany.
13 Jeff Hogan, Chief Office of Accounting, Audits, and
14 Finance; Mike Rieder, Chief Gas and Water Rates; and
15 Martin Insogna, Chief Consumer Advocacy are available
16 for questions.

17 Once you're all set up, we'll proceed.
18 Sean, when you're ready, please proceed.

19 A.L.J. MULLANY: Good morning,
20 Chairman Sayre.

21 Good morning, Commissioner Burman.
22 Thank you.

23 Item 101 would adopt the terms of a
24 joint proposal and establish a three-year gas plan
25 for Corning Natural Gas Corporation.

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2 Corning is currently operating under a
3 -- a plan that was approved by the Commission in
4 2012. Initially, it was a three-year plan and then
5 extended for two years, back in 2015, with limited
6 modifications.

7 Corning made its rate filing on June
8 17, 2016. The parties in this case include Corning,
9 Department Staff, the Utility Intervention Unit of
10 New York State Department of State, and multiple
11 intervenors which represents large and industrial
12 customers. After extensive discovery, direct filings
13 by Staff and multiple intervenors, and rebuttal
14 filings by Corning and multiple intervenors, the
15 parties then initiated settlement discussions.

16 The procedural requirements for such
17 negotiations were observed pursuant to Commission
18 Rule 3.9, and all parties had a fair opportunity to
19 participate. The settlement discussions were
20 successful and led to the filing of a joint proposal
21 that had been signed by Corning, Department Staff,
22 and multiple intervenors.

23 Statements in support of the joint
24 proposal were filed by Corning, Staff, and multiple
25 intervenors. The Utility Intervention Unit

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2 participated in the settlement discussions, but did
3 not sign the joint proposal. No party, however, has
4 filed any statement in opposition to the joint
5 proposal.

6 An evidentiary was -- hearing was held
7 on May 1st, and the pre-filed testimony and exhibits,
8 the joint proposal and related appendices, and the
9 statements in support were entered into the record.

10 We held three public statement
11 hearings in Corning service territory. The -- the
12 public comments in response to the public statement
13 hearings was limited. We had three speakers at the
14 first hearing in Corning and -- at the first and
15 second sessions in Corning, and that was to accept
16 comments on Corning's initial rate filing.

17 We held another public statement
18 hearing subsequent to the filing of the joint
19 proposal. That was held on May 30th, out in Corning,
20 and Commissioner Burman attended. I believe there
21 was one commenter at that hearing who raised
22 questions that the Company addressed after -- after
23 the hearing.

24 The joint proposal recommends
25 increases in gas delivery service revenues of

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2 approximately \$3 million in rate year one, \$650,000
3 in rate year two, and \$630,000 in rate year three.
4 In part, because of the disparity between the rate
5 increases between rate year one and rate years two
6 and three, the joint proposal advocates that these
7 increases be levelized over the three years of the
8 rate plan.

9 Once levelized and after accounting
10 for the elimination of certain existing surcharges,
11 the Company's revenues would increase by
12 approximately \$1.55 million in each of the three rate
13 years. These increases are based upon agreed upon
14 adjustments to operating revenues, operation and
15 maintenance expenses, and rate base, and also based
16 on a return on equity of 9.0%.

17 These rate increases are driven by
18 demonstrated increases in the Company's cost related
19 to net plant, property tax, and labor expenses. The
20 increases were offset, in part, by a decrease in
21 expenses due to adjustments in the allocation of
22 certain costs between Corning and its affiliate
23 companies.

24 On a total revenue basis, the
25 increases would be approximately 6.2% in rate year

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2 one, 5.9% in rate year two, and 5.5% in rate year
3 three. In rate year one, the annual cost for the
4 typical residential gas heating customer would
5 increase by approximately \$99. In rate year two, the
6 annual cost would increase by approximately \$94. In
7 rate year three, that annual cost would increase by
8 approximately \$84.

9 A significant portion of the rate
10 increase relates to the revenues needed by the
11 Company in order to continue aggressively upgrading
12 its gas distribution system. This work represents
13 the Company's single largest expenditure. Work will
14 increase gas safety and reliability, modernize the
15 Company's infrastructure, and benefit the
16 environment, all outcomes which are consistent with
17 longstanding Commission policies, goals, and
18 objectives.

19 The Company is on pace to remove all
20 leak-prone pipe within 10 years, making Corning one
21 of the first utilities in New York to eliminate leak-
22 prone pipe from its distribution system. This is a
23 gas safety priority of the Commission.

24 The proposed rate plan would also
25 continue incentive programs for the replacement of

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2 leak-prone pipe, leak-prone distribution mains, and
3 includes a program to replace leak-prone service
4 lines.

5 In addition, the rate plan includes
6 gas safety performance metrics related to preventing
7 damage to underground facilities, responding to
8 emergency calls, adhering to gas safety regulations,
9 and eliminating leaks. The joint proposal includes
10 an incentive for repair of the highest emitting type-
11 3 methane leaks.

12 There are terms in the joint proposal
13 that provide for sharing on an 85% for ratepayers and
14 15% for shareholders, the sharing of revenues from
15 capacity assets managed by the Company. This
16 mechanism will provide Corning with an incentive to
17 optimize the utilization of its assets, and help
18 decrease the amount of cost that would need to be
19 recovered from ratepayers.

20 The joint proposal also includes
21 provisions for enhanced cost controls, downward-only
22 true-up mechanism for capital budgets, and related
23 procedures for improved management of capital
24 expenditures.

25

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2 The joint proposal also includes a
3 number of terms specifically related to customer
4 service. More specifically, it includes a customer
5 service performance incentive mechanism that would
6 allow for the negative revenue adjustments if the
7 Company fails to meet specific metrics relating to
8 the number of escalated customer complaints, and
9 relating to the level of customer satisfaction.

10 The joint proposal would allow for a
11 positive incentive if the Company reduces residential
12 terminations for non-payment, or reduces
13 uncollectables. And there are metrics specified in
14 the J.P. Conversely, the Company would be subject to
15 a negative rate adjustment if the number of customer
16 terminations rises above a target level.

17 The joint proposal would also require
18 the Company to provide a \$25 bill credit if, through
19 no fault of the customer, the Company misses a
20 scheduled appointment with the customer.

21 Another provision that's noteworthy is
22 that the joint proposal authorizes and approves
23 allowing customers to pay their bills electronically
24 through the use of credit cards or debit cards.

25 Corning would be required to periodically report on

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2 that practice and inform the Department Staff of the
3 customer fees that are associated with that
4 particular service.

5 So in summary, approval of the joint
6 proposal would be consistent with the Commission's
7 settlement guidelines and prior Commission decisions.
8 The joint proposal is the result of a full and fair
9 process that afforded all parties and the public
10 ample opportunity to comment on and participate in
11 the proceeding. No party opposes the joint proposal.
12 The parties represent adverse interest -- or varying
13 interests and are ordinarily adverse parties in
14 proceedings before the Commission.

15 The -- the public comments on -- on
16 the joint proposal have been very limited. The joint
17 proposal balances the Company's need for revenues as
18 a result of demonstrated increases in costs, and in
19 order to carry out its capital system improvements
20 which in -- will advance important Commission gas
21 safety policies.

22 The revenues and revenue certainty
23 provided by the three-year rate plan will advance
24 both shareholder interests and customer interests by
25 providing for the long-term viability of the Company,

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2 while also providing customers with rate
3 predictability and stability.

4 The joint proposal includes important
5 provisions to protect and advance the interests of
6 customers and shareholders. The J.P. will promote
7 cost controls, will promote efficient utilization of
8 the Company's gas system, and it will ensure
9 continued high level of customer service.

10 The underlying evidentiary record
11 demonstrates that the joint proposal will produce
12 results that are within the range of outcomes in a
13 fully litigated proceeding. Overall, the adoption of
14 the joint proposal will be in the public interest,
15 and will ensure the Company's continued safe and
16 adequate provision of gas service to its customers at
17 just and reasonable rates.

18 For these reasons, Staff recommends
19 approval of the order in front of you.

20 And thank you for your time. We
21 welcome questions.

22 CHAIR SAYRE: Thank you, Judge
23 Mullany. I've said before at Commission sessions
24 that I'm in favor of all parties trying to work
25 together to settle cases, although we will take a

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2 hard look at everything when a settlement comes to
3 the Commission for approval. In the last few months,
4 we have required changes in two joint proposals in
5 rate cases that were presented to us.

6 This one passes the test for me of
7 fairly balancing all elements of the public interest.
8 It was negotiated among a large number of parties, as
9 Judge Mullany said, with diverse interests, and no
10 party is opposing it.

11 It is, indeed, a rate increase, but
12 I'm comfortable that it is required by the Company's
13 increased investments and expenses that are necessary
14 for public safety, reliability, and environmental
15 protection. So I will be voting in favor of the
16 recommendation.

17 Commissioner Burman, do you have any
18 questions or comments?

19 COMMISSIONER BURMAN: Thank you.

20 Thanks for your presentation, as well
21 as your administrative law judge duties in this case.
22 I did have the pleasure of going with you to -- or
23 going out to Corning, and sitting at a public
24 statement hearing. I did so after the joint proposal
25 had been submitted, after comments had been

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2 submitted, and was -- you know, there was only one
3 speaker, the Company was there and the Company did --
4 representative did speak to the speaker afterwards to
5 address her concerns.

6 We at the Commission, we regulate the
7 electric, gas, steam, telecommunications, cable, and
8 water utilities in New York State. We have a broad
9 mandate to ensure that consumers receive safe and
10 reliable utility service at reasonable rates and with
11 the least adverse effect upon the environment. At
12 the Commission, we stand really at the crossroads of
13 the public need for virtually essential core services
14 and the private needs of the shareholder to ensure
15 continued investment in these services.

16 As such, the Commission occupies an
17 incredibly important and unique role in balancing
18 these interests in a way that ensures the most
19 advanced and reliable services, while at the same
20 time ensuring they are effectively and efficiently
21 delivered. The critical importance of the
22 Commission's mission to the economic wellbeing of the
23 state and its citizens cannot be overstated. And the
24 rate cases are ones that we really have an important
25 bread and butter role to look at and get right.

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2 Here, the major rate drivers are
3 really increases related to inflation, labor, pension
4 expenses, property taxes, health insurance, and
5 increased capital expenditures for reasonable and
6 appropriate gas safety initiatives.

7 So I am going to vote in favor of
8 this. Thank you.

9 CHAIR SAYRE: Thank you, Commissioner
10 Burman.

11 We can move to a vote. The Chair
12 votes in favor of the recommendation to adopt the
13 terms of the joint proposal as described.

14 Commissioner Burman, your vote?

15 COMMISSIONER BURMAN: Aye.

16 CHAIR SAYRE: The recommendation is
17 adopted.

18 The next item for discussion number
19 six, I think, on our list is Item 501, Case 17-C-
20 0050, which is the Joint Petition of Consolidated
21 Communications and Fairpoint Communications for
22 Approval of Proposed Transactions, presented by Debra
23 Labelle, Acting Director Office of
24 Telecommunications. Joe Yakell, Utility Supervisor;
25 Brian Ossias, Managing Attorney; and Jeff Hogan,

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2 Chief of the Office of Accounting, Audits, and
3 Finance, are available for questions.

4 I'll let you get settled.

5 MS. LABELLE: Good morning, Chairman
6 Sayre, and Commissioner Burman.

7 I'll be presenting Item 501, which
8 addresses a -- a joint petition filed by Fairpoint
9 Communications, Incorporated, Berkshire Telephone
10 Corporation, Chautauqua and Erie Telephone
11 Corporation, Taconic Telephone Corporation, Fairpoint
12 Business Services LLC, Consolidated Communications,
13 Incorporated, and Consolidated Communications
14 Holdings, Incorporated, requesting Commission
15 authorization that will result in Consolidated
16 Communications becoming the parent holding company of
17 Fairpoint Communications, Inc., and Fairpoint's New
18 York operating subsidiaries.

19 The petition also requests
20 authorization to pledge the stock and the majority of
21 Fairpoint's New York operating subsidiaries assets in
22 support of Consolidated Communications' existing term
23 loan, as well as an incremental term loan.

24 By way of background, Fairpoint
25 Communications, itself, functions as a holding

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2 company and does not provide any telecommunication
3 services in its own right. But does provide
4 telecommunication services through its operating
5 subsidiaries. Berkshire Telephone Corp., Chautauqua
6 and Erie Telephone Corp., and Taconic Telephone
7 Corp., are New York operating subsidiaries and known
8 as rural incumbent local exchange carriers.

9 Consolidated Communications, Inc., or
10 Consolidated, is a publicly traded Delaware
11 Corporation that, through its various operating
12 companies, provides a wide range of
13 telecommunications services to residential and
14 business customers, primarily in California,
15 Illinois, Iowa, Kansas, Minnesota, Missouri, North
16 Dakota, Pennsylvania, South Dakota, Texas, and
17 Wisconsin.

18 Under Public Service Law Sections 99,
19 100, and 101, it is necessary for the Commission to
20 find the proposed transaction to be in the public
21 interest in order for approval to be granted. If the
22 proposed transaction is not in the public interest,
23 it can be remedied through modifications or
24 mitigation of detriments and/or enforceable
25 conditions.

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2 In response to numerous written
3 comments received by the Commission, on May -- on May
4 31st, a public statement was held regarding the
5 proposed transaction. It was well attended by a
6 varied group of stakeholders, including town
7 officials and town board members from Columbia
8 County, as well as current Fairpoint residential,
9 business, and homebased business customers.

10 Commenters primarily focused on the
11 need for improved services in both wireline
12 infrastructure and internet offerings. They
13 indicated that current internet access provided over
14 DSL is slow and unreliable, and advocated that the
15 Commission require a precondition of approval to
16 include access to highspeed broadband and improved
17 service.

18 A number of commenters specifically
19 called for the Commission to require the same
20 conditions imposed in the Charter Time Warner and
21 Altice Cablevision transactions. Commenters also
22 expressed that the recent Fairpoint grant of \$36.7
23 million in the New New York Broadband Program should
24 be honored by Consolidated.

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2 The draft order before you authorizes,
3 with specific enforceable conditions, the proposed
4 acquisition of Fairpoint Communications by
5 Consolidated, and authorizes the three New York ILECs
6 to guarantee Consolidated's existing credit facility
7 and an incremental term loan limited to an amount no
8 greater than the total amount of their respective
9 assets.

10 The draft order also allows the three
11 New York ILECs to pledge their stock and the majority
12 of their assets as collateral for those debt
13 instruments. As a general practice, absent a
14 compelling set of facts to do otherwise, the
15 Commission does not allow ILEC assets to be pledged
16 as security for non-ILEC loans. In this case
17 however, Consolidated is considerably larger and
18 financial strong -- a financially stronger entity
19 than Fairpoint.

20 Moreover, the authorization is
21 conditioned upon the petitioner's unconditional
22 acceptance of the following enforceable conditions.

23 Current staffing levels of all
24 customer-facing jobs at the three New York ILEC --

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2 subsidiaries in New York must be maintained for two
3 years after the close of the transaction;

4 An investment of least -- of at least
5 \$4 million in network reliability and service-quality
6 improvements over the three years after the close of
7 the transaction, with an emphasis in the -- on the
8 Taconic service territory;

9 As part of that \$4 million investment,
10 expansion of the current DSL internet access service
11 to a minimum of 300 additional locations, over the
12 three years following the close of the transaction
13 with an emphasis on the Taconic service territory;

14 Fulfillment of Fairpoint's New York
15 Broadband Phase Two Project commitments, and a
16 commitment to bid into Phase Three of that program;

17 Consultation with Staff in the event
18 that Consolidated gets close to defaulting on its
19 bank covenants;

20 A -- a most favored state clause in
21 the event another state's review of the proposed
22 transaction yields additional benefits not covered by
23 the draft order;

24 And a letter of credit in the amount
25 of \$2 million be provided that will be released only

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2 when all of the conditions have -- for approval have
3 been satisfied.

4 Staff determined that these conditions
5 were necessary to mitigate the potential risks of the
6 transaction. With these conditions, Staff believes
7 the potential benefits of the transaction outweigh
8 the potential harms, bringing the transaction into
9 alignment with the public interest standard. The
10 conditions are responsive to quality and availability
11 of service concerns expressed by the public,
12 confirmed by Staff analysis, and detailed in the
13 draft order before you, as well as the risk related
14 to the pledging of ILEC assets.

15 That concludes my presentation. I
16 would be happy to answer any questions.

17 CHAIR SAYRE: This is a good news case
18 for me. This merger was initially proposed to the
19 Commission as a relatively simple transaction with
20 one telephone company buying another. But we heard
21 loud and clear at the public statement hearing and in
22 the comments that the public is concerned about not
23 having enough internet service, and is concerned
24 about quality of service particularly in the largest

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2 division of this company, the Taconic service
3 territory. So we're addressing those concerns.

4 In order for this merger to -- to be
5 in the public interest, the order before us requires
6 conditions, as explained by Acting Director Labelle,
7 that protect employment, improve service, and advance
8 both broadband and DSL internet access service. It's
9 not clear that we could have ordered all of these
10 results in the absence of a merger request.

11 I'm also comfortable that the
12 acquiring company has -- is financially solid and --
13 and that it has both the expertise and the desire to
14 run the New York Fairpoint Companies well. I will,
15 therefore, be voting in favor of the recommended
16 order.

17 Commissioner Burman, do you have any
18 questions or comments?

19 COMMISSIONER BURMAN: I want to thank
20 Staff for their diligence in this matter.

21 As Chair Sayre mentioned, initially,
22 this was seen as a relatively straightforward
23 transfer of assets and stocks petition. And after
24 receiving a number of folks' public comments,
25 especially desiring an opportunity to have a public

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2 hearing where they could address their concerns, we
3 learned that there were some concerns that needed to
4 be addressed.

5 As I -- as I look at it, we had over
6 200 public comments, and they ranged significantly.
7 They ranged in many of them being residents, all of
8 them being somehow connected to the community. We
9 had a SUNY professor. We had David Fleming, Town of
10 Nassau Supervisor. We had Phillip Ortiz, as I said,
11 a professor at SUNY. We had Superintendent Howard of
12 the Taconic Hills Central School District. We had
13 Congressman John Faso, and Assemblyman Steve
14 McLaughlin, and a whole host of other people who took
15 the time to formerly write to us about wanting us to
16 look very carefully at the merger and make the right
17 public interest decision on what was necessary.

18 So -- so today, we are really doing
19 two things, which is approving this transfer of
20 assets and stock to allow the sale of Fairpoint
21 Communications and its New York subsidiaries. But
22 we're also allowing it with conditions. And the
23 conditions are really reflective of the public's
24 input and public's comments -- really comes down into
25

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2 from what I hear, not only from today, but also in
3 looking at the order itself into four buckets.

4 The first is the staffing and maintain
5 the staffing levels for at least two years for
6 workers who interface with customers. We actually
7 did have a couple of comments, as well, from
8 employees looking at that issue.

9 And then the second bucket is the
10 investment bucket and looking at investing monies for
11 service quality improvements, network reliability
12 improvements.

13 And then the third bucket is the
14 expansion of internet service. And while,
15 immediately, we won't see changes, we are looking at
16 the growth potential for broadband, voice and cable.
17 At -- at the outset, there won't be any immediate
18 changes in the -- the current customers with their
19 services and rates. But we are seeing that there
20 will be -- there's hope for an expansion of internet
21 service and in increased customer locations.

22 And then the fourth bucket is the
23 minimizing any financial risk. And that goes to the
24 uniqueness of the letter of credit, which has been
25 done in other areas. But here, by having the company

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2 provide a -- a letter of credit to be held to ensure
3 that the conditions are satisfied.

4 And I think from that perspective,
5 this merger and the approval -- the potential
6 approval with such conditions really tries to marry
7 the interests of -- of where we sit as economic
8 regulators, and addressing the public interest
9 concerns so that they can have a better and more
10 reliable service. And we could also bring some
11 potential economic synergies to them.

12 So job well done. I know this was
13 difficult to weed through and going through coming up
14 with the right and the appropriate conditions. So
15 thank you.

16 CHAIR SAYRE: Thank you, Commissioner
17 Burman.

18 We can move to the vote.

19 The Chair votes in favor of the
20 recommendation to approve the proposed transactions
21 subject to the unconditional acceptance of the
22 commitments and conditions as described.

23 Commissioner Burman?

24 COMMISSIONER BURMAN: Aye.

25

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2 CHAIR SAYRE: The recommendation is
3 adopted.

4 We will now move to the consent
5 agenda. I have no comments or questions on the
6 consent agenda.

7 Commissioner Burman, do you wish to
8 recuse from voting or comment on any of the items on
9 the consent agenda?

10 COMMISSIONER BURMAN: No.

11 CHAIR SAYRE: We can move to a vote on
12 the consent agenda.

13 The Chair votes in favor of the
14 recommendations on the consent agenda.

15 Commissioner Burman?

16 COMMISSIONER BURMAN: Aye.

17 CHAIR SAYRE: The recommendations are
18 adopted.

19 Secretary Burgess, do you have
20 anything further to come before us today?

21 SECRETARY BURGESS: There's nothing
22 further to come today. The next Commission session
23 will be July 13th, in Albany.

24 CHAIR SAYRE: Before we close the
25 session, depending on what the Senate does this week

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2 or next, this may be my last session as chairman. I
3 won't be going anywhere. I'll just be a regular
4 commissioner again. But before I pass the torch, I
5 would like to thank Staff, all of you, for your
6 tremendous support, your wisdom, and your straight-
7 from-the-shoulder advice.

8 Thank you, very much.

9 I will be closing this session with a
10 special gavel. It was given to my father-in-law,
11 John Hartman, honoring his years of service to the
12 Commonwealth of Pennsylvania. He was actually
13 responsible for getting me into utility regulation in
14 the first place. He was a great man and mentor, and
15 I wish he were still with us.

16 And with that, I declare this session
17 adjourned.

18 (The meeting adjourned at 11:53 a.m.)

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STATE OF NEW YORK

I, JANET AXTON, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 68, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 22nd day of June 22, 2017.

JANET AXTON, Reporter

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