

1 PUBLIC SERVICE COMMISSION - Monthly meeting - 10-15-2015

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4 STATE OF NEW YORK  
5 PUBLIC SERVICE COMMISSION

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MEETING OF THE PUBLIC SERVICE COMMISSION

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Thursday, October 15, 2015

10:30 a.m.

11

Three Empire State Plaza

Agency Building 3, 19th Floor

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Albany, New York

13 COMMISSIONERS

14 AUDREY ZIBELMAN, Chair

GREGG C. SAYRE

15 PATRICIA L. ACAMPORA

DIANE X. BURMAN

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2 (The meeting commenced at 10:38 a.m.)

3 CHAIR ZIBELMAN: Good morning, everybody.

4 I'd like to bring the Commission meeting to order.

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

7 SECRETARY BURGESS: Good morning. There's  
8 one change to the final agenda, Item 263, Case 15-M-0470, in  
9 the matter of Consequences against FC Energy Services  
10 Company, LLC, for violations of the Uniform Business  
11 Practices. That matter is over.

12 CHAIR ZIBELMAN: Thank you.

13 We have a heavy agenda today, so I'm going to  
14 ask Staff to be brief in their comments so that we have  
15 sufficient opportunity for questions, et cetera. So I'll --  
16 we'll get going.

17 And the first item is 301-And we're going to  
18 go through -- we have 301-A, 301-C, and 301-B. These are  
19 three matters that relate both to solar and net metering.  
20 Scott Weiner, who's a deputy of markets and innovation will  
21 be presenting, but we also have Christina Palmero and --  
22 Chief of Renewable Energy, and Len Van Ryn, who's Managing  
23 Attorney, here for questions.

24 So Scott, would you begin? Thank you. Good  
25 morning.

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2 MR. WEINER: Good morning. Thank you very  
3 much.

4 As you noted, Chair, there are three  
5 proceedings that are in front of the Commission today,  
6 addressing that metering. Two of these, 301-A and 301-C,  
7 arise within the context of the REV objectives and  
8 specifically the objective of the ability to obtain more  
9 precise and accurate determinations of the value of  
10 distributed energy resources.

11 And these inquiries have been  
12 initiated related to that topic by the Commission over recent  
13 months, and also the context of state policy promoting  
14 customer access to clean renewable power.

15 The third matter clarifies and fine tunes  
16 some operational issues pertaining to the Community  
17 Distributed Generation Shared Renewables Program, which the  
18 Commission authorized in July of this year.

19 So with the Commissioner's consent, what I'd  
20 like to do is present the first two matters together, because  
21 they are linked in both policy and approach, and then take  
22 questions about those two, and then turn to the third matter  
23 which is the technical fine tuning. So with your consent,  
24 I'll proceed in that manner.

25 Consideration of the issues that are

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2 presented in those two matters is guided by a framework  
3 that's been established by the Commission, as I mentioned,  
4 and I think bears repeating, the underlying REV objective of  
5 providing more precise determinations of the full value of  
6 distributed energy resources.

7 Secondly the work that is ongoing, the  
8 development of the methodology to determine that full value  
9 of DER and the accompanying rate design and bill credit  
10 mechanisms to implement that objective, all the foundation of  
11 which has been described in various Commission documents as  
12 LMP plus D.

13 And importantly, the commitment  
14 that's memorialized today in the draft order in the Orange  
15 and Rockland proceeding to develop and adopt a bridge during  
16 calendar year 2016, while -- while work continues on the  
17 development of a full LMP plus D. framework.

18 The determinations and recommended actions in  
19 the two draft orders reflect a recognition of the dual  
20 objectives of avoiding disrupting the ability of consumers  
21 and customers to acquire clean energy while, at the same  
22 time, crafting reasonable limitations on the current net  
23 metering program, while an initial interim approach that I  
24 mention is developed during the next 12 to 14 months.

25 Through it all and in the various

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2 recommendations that are contained in the draft orders, it's  
3 important to keep in mind that these are interim solutions  
4 that would be addressed and considered during the further  
5 proceedings with an opportunity to construct an appropriate  
6 comprehensive framework. And to save time and in recognition  
7 of your comments, and uncharacteristic for me, you all have  
8 seen the draft orders and I'm going to focus on merely  
9 summarizing the issues presented, the recommended actions,  
10 then take -- be available for questions.

11 So first we're going to turn to  
12 the O and R case. This matter arises from O and R's  
13 assertion that it will reach its net metering cap, currently  
14 set statewide at 6 percent, in the near future. And the  
15 timeframe presented by the Company was the near future.

16 Three issues are presented. First, can a  
17 utility cease interconnecting net metered generation once the  
18 6-percent cap is reached? Second, if the cap is reached, can  
19 a utility substitute an alternative to the current NEM  
20 program -- net metering program. And third, should the cap  
21 be raised beyond the 6-percent amount right now? And if so,  
22 to what level?

23 The draft order before you  
24 addresses these issues by, first, affirming a Commission  
25 policy which has been restated a number of times, most

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2 recently in July of this year, as part of the Community DG  
3 order that no event will the Commission allow a gap to open  
4 between the time when a cap may be met and the adoption of a  
5 methodology more precisely determine and recognize the value  
6 of distributed generation.

7 The rationale for that is obvious. To do  
8 otherwise would cause a disruption in the market that would  
9 contradict State policy. And this conclusion is all the more  
10 compelling in light of the process that's described in this  
11 order that will arrive at the interim bridge solution that I  
12 alluded to, by the end of next calendar year.

13 Given that, the -- as to the  
14 second question, it is not appropriate to implement a  
15 substitute program.

16 As to the third question that's presented,  
17 whether the cap should be increased, the draft order provides  
18 that the cap should be increased so as to avoid market  
19 dislocations while the efforts continue during a reasonably  
20 short timeframe to develop the appropriate approach to  
21 recognizing the correct and full value of DER, so as not to  
22 disrupt the State's successful solar initiative and, thereby,  
23 maintain consumer opportunities and the accompanying economic  
24 vitality that the solar industry has brought to the State.

25 Importantly and significantly,

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2 rather than continuing an attempt to select a level for the  
3 cap that strives for perfect coordination with the  
4 implementation of the approach to more accurate valuation of  
5 DG, the order concludes that the cap can float for a  
6 reasonably short period of time, in this case 12 to 14  
7 months, and that's the period during which the Commission  
8 will adopt its initial replacement for the current net  
9 metering construct.

10 The order goes on to discuss this  
11 further proceeding and calls for the initiation of a process  
12 that's intended to ensure that the interim period during  
13 which the net metering caps can float is sufficiently short,  
14 specifically by December of 2016.

15 The Commission has previously articulated an  
16 annual -- analytical framework for determining the value of  
17 DER which I mentioned is described as LMP plus D. as a  
18 starting point, and from that foundation appropriate rate  
19 design, the details of credit mechanisms can be developed in  
20 fulfillment of the objective of providing all parties a  
21 shared goal of accurate pricing. No one objects to accurate  
22 pricing.

23 The order recognizing -- order  
24 recognizes that these issues can be best addressed through a  
25 single comprehensive process that will enable all interested

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2 parties to contribute to addressing the full range and  
3 complexity of the issues at hand.

4 One outcome of this process will be the  
5 determination of interim methods of valuing DER benefits and  
6 costs, as well as appropriate rate designs and the valuation  
7 mechanisms by the end of the next calendar year. While work  
8 may continue on, that determination will serve as a bridge  
9 while more complete tools and methodologies are developed.

10 The second case, a companion in  
11 many ways to Orange and Rockland, is Case 301-C, which raises  
12 issues in the context of the remote net metering program.  
13 And in the Commission's April 2015 order, addressing remote  
14 net metering, the Commission noted that participants in that  
15 proceeding had raised some issues pertaining to certain  
16 tariff revisions that operate as a limitation upon the  
17 application of remote net metering. The draft order before  
18 you today considers and addresses the issues raised by the  
19 parties.

20 Specifically, there are three  
21 limitations that are at issue, and these limitations exist  
22 today. One is a limitation at a site which has onsite net  
23 metering generation as precluded from participating in the  
24 remote net metering program.

25 Secondly, that a satellite site can only



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2 receive benefits -- be assigned benefits from one host.

3 And the third question is whether the  
4 application of the 2-megawatt limit on the capacity of net  
5 metered generation should be lifted.

6 The order notes that the one host  
7 and onsite net metering limitations were added to utility  
8 tariffs and have been in effect for some time, but neither  
9 limitation has been specifically addressed in a Commission  
10 order. Moreover, the tariff of one utility, National Grid,  
11 has permitted designation of multiple hosts to a single  
12 satellite and without the 2-megawatt cap.

13 The draft order before you today concludes,  
14 first, that it is reasonable to maintain the 2-megawatt  
15 limit, again, as an interim measure during the 12-to-14-month  
16 process that I discussed and is described in the Orange and  
17 Rockland order. And this is done so as not to unnecessarily  
18 expand the application of the current net metering construct  
19 during this relatively short period of time that the next  
20 evolutionary step is developed.

21 The draft order also provides for the removal  
22 of the onsite net metered limitation so as to enable the  
23 participation in the remote net metered program in  
24 combination with onsite net metered generation up to the 2-  
25 megawatt limit.

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2 And, thirdly, the draft order provides for  
3 the removal of the one-host limit there by enabling a  
4 satellite site to be served by multiple hosts, again, up to  
5 the 2-megawatt limit.

6 Also the order addresses the need  
7 for the National Grid tariff to conform to these changes.  
8 And in recognition that there may be some projects that are  
9 advanced in their development for -- in the National Grid  
10 service territory, the order also provides for a  
11 grandfathering of those projects which would meet the same  
12 criteria that was adopted in the net metering program --  
13 excuse me -- the remote net metering program earlier this  
14 year.

15 So the grandfathering provisions remain the  
16 same, and the date for perfecting that opportunity would be  
17 December 1st, which is essentially the same timeframe that  
18 was used between the date of the order and the date of  
19 perfection, the last time the Commission considered  
20 grandfathering provisions in the remote net metering context.

21 The requirements that are  
22 established in this order are similar to the floating cap  
23 just discussed in that they're temporary measures. They  
24 enable the ongoing achievement of State goals, while pursuing  
25 methods for the determination and recognition the full value

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2 of DER

3 And to put a final point on it, these two  
4 orders, when taken together, provide not only the process  
5 that will lead to the first interim evolutionary step to  
6 address net metering, but also, where appropriate, extend the  
7 program -- continue the program, rather, in the Orange and  
8 Rockland case with the floating caps, but also recognize the  
9 appropriateness of limitations during a reasonably short  
10 period of time.

11 And I'm happy to take any questions.

12 CHAIR ZIBELMAN: Thank you, Scott.

13 Let me just proceed right to questions and  
14 comments, starting --.

15 Commissioner Sayre, any comments, questions?

16 COMMISSIONER SAYRE: I do have a couple of  
17 comments on 301-A. I -- I do support this item. When it  
18 comes to the value of solar energy flowing from customer  
19 premises into the network, I'm far from convinced that its  
20 value on the network is precisely equal to whatever the  
21 retail rate may be for the customer in question. But I'm  
22 also very far from convinced that its value is no more than,  
23 as the Utility proposed here, the wholesale price of power.

24 So we have to do something in the interim. I  
25 think this is a reasonable step, and I look forward to a much

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2 deeper exploration of the value of solar as one of the many -  
3 - or several of the many arms and legs of our REV proceeding.

4 On 301-C and remote net metering,  
5 as a veteran of the telecommunications regulatory wars, I've  
6 learned that regulators have to be very careful in crafting  
7 complicated regulatory constructs to avoid people gaming the  
8 system. There was a lot of that going on in telecom -- not  
9 really cheating, although there was a little of that going  
10 on, but -- but simply very smart people using the rules to  
11 their financial advantage to a degree that was not  
12 anticipated by the regulators when they set up these  
13 constructs.

14 I think this item, 301-C, strikes  
15 a fair balance with the 2-megawatt per satellite account  
16 limitation, but we need to be vigilant at the Commission and  
17 -- and with Staff to keep an eye on this marketplace. And I  
18 would urge stakeholders who see problems developing in this  
19 marketplace to bring them -- bring those concerns to the  
20 attention of the Commission, because, as we've seen and I  
21 think we'll see in other items today, the Commission is  
22 prepared to tweak regulatory constructs that need tweaking.

23 CHAIR ZIBELMAN: Commissioner Burman, do you have any  
24 questions or comments?

25 COMMISSIONER BURMAN: I was going

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2 to save my remarks to when I vote, but I think it's probably  
3 helpful to share with you my thoughts, now, and then I will  
4 be issuing a dissenting opinion on 301-A, which will reflect  
5 my comments at session, but it will be an opinion on it.

6 I am very much in support of  
7 Reforming Energy Vision and where we are going. I think it  
8 is incredible the amount of people that have been involved in  
9 helping to shape our energy future, not just for now but for  
10 long-term. I think the leadership of Chairman Zibelman is  
11 incredible, and I'm blessed to be working for the Commission  
12 on such a important agenda that will, if we do it right, have  
13 really long lasting implications.

14 We know, from when we started this, the  
15 difficulty that this would be and the need to continue to  
16 collaborate and work together and make sure that we are doing  
17 -- you know, we're heading in the right direction.

18 Net metering has been an issue from the very  
19 beginning. And looking at it, the benefits of it can be  
20 incredible. The concern I have, when I look at 301-A, is we  
21 are identifying this as a transition period. I think we're  
22 all in agreement that this is a transition period. What  
23 we're not in agreement is, during this transition period,  
24 what is -- what are we doing to make sure that there are no  
25 bumps in the road during it?

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2 I don't see what we're doing today  
3 as helpful to the long term. In fact, I see it as  
4 potentially, while there is much good faith efforts to not  
5 cause disruption and confusion, I think this order, again, is  
6 going to have unintended consequences. And before we go down  
7 that road and, essentially, while we're characterizing it as  
8 increasing the cap, we are not increasing the cap. We're  
9 lifting the cap off and we're lifting it off without having  
10 done the true analysis.

11 Back in December of 2014, at the session  
12 where -- where there was -- where I abstained from voting and  
13 raised concerns in looking at the -- not only the legality of  
14 the statutory authority in what we were doing, but also raise  
15 concerns with when would this transition end and what would  
16 we be doing because the biggest piece of it is the valuation  
17 and the price signals.

18 Back then, in December of 2014, we identified  
19 that Staff was working with NYSERDA on a study for net  
20 metering. Then in April of 2015, I believe -- correct me if  
21 I'm wrong, Kim -- the order talked about the actual study  
22 that would be undertaken. But it has been something that's  
23 been in the works for over a year. And then the Legislature  
24 also set, in December 2014, a directive for the Commission to  
25 undertake a study and work at looking at that. That's going

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2 to be coming out, if it's in the timeframe from the statute,  
3 in December of this year.

4 The issue for me is a couple of threshold  
5 issues. First, this petition, the 301-A, came about because  
6 O and R, in their due diligence for notifying us, when they  
7 perceived increasing their cap, did so. That was -- that was  
8 directed in the order and they said we have concerns. We're  
9 reaching, in the near future, our cap.

10 It seems to have gotten taken that somehow  
11 their acknowledgement that they were increasing in the near  
12 future, without able to pinpoint an exact date or exactly  
13 what that would mean, is that somehow they were not doing  
14 their due diligence because they didn't have the actual  
15 specific facts on when they would reach their cap.

16 However, if you look at the order when we  
17 increased the cap with Central Hudson, they used the same  
18 language. The same language was used in the order, in the  
19 near future we expect to increase our cap. So to say that  
20 somehow we don't have the right information is, in my mind,  
21 confusing.

22 The letter that went out to O and R --  
23 because O and R said this is what we'd like to do, we'd like  
24 to somehow notify the customers, and they gave suggested  
25 language on what they wanted to do, to notify them that the

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2 cap was reaching, and what they were going to do.

3 The letter that was sent in response to them,  
4 which was an -- an eloquent letter and, I think, responsive  
5 and timely, said -- by Scott Weiner if I'm not mistaken,  
6 essentially, thank you, you cannot send that because -- and I  
7 want to make sure I get this right -- because -- where it  
8 says the Company states that it will inform prospective --  
9 prospective customers that the net metering treatment will be  
10 subject to the Commission's resolution of the exceedance of  
11 the net metering cap.

12 And then the letter states, the qualification  
13 could be interpreted as inviting uncertainty or confusion in  
14 the implementation of net metering. While the Commission  
15 will carefully consider net metered cap issues as  
16 appropriate, it will also vigilantly enforce its orders and  
17 ensure the statutes and policies justifying net metering are  
18 furthered in accordance with their intent. Accordingly,  
19 customers submitting net metered interconnection applications  
20 should not be advised, while Case 15-E-0407 is under review,  
21 that they will be subject to the proposed qualification.

22 So this order attempts to now say that  
23 stands, you can't send out any kind of notice to the  
24 customers that the cap may be exceed because there is no cap.  
25 We're not increasing it. We're basically floating it, which



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2 means there is none.

3 But the question to me is so does that mean  
4 that anyone, between now and when the transition ends, will  
5 be grandfathered in? Because, otherwise, I do think it's  
6 appropriate to send notice to the customers that says, by the  
7 way, we're in a transition, we're not sure what it's going to  
8 look like, so when you enter into any net metering situation,  
9 you need to be concerned about what the future may be because  
10 it may change.

11 We're acknowledging that it may change. So I  
12 have some threshold concerns about what exactly it is, unless  
13 we're actually saying all that -- who come before the  
14 transition ends will be grandfathered in. Now that may be  
15 appropriate, but we need to do the analysis.

16 The threshold issue is did we give proper  
17 notice to all of the utilities and customers that we are  
18 going to increase the cap and actually float the cap, which  
19 essentially means there is no cap, for the transition.

20 This petition came about from a letter from O  
21 and R, merely in response to their obligation under other  
22 orders that said notify us when we reach -- when you're  
23 nearing -- reaching your cap, and they did that. We then  
24 converted that, via a letter, to a petition to O and R and we  
25 sent out a SAPA. Now I did look at the SAPA. The SAPA does

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2 say we may extend this to other utilities, but we didn't  
3 change the heading of the petition. It still states O and R.  
4 We didn't send out a notice from the secretary to any of the  
5 customers outside of O and R territory or any of the  
6 utilities. We just did it by a SAPA notice.

7 While that likely meets the legal  
8 notification requirements, it's the bare minimum. And last  
9 time, when we increased the cap, we went further than that  
10 and we actually had it as part of the proceeding, and we had  
11 notice, and we had a robust comment period.

12 So I am concerned that that will now cause us  
13 issues, because people who might have commented, positive or  
14 negative, did not do so, thinking it was really limited to  
15 can O and R, send out a notice to its customers. The devils  
16 are in the details and I think it's important.

17 The second level is the legal statutory  
18 standard. Under the statute, we are blessed by the  
19 Legislature, or cursed, depending on how you look at it, to  
20 increase the cap if it's in the public interest. When we  
21 have done that before, we have done it after a much  
22 deliberative analysis, looking at when we expect to -- when  
23 we expect the caps to be reached and what the actual  
24 percentage should be to increase it, and trying not to go so  
25 far without the actual details in the costs that this will be

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2 and how many people it will reach.

3 Here, we have not done that due diligence.  
4 We have chastised in the order, O and R, for their failure to  
5 give us the details. I think the burden from the Legislature  
6 is on us as a Commission. We've done that before. We've  
7 looked at it. And again, O and R did exactly what was done  
8 in other cases, but we didn't do what we've done in other  
9 cases, which is the cost benefit analysis.

10 The study that the Legislature and the order  
11 that the Commission adopted, essentially, is asking for the  
12 same thing, for a detailed drill-down on the benefits and the  
13 costs, what this will look like, what the future will look  
14 like.

15 In fact, in comments in -- when we initially  
16 increased the cap before, people acknowledged that we were  
17 looking towards successor tariffs. And, in fact, there was  
18 one commenting from NYU fellows -- forgetting their names at  
19 the moment -- who said, please, you know, with due concern,  
20 make sure you don't go too far during this transition.

21 When I look at that, I am concerned that this  
22 transition is not a transition to get us from here to there  
23 deliberately, but it actually is going to be a transition  
24 forever. And there will be no stop. There will be no  
25 opportunity because the -- the inability to go backwards,

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2 once we've lifted the cap, I think, is significant.

3 Not only do I think that we have gone too far  
4 from our legal standard, because we have not done the  
5 deliberative process that we've done in other cases, but I  
6 think that for -- for me, the rationale of why we're not  
7 going to increase the cap slowly or fast, you know, go from 6  
8 percent to whatever, but rather, just to have it float out  
9 there without setting an actual -- actual percentage, the  
10 rationale seems to be because we don't want to disrupt the  
11 distributed generation development efforts, and because we  
12 don't want to have to keep revisiting this issue. So we're  
13 just going to say let it go.

14 I don't think that that is actually in the  
15 public interest. And I don't think that that actually is  
16 what the Legislature intended. At the time, we didn't have a  
17 lot of issues. It was pretty set and standard. Now there's  
18 a lot of different positions all over the place. And so I  
19 think that just letting it go actually may cause more  
20 disruption because the float cap -- there is no cap. It's  
21 just there.

22 The issue then comes -- which again, that's  
23 fine. But who pays for it? And what will the costs? How  
24 many customers will take advantage of this? What will this  
25 mean for the utilities? How will they implement that?

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2 We've seen, and I think in a -- in a great  
3 way, we have seen such an interest. New York Prize is what  
4 comes to mind about we expected a certain percentage of  
5 people and we got more than we intended.

6 So now my concern is that without the true  
7 analysis, and with this floating, we have not addressed the  
8 core issue of the price signals that we're trying to send,  
9 and the costs, and who pays for those costs, and what those  
10 costs actually are.

11 So for me, I am concerned that the analysis  
12 that needed to be done is not there, and that we have done  
13 this before we have gotten the results which should be taken  
14 into account. and back in December of 2014 was, at session,  
15 discussed that the study that we were waiting for would help  
16 us in determining what some of those benefits would be and  
17 what some of the -- the stumbling blocks would be.

18 I do think that this is a good faith effort  
19 for the transition, but I think that it -- it -- it fails to  
20 do what the intent was. It's interesting to me the 301-C was  
21 used as -- and -- and I mean this in a positive way -- was  
22 used as a partner with 301-A, and that they come together in  
23 trying to set limits because 301-C actually addresses the  
24 need to look at the costs and the benefits. So we are  
25 implicitly, from our 301-C order, saying hey we do need to

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2 make sure that we're looking at the costs, we do need to make  
3 sure that we're looking at what this actually means, but we  
4 don't do that in 301-A.

5           Neither order either speaks to -- neither  
6 order speaks to the reliability issues. So for me, overall,  
7 the threshold issue is how does this affect our reliability  
8 and our ability to manage the energy system as we go forward?  
9 What does that mean? And what does it mean in terms of  
10 looking at some projections in terms of when we expect the  
11 cap to be reached?

12           I don't know at this time what other  
13 utilities may be near or reaching the cap. That's something  
14 the analysis is lacking in this order -- and what the near  
15 future is for that. So if we think we're going to 6 percent  
16 in the near future with O and R, what will this mean  
17 projection-wise out for all the other utilities and, again,  
18 coming back to the study?

19           I understand the desire to move fast. I  
20 understand the desire to, you know, be there for folks or  
21 something with the technology and to help establish a greater  
22 energy system. My concern is that here this order does not  
23 give us the consistent, reliable system that we need and, in  
24 fact, will -- will actually do exactly what Scott Weiner's  
25 letter said.

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2 This does invite uncertainty or confusion in  
3 the implementation of net metering. By definition, that's  
4 what this transition is going to be. So I do think we do  
5 need to carefully consider what this means for notifying  
6 customers about the transition, and what it may mean in terms  
7 of the actual drilldown from the cost perspective.

8 My bottom line is I don't have enough  
9 information to make the determination of increasing the cap.  
10 And my concern is what I do have is enough information to  
11 know that we have just added more confusion even though our  
12 intent is not to do that. I do hope that we carefully  
13 consider and make sure that there's a revisit once the study  
14 comes out, which should be focused on drilling down on this.

15 I am happy to see that there is going to be a  
16 process, but that process was also talked about in December  
17 of 2014. And at that time we were recognizing the -- a need  
18 to move to successor tariffs or not. That still is a -- is a  
19 -- is an issue and hasn't been resolved. So, unfortunately  
20 for me, this order causes me a great deal of concern.

21 And I do recognize the hard work that has  
22 been done and the good intent that has been done. And I do  
23 recognize that we are in agreement that this is a transition.  
24 We're just not in agreement on what this transition means and  
25 whether or not it actually could potentially have

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2 significant, unintended consequences, which I feel it does.

3 Thank you.

4 CHAIR ZIBELMAN: Commissioner Burman, thank  
5 you. I'm just going to just -- I'm not going -- I wanted to  
6 hold my comments, but I just want to take a couple minutes.  
7 I appreciate, you know, your concern.

8 Here's why I think this is important. We  
9 have a -- a very burgeoning solar industry in New York as a  
10 result of New York Sun and -- and other efforts that we've  
11 made. We're -- we're actually seeing considerable growth in  
12 the solar industry. People are signing up customers and are  
13 moving ahead with contracts. And we wanted -- I believe it  
14 was in the community net metering order, believe if I can --  
15 that we noted that we didn't -- we wanted to allow the caps  
16 to not become a barrier to people signing up contracts. And  
17 so that's where we said please notify us.

18 I think this order further clarifies. And  
19 it's not intended, in my mind, to be, in any way, a criticism  
20 of Orange and Rockland, but just an acknowledgement that we  
21 recognize that we have an abundance of success and that  
22 Orange and Rockland and other utilities are beginning to hit  
23 their caps. And we wanted them to know that, as far as we  
24 were concerned, the caps are -- are -- should not prevent  
25 them or -- or preclude people signing up. And I -- I see



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2 this as a further elucidation.

3 And -- and I do understand your concerns. My  
4 concern was just the other side, which is if people kept  
5 coming in, it would be a -- a stop and go type way of  
6 proceeding and we needed to get it there.

7 At the same time, it has become clear, over  
8 the course of this year, that the best way to price out  
9 distributed energy resources is through valuing the value of  
10 those resources on the distribution level, what we call  
11 locational marginal pricing, plus D, which I would identify  
12 as to distribution marginal pricing.

13 I think it's also very clear that this  
14 movement, while we started the conversation last year, has  
15 become essentially what's the industry at large is starting  
16 to identify as the right economic basis for valuing  
17 distributed energy resources on the system. But unlike --  
18 and another embarrassment and I think of our riches, unlike a  
19 lot of items no one really knows yet how best to do that.

20 And so what I think a problem is -- is that  
21 because New York is leading here, the determination of how  
22 best to price out distributed energy resources is -- is  
23 something that is falling on this state and our initiative to  
24 really lead, and that, for me, then the best way to do this,  
25 to get the best brains in, which I think we have in New York,

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2 between the utilities, as well as the third parties who are a  
3 part of REV, to help us identify what's the best economic  
4 principle.

5 And I also think that we would be naïve,  
6 based on how complex this is, to say that we're going to get  
7 this all figured out and be able to implement in a short  
8 period of time. And that's why I feel, you know, I'm  
9 supporting the order because I think it is going to be  
10 important that we have a bridge as we're moving into the  
11 future.

12 And so while the order says look we want this  
13 done in 12 months, if we can get it done and -- and identify  
14 a bridge in 6 months, great. I think we would all be happy  
15 to start moving in something that provides more certainty  
16 that allows for what are we putting -- doing in the interim  
17 and what is the grandfathering and how we're going to proceed  
18 on that.

19 But -- so I -- I join you in wanting a much  
20 better picture on how we're going, as fast as we can get  
21 there. I think that's the way we've structured this. But in  
22 the meantime, I think what we needed to make sure that the  
23 industry knew that the Commission was going to allow the  
24 utilities to continue to sign up projects under the current  
25 net metering construct, ensure we get there so the utilities

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2 had the certainty that we weren't going to question them  
3 later, the industry knew, and then we had a process where  
4 we're inviting everybody to come in, help us think it out,  
5 think it out quickly.

6 So I understand your concerns. I think the  
7 cost benefit is embedded in being -- allow the industry to  
8 grow to meet our -- our goals, as well as have a process  
9 going forward.

10 But with that, I'm going to just turn to  
11 Commissioner Acampora, if you have any comments and then  
12 we'll go to a vote. But I think we understand the position.

13 COMMISSIONER ACAMPORA: Just some brief  
14 comments. Transitioning from the old to the new is never  
15 easy. And I think, Scott, you know, when you mentioned a  
16 bridge, a bridge is a -- is a good way to go. And in my  
17 dealings with people throughout the country, they indeed are  
18 looking to New York. Our solar program is one that has  
19 caused a lot of economic opportunity out there. It's created  
20 jobs and it's also, again, helping reduce the carbon  
21 footprint.

22 So in moving toward our REV proceeding and  
23 looking at the DER, I think that what we're doing -- nothing  
24 is ever perfect, but this is the best way to keep the  
25 momentum going. And so I really support all three orders and

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2 will vote in favor of them.

3 MR. WEINER: Would you like me to proceed  
4 with the third matter?

5 COMMISSIONER BURMAN: I -- I just have  
6 actually one question. It was clarification.

7 CHAIR ZIBELMAN: Yes.

8 COMMISSIONER BURMAN: When we're going  
9 through this transition and sending -- hopefully sending  
10 certainty to the industry, though it's -- you know, I don't  
11 think that we are, is the certainty that any net metering  
12 that occurs, anything that happens will be grandfathered in  
13 so that they will not have a change?

14 You know, a lot of municipalities are  
15 entering into agreements now, making their analysis based on  
16 20-year projections. Will that be grandfathered in so that  
17 whatever is being done from a incentive perspective, cost  
18 savings or for the industry, will they be assuming that that  
19 all gets continued so that anything else is for the future?

20 MR. WEINER: One of the challenges in talking  
21 about grandfathering is you really can't -- or grandparenting  
22 probably is the politically correct way to say it. When --  
23 when we talk about that kind of situation, I believe you  
24 can't assess the application until you're ready to apply it.

25 For example, the design of a particular

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2 outcome, there are some parties that believe very sincerely  
3 that when we go through the exploration and determine full  
4 value, their belief is the full value is going to exceed the  
5 current net metering value. So it raises the question, if  
6 somebody who's into a net metering program under that  
7 hypothetical, will they be allowed to leave that and enter  
8 the more valuable successor program.

9 The -- the example I point to is the  
10 grandfathering provisions that were developed in the remote  
11 net metering program a few months ago. Those required  
12 specific consideration, both of what existed at the time, as  
13 well as what was going to be happening in the future. So all  
14 that leads up to the answer, Commissioner Burman, there's no  
15 way to predict -- to predict it. We really have to see what  
16 is -- what is the next stage going look like, how might  
17 grandfather and grandparenting preservation of rights be  
18 crafted?

19 CHAIR ZIBELMAN: If I could just interject  
20 just to clarify, because what I've heard you say and I just -  
21 - the way I would phrase it --.

22 MR. WEINER: Yeah.

23 CHAIR ZIBELMAN: We're not going to do  
24 anything --

25 MR. WEINER: Of course.

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2 CHAIR ZIBELMAN: -- that is going to impair  
3 settled expectations. We can't --

4 MR. WEINER: Right.

5 CHAIR ZIBELMAN: -- we shouldn't and we can't  
6 do that.

7 To the extent, as -- as Scott is saying, that  
8 the payment scheme ends up being better for resources, then  
9 we're going to have to make a determination if people will be  
10 able to modify their contracts and get the higher of.

11 So I think that we'll -- we will need to  
12 resolve that. But from the standpoint of if people are  
13 worried that they're going to enter into an agreement and  
14 then in 6 months what they thought was one price ends up  
15 being a lower price, which means that the economics changed  
16 for them in a way that they wouldn't have gone through it,  
17 had they known, I don't think we would go there. Certainly  
18 from --

19 MR. WEINER: Right.

20 CHAIR ZIBELMAN: -- we certainly can't  
21 predict what we'll do, but at this point it seems to me would  
22 be a bad policy and we should --.

23 COMMISSIONER BURMAN: Okay. I -- I  
24 understand that. My concern goes to the cost aspect of it.  
25 I won't belabor the point. I just will say that, without a

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2 true analysis, and who is paying for this, and the cost  
3 shifting that is or is not there, and how many -- how many  
4 people this affects, I do -- that's why, to me, it comes back  
5 to it sounds like we're saying, if it's a better deal for  
6 people, they could take it, but if it's not going to be then  
7 whatever is currently existing and -- and people do from here  
8 to whenever the transition ends -- so in a sense you're  
9 almost going to have a rush to get in before that happens.

10 But I don't know what those -- those numbers  
11 are. And there's no -- there's no cap and there's no, you  
12 know, stopping the flood gates. And, in fact, without any  
13 notice to say by the way it may change for the negative,  
14 we're saying it will only change if it's a positive for  
15 certain people.

16 CHAIR ZIBELMAN: I'm going to go for a vote.  
17 I just want to clarify just what --

18 MR. WEINER: Right.

19 CHAIR ZIBELMAN: -- what my position on this.  
20 I don't know what we're going to do in the future. I have a  
21 feeling that we would be told that we cannot impair an  
22 existing agreement to the negative. But whether we would  
23 allow people to switch to a higher price agreement, that's  
24 something that we would have to determine at that time.

25 My concern is quite -- you know, and I -- I

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2 know we're both worried about a rush to the bank. I actually  
3 worry, also, that if we were to just simply say we're putting  
4 this new cap on, we'd see a rush to the bank. And that's a -  
5 - just a judgement and I agree we may just need -- so.

6 But let me go to a vote because I am  
7 concerned. I know we have some time limits today.

8 If there -- can -- on 301, why don't we just  
9 -- on 301-A and C.

10 MR. WEINER: 301-C.

11 CHAIR ZIBELMAN: Why don't we just -- going  
12 to vote for -- take a vote on both of those?

13 COMMISSIONER BURMAN: Are we taking them  
14 separately?

15 CHAIR ZIBELMAN: Yeah, I'll take them  
16 separately.

17 COMMISSIONER BURMAN: Okay.

18 CHAIR ZIBELMAN: So for 301-A, all those in  
19 favor of the recommendation to reject the Company's petition  
20 require the utilities to file tariffs, implementing revisions  
21 to the ceiling on interconnections for net metered  
22 generation, as indicated, please say aye.

23 COMMISSIONER SAYRE: Aye.

24 COMMISSIONER ACAMPORA: Aye.

25 CHAIR ZIBELMAN: Opposed?



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2 COMMISSIONER BURMAN: Opposed. No.

3 CHAIR ZIBELMAN: Three ayes and one opposed.

4 The recommendations are adopted. And -- and then I -- I note  
5 that you're going to be writing a dissent on that.

6 COMMISSIONER BURMAN: I'll take it from --  
7 specifically from the comments that I said here, so there  
8 will be nothing added to it from what I've said.

9 CHAIR ZIBELMAN: Okay.

10 COMMISSIONER BURMAN: It's just more coherent  
11 in the writing.

12 CHAIR ZIBELMAN: Item 301-C, proceeding for  
13 multiple generation facilities under remote net metering  
14 tariffs, all those in favor, please indicate by saying aye.

15 COMMISSIONER SAYRE: Aye.

16 COMMISSIONER ACAMPORA: Aye.

17 COMMISSIONER BURMAN: And I'm abstaining on  
18 the basis that this item, I have abstained from before and  
19 this -- my concerns are duly noted from what my comments have  
20 been at other sessions, as well as at this session.

21 CHAIR ZIBELMAN: So there being three in  
22 favor, the -- the recommendation is adopted.

23 Okay. We now have 301-B. So, Scott, I know  
24 you wanted to be brief before, but I want you to be even  
25 briefer now.

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2 MR. WEINER: Briefer now.

3 Okay. So this arises in the -- the context  
4 of some clarifications and fine tuning to the Community DG  
5 program. There are a few issue sets. The first issue set  
6 deals with the request -- requesting project sponsors to  
7 provide self-certification of three specific topics pending  
8 the adoption by the Commission, in the near future, of DER or  
9 oversight rules. Specifically, that would be a certification  
10 of compliance with all program requirements, credit  
11 worthiness at the second, and the capability and the capacity  
12 to satisfy all obligations the sponsor would have to project  
13 members.

14 We believe that each of these certifications  
15 benefits members without burdening sponsors and, therefore,  
16 the order provides for their adoption. The impact of this  
17 provision will require amendments to utility tariffs. The  
18 program was scheduled to start next week, on October the  
19 19th, this coming Monday, in order to enable the utilities  
20 time to file the tariffs. That program was delayed one week,  
21 to October 26th.

22 The second issue set deals with the  
23 allocation of excess credits. And the order provides that,  
24 number one, a sponsor may not retain excess credits to its  
25 own account for allocation as it may deem appropriate, but

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2 rather, that excess credits must be allocated to the members  
3 and may not be retained by the sponsor. It does provide the  
4 sponsor flexibility to allocate any excess credits to members  
5 on a monthly or annual basis. The order also describes both  
6 the underpinning of this, as well as some distinctions  
7 between this program and the remote net metering program  
8 because of legal constructs.

9 There are a couple additional matters I just  
10 want to draw your attention to. One is the reference to  
11 operating manuals that the utilities will be providing. In  
12 the future we think this will benefit the program.

13 And the second issue deals with Central  
14 Hudson's designation of its entire service territory as a  
15 phase one opportunity zone. You recall that in order to  
16 phase the program in, we created a first phase that now will  
17 begin in about ten days, on October 26th. And each of the  
18 utilities were asked to designate high value locations that  
19 we called opportunity zones.

20 And furthermore, that the initial  
21 interconnections, during this phase one, would be for  
22 projects which were either located in the opportunity zone or  
23 which provided a minimum amount of low-income participants.

24 By designating their entire territories an  
25 opportunity zone, we wanted to make sure -- and the order

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2 stresses this point -- that the involvement and the  
3 participation by low-income customers remains a high  
4 priority. And the company is asked to prioritize projects  
5 during phase one in order to accommodate any projects which,  
6 in fact, provide for low-income participation.

7 That's it.

8 CHAIR ZIBELMAN: Thank you.

9 So any questions on 301-B, or comments?

10 COMMISSIONER BURMAN: I just have a  
11 clarification. Community solar, previous to today, was part  
12 of the cap; right? So it was taken into account in terms of  
13 --

14 MR. WEINER: Uh-huh.

15 COMMISSIONER BURMAN: -- increasing the cap?

16 So now with the floating of the cap, that  
17 also applies to community solar, as well?

18 MR. WEINER: Right.

19 COMMISSIONER BURMAN: Okay. Thank you.

20 CHAIR ZIBELMAN: Any other questions?

21 So I'm going to move this for a vote. All  
22 those in favor of the recommendation to grant in part and  
23 deny in part the petition for clarification reconsideration  
24 of Item 301-B, please indicate by saying aye.

25 COMMISSIONER ACAMPORA: Aye.

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2 COMMISSIONER SAYRE: Aye.

3 CHAIR ZIBELMAN: Opposed?

4 COMMISSIONER BURMAN: I am going to be  
5 abstaining, based on my concerns that I raised back in July  
6 when this item first came before us, and it continues. I do  
7 understand the good faith efforts to try to make some  
8 clarifications. And I do think that we need to look more  
9 holistically at these issues and -- and not do it piecemeal.

10 CHAIR ZIBELMAN: Okay. There are three --  
11 being three in favor, the recommendation is adopted.

12 Okay. The second item for discussion is Item  
13 101-A, which is Case 15-G-0323. It's the Brooklyn Union Gas  
14 Company doing business as National Grid -- Grid New York,  
15 petition for approval to increase its site investigation and  
16 remediation surcharge.

17 It will be introduced by Bruce Alch, who's  
18 Chief of Gas and Water Rates, and presented by Johanna  
19 Miller, who is a utility engineer, while they're taking their  
20 seats, as well as Jeff Hogan will be here as Chief of  
21 Accounting, Audits, and Finance, to answer questions.

22 And welcome, Johanna, to your first time to  
23 the Commission -- not to the Commission, but to this meeting.

24 And, Bruce, I know you'll be beginning.

25 MR. ALCH: Okay.

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2 CHAIR ZIBELMAN: And, again, in the interest  
3 of time, I'm going to ask you to keep your comments to the  
4 point, and let's move.

5 MR. ALCH: I will try to be brief.

6 Good morning Chair and Commissioners.

7 As I said, I will provide a brief overview  
8 and some context for the items that my colleague, Johanna  
9 Miller, will present next.

10 SIR refers to Site Investigation and  
11 Remediation and primarily relates to the cleanup of turn-of-  
12 the-century manufactured gas plants. Or MGP sites. There  
13 are approximately 280 of these sites in the state and about  
14 half of these are in the New York City, Long Island area. 28  
15 of these sites are in KEDLI's service area.

16 New York has significantly ramped up its  
17 efforts to remediate these contaminated sites over the last  
18 10 years. And on this point, when these MGP sites were  
19 active in the early 1900s, they were usually located in what  
20 were then industrial manufacturing areas. But with  
21 population growth, these sites are now in heavily populated  
22 areas. As a consequence, the cleanup is both complex and  
23 very expensive and expected to grow in cost.

24 Statewide, the associated cleanup cost could  
25 approach 4 to 5 billion dollars in total. The Department has

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2 been actively engaged with each of our utilities and the DEC,  
3 which is the State's lead agency for ensuring that proper  
4 remediation protocols are followed to restore the  
5 environment.

6 Johanna will provide more details on our  
7 oversight rules with utilities to ensure that the cleanup  
8 costs are done most effectively.

9 That said, the primary issue here today is  
10 that KEDNY has been actively pursuing the cleanup of its 28  
11 sites and has now built up a very large deferral of  
12 approximately 219 million dollars. This greatly exceeds its  
13 currently authorized collections. If we take no action, the  
14 resulting customer liability will continue to grow as the  
15 Company's SIR efforts continue and, with associating carrying  
16 costs, will ultimately create a large hockey stick with  
17 significant customer bill impacts.

18 We believe that we should take action now to  
19 mitigate those impacts.

20 If there's no questions, I'll turn it over to  
21 Johanna for the details.

22 CHAIR ZIBELMAN: All right. Welcome,  
23 Johanna. Let's walk through and -- your slides.

24 MS. MILLER: Good morning, Chair and  
25 Commissioners.

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2 As Bruce stated, I'll be presenting further  
3 information regarding Item 101-A.

4 KEDNY is seeking authority to increase its  
5 SIR recovery surcharge by 37.5 million dollars annually. The  
6 current SIR recovery surcharge is 25 million dollars per  
7 year. The proposed surcharge would be 62.5 million dollars  
8 per year. This increase is slightly less than 2.5 percent of  
9 net aggregate revenues, and would remain in effect until  
10 KEDNY's base rates are reset.

11 At the end of 2014, KEDNY's deferred SIR  
12 balance was approximately 219 million dollars. Staff is  
13 recommending approval to permit the surcharge increase in  
14 order to mitigate future customer impacts as SIR related  
15 costs are continuing to grow.

16 Slide three, for your information some  
17 background information regarding SIR activities. The New  
18 York State Department of Environmental Conservation has the  
19 primary oversight role in New York State SIR cleanup  
20 activities. The DEC ultimately selects the final remedy for  
21 an identified site. The Federal Environmental Protection  
22 Agency also has oversight of some sites within KEDNY's  
23 territory.

24 Full recovery of all prudently incurred SIR  
25 costs have typically been approved by the Commission. KEDNY



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2 is currently responsible for 28 former manufactured gas plant  
3 sites which have been identified by the DEC Remediation  
4 activities have begun at 27 of these sites. Many of the  
5 identified SIR sites in KEDNY's service territory are still  
6 in the early stages of remediation, so it is likely that  
7 cleanup costs will continue to grow.

8 KEDNY is actively pursuing recovery from  
9 potentially liable third parties and insurers to offset some  
10 of the costs incurred. For example, there have been multiple  
11 responsible parties identified at the Gowanus Canal and  
12 Newtown Creek sites. Cleanup activities at these sites are  
13 being led by the EPA and are not considered in this petition,  
14 because they are in the early stages of site investigation.  
15 And we do not have cost estimates at this time.

16 Revenues collected through KEDNY's SIR  
17 recovery surcharge and through base rates are used to pay  
18 down KEDNY's deferred SIR balance. KEDNY's current base  
19 rates reflect an annual recovery of about 6 million dollars.  
20 The current SIR recovery surcharge was established in the  
21 Company's 2008 rate case which -- which established rates for  
22 5 years.

23 The initial surcharge collected 5 million  
24 dollars annually, an increased by 5 million dollars each  
25 year, until the surcharge reached 25 million dollars in 2012

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2 at the expiration of the rate plan. It will remain in effect  
3 until KEDNY's base rates are reset or it is acted on by the  
4 Commission.

5 The chart on slide four shows the current  
6 combined recovery of SIR related costs through base rates and  
7 the SIR recovery surcharge in red at about 31 million dollars  
8 per year. In blue is the SIR's spending estimates for KEDNY  
9 from 2015 through 2019, excluding the costs of the Gowanus  
10 Canal and Newtown Creek sites. As you can see, costs are  
11 expected to exceed 50 million dollars in 2017 and remain  
12 above 40 million dollars through 2019. Therefore, without  
13 modification, the deficit is going to continue to grow.

14 KEDNY is continuing to incur significant SIR  
15 costs that will add to its 2014 deferral balance and prolong  
16 the recovery period. The chart on slide five shows the  
17 current deferral balance of 219 million dollars in blue.  
18 With the incremental recovery that KEDNY is proposing, the  
19 Company would be able to recover its 2014 deferred SIR  
20 balance by 2018.

21 The total SIR deferral balance would be  
22 reduced to approximately 165 million dollars by 2019, which  
23 is shown on red -- in red on the chart.

24 If KEDNY's petition is denied and incremental  
25 recovery is not granted, the net 2014 deferred balance would

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2 not be recovered until 2022. And that would grow to about  
3 347 million dollars by 2019, which is shown in green on the  
4 chart.

5 Staff has reviewed the Company's processes  
6 and procedures relating to SIR. Although the work is mandated  
7 by the DEC and EPA, the Company does implement cost control  
8 measures, such as following industry best practices and  
9 utilizing competitive bid procedures. The Company has also  
10 proposed alternatives to the remedies suggested by the DEC in  
11 order to use more cost effective solutions.

12 The Company has project managers who monitor  
13 the remediation activities being performed at each site in  
14 accordance with Company policies and accepted industry  
15 practices.

16 KEDNY has an internal approval process in  
17 place to oversee the execution of work and approval of all  
18 SIR related invoices. The Company continues to offset its  
19 SIR expenses by obtaining cost recoveries from potentially  
20 responsible third parties and insurers where possible.

21 Staff has made visits to several sites where  
22 remediation -- remediation activities are taking place to  
23 verify these procedures are being followed. Staff has also  
24 reviewed comments filed by the City of New York in opposition  
25 to KEDNY's petition. The City's main arguments are that any

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2 changes to the recovery method should be considered within a  
3 rate case because there is no opportunity for a comprehensive  
4 review of the level of all expenses. The City also states  
5 that an increase to KEDNY's SIR recovery surcharge would only  
6 benefit its shareholders.

7 Because of the large forecast in KEDNY's SIR  
8 spending, Staff believes it is best to increase the SR -- SIR  
9 recovery surcharge now in order to avoid future rate shock  
10 and to ramp up recovery before the remediation costs  
11 associated with the Gowanus Canal and Newtown Creek are  
12 incurred. The costs incurred in the past and accrued are  
13 reasonable and need to be recovered.

14 Staff recommends an increase to the SIR  
15 recovery surcharge, allowing the Company to collect a total  
16 of 62.5 million dollars annually through KEDNY's delivery  
17 rate adjustment, beginning November 1st of this year.

18 Increasing the amortization of SIR costs now  
19 will smooth recovery and mitigate future customer impact as  
20 SIR related costs continue to grow and mitigate the  
21 compounding effect of carrying costs on the deferral.

22 Also increasing the SIR recovery surcharge  
23 will increase KEDNY's cash flow and allow for a more rapid  
24 recovery of the deferred SIR balance. This should be viewed  
25 as a credit positive by rating agencies and ultimately

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2 benefiting KEDNY's customers.

3 And that's all I have.

4 CHAIR ZIBELMAN: Thank you, Johanna.

5 So just to briefly -- I know that none of us  
6 like single-issue rate making and we're -- you know, and  
7 certainly that was a concern of the City. But from my  
8 perspective in looking at this, this is very much like the  
9 recent issue that we had with respect to the contract on  
10 Ginna and the compounding effect if we don't allow current  
11 recovery, because when you have an expense like this, which  
12 is significant, the impact of having to add interest means  
13 that ratepayers end up paying more for an expense that we  
14 know that has to be recovered, than if we allow for current  
15 recovery.

16 So it's -- and so the only question is, then,  
17 is this -- are we certain that the costs are reasonable. And  
18 I'm very satisfied, because I -- we've had a chance to talk  
19 to Staff about this, that Staff is working with the Company.  
20 This has been an issue, I believe, with the Commission in the  
21 past relative to, you know, are the companies doing  
22 everything they can to mitigate this expense. And I believe  
23 the processes we have in place to -- are -- are there to  
24 ensure that.

25 So with that, I believe that it is the right

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2 thing to do to increase the recovery, to make certain that we  
3 get to a point -- well, that we can get to recover the  
4 deferred expenses, but also to avoid the compounding interest  
5 effect, which then, of course, ends up costing ratepayers  
6 more for the same expense.

7 So with that, I'm comfortable with the  
8 recommendation.

9 Any further questions?

10 Do you want to start, Commissioner Acampora?

11 COMMISSIONER ACAMPORA: This is one of the  
12 nasty items that we've dealt with for years. This pollution  
13 has plagued the area. If you look at a map site of where all  
14 the SIR sites are, it's absolutely frightening.

15 And if we are to do the right thing,  
16 unfortunately, our children, our grandchildren, great  
17 grandchildren, and further on down the road, will still be  
18 accountable to pay for the mistakes of the past.

19 Hopefully now we do have new technology which  
20 is really able to remediate on a quicker level. And this is  
21 a responsibility that we have to step up to the plate and --  
22 and we need to do. It's the right thing to do. We have to  
23 protect the environment and the quality of life for people  
24 because most of these sites are in very populous areas. And  
25 I can only imagine what the Gowanus will cost. That is

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2 really going to be a very serious issue.

3 It's unfortunate. This is something that,  
4 you know, you hate to say it's going to cost you more money  
5 but, again, as I said before, it's the right thing to do.

6 COMMISSIONER BURMAN: So back in 2011, when I  
7 was not on the Commission, the Commission had undertaken a  
8 generic proceeding to look at if this was what should be done  
9 in the way we have cost recovery. And the focus really was  
10 that due diligence was being done from the perspective that  
11 these are both under Federal and State Law where the -- where  
12 there are these costs. The remediation needs to take place,  
13 and then the parties have to do that and they are looking for  
14 cost recovery.

15 And -- but it doesn't just mean that they go  
16 out and they do it, and whatever their costs are, they're  
17 paid. There is due diligence done, one, to control the  
18 costs, as well as -- and that's done by industry best  
19 practices, as well as utilizing competitive bid processes and  
20 procedures where appropriate, and also looking to third party  
21 recovery and going after that.

22 In fact, there has been litigation, over the  
23 years, with DEC where there has been push back in terms of  
24 what actually needs to be remediated and how to most  
25 effectively do that.

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2 Our job is to make sure that the costs that  
3 are being sought are done -- that they're prudent and  
4 reasonable, and then also how to factor that in so that we  
5 don't have shock in terms of paying it. So from my  
6 perspective, this is necessary.

7 Unfortunately, New York has had the most  
8 amount of sites that need remediation, historically. I think  
9 it was 221 out of 300, if I'm not mistaken. And so we are  
10 making positive steps to do that. And, you know, to the  
11 extent that this is a high priority, I -- I support this  
12 item.

13 CHAIR ZIBELMAN: Commissioner Sayre?

14 COMMISSIONER SAYRE: When the commodity price  
15 is low, it's the right time to address cost recovery for  
16 what's necessary and prudent and very expensive. Yeah, we're  
17 paying for the past pollution of -- of prior generations, but  
18 we have to address it. And I agree that now is the right  
19 time to bite the bullet and do it.

20 CHAIR ZIBELMAN: Thank you, Commissioners,  
21 for all your comments.

22 Then I'm going to take a vote then on Item  
23 101-A. All those in favor, please indicate by saying aye?

24 ALL: Aye.

25 CHAIR ZIBELMAN: Opposed?



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2 Hearing all four approved, the item is  
3 approved.

4 Is there a better way to say that?

5 Okay. Item -- next is Item 101-B and it  
6 looks like Johanna drew the short straw on that, too.

7 MS. MILLER: Okay. Thank you.

8 KEDNY is requesting modification of its  
9 capital reconciliation mechanism, which was established as  
10 part of its modified rate plan in 2013. The modification  
11 would facilitate KEDNY's plan to invest 896 million dollars  
12 in its distribution system in 2015 and 2016 in order to  
13 modernize its gas infrastructure. This is an incremental 300  
14 million dollars over the approved spending level in the  
15 modified rate plan.

16 KEDNY claims the proposed increase in capital  
17 investments will increase safety and reliability on its  
18 system, enable the Company to modernize its gas transmission  
19 and distribution assets, promote gas growth in a manner  
20 consistent with the Commission's policy objectives, enhance  
21 storm resiliency, and improve the Company's ability to  
22 respond to future weather events.

23 Staff is recommending approval with  
24 modifications because the incremental investments will  
25 improve safety and reliability of KEDNY's system. And

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2 because we are using customer credits, there will be no bill  
3 impacts.

4 In 2013, the Commission approved a joint  
5 proposal implementing this reconciliation mechanism to  
6 protect customers from underspending by the Company. The  
7 current capital reconciliation mechanism is a cumulative 2-  
8 year reconciliation for the period of January 2013 through  
9 December 2014. There will be annual reconciliations  
10 thereafter at the 2014 revenue requirement target level.

11 The proposed mechanism is a cumulative 4-year  
12 reconciliation for 2013 through 2016. This would extend the  
13 reconciliation period from 2 to 4 years.

14 KEDNY's 2013 and 2014 capital program was  
15 severely hampered by Super Storm Sandy and its aftermath.  
16 KEDNY was able to catch up and complete most of its 2013 and  
17 2014 capital program as forecast. However, many projects  
18 were delayed. These project delays created a significant  
19 difference between the targeted revenue requirement and the  
20 actual revenue requirement. There were also accounting  
21 delays in closing completed capital projects to plant in  
22 service before the end of the initial reconciliation period.

23 The chart on slide four shows KEDNY's  
24 forecast net plant in service in blue for the 2013-2014  
25 period. In red is KEDNY's actual net plant for the same

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2 period, which you can see is significantly below the forecast  
3 levels.

4 As a result of these delays, KEDNY has  
5 deferred -- has a deferred credit balance of about 58 million  
6 dollars at the end of 2014, which is owed to customers.

7 Under its proposal, KEDNY would be permitted  
8 to use the 58-million-dollar balance to offset the revenue  
9 requirement associated with the forecast capital expenditures  
10 for 2015 and 2016, which would have no impact on customer  
11 bills.

12 If KEDNY were to invest capital at the  
13 forecast 2014 levels, in 2015 and 2016 as stated in the  
14 modified rate plan, the continued accrual of carrying charges  
15 on the 2014 deferred credit balance is forecast to grow to  
16 about 62 million dollars at the end of 2015 and to 65 million  
17 dollars at the end of 2016.

18 In this petition, the Company proposes to  
19 ramp up spending from about 300 million dollars to 430  
20 million dollars annually. Replacing leak-prone pipe is a  
21 major driver of the spending increase. In the 2013 modified  
22 rate -- rate plan, KEDNY was required to replace a minimum of  
23 40 miles per year. KEDNY is proposing to replace 40 miles of  
24 leak-prone pipe in 2015 and 47 miles in 2016.

25 Staff believes KEDNY's proposal to accelerate

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2 leak-prone pipe replacement is a benefit to public safety and  
3 is in line with what the Commission is doing generically.  
4 Staff is expecting the Company to ramp up replacement -- the  
5 replacement plan even more in the Company's next rate filing.

6 Staff is recommending approval of KEDNY's  
7 petition with some modifications. After our review, we have  
8 a 22-million-dollar downward adjustment for two projects in  
9 KEDNY's proposed 896-million-dollar budget. One of the  
10 projects we agree with, but trim the proposed spending level  
11 for 2016, as the ramp-up rate is unreasonably high, and the  
12 second project could benefit from further review in the  
13 upcoming rate case.

14 We also believe KEDNY should reprioritize  
15 spending at its Greenpoint liquefied natural gas plant to  
16 accelerate projects that have a safety and reliability impact  
17 on the Company's gas system.

18 That's all I have.

19 CHAIR ZIBELMAN: And well done on two complex  
20 issues. So thank you.

21 I want to echo my -- my colleague,  
22 Commissioner Sayre, on this. This is a good opportunity to  
23 improve public safety in a way that doesn't impact rates.  
24 And as this Commission is always very concerned about removal  
25 of old infrastructure and replacing it with new and safer

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2 infrastructure, I intend to support it.

3 I also want to note that in the capital plan,  
4 KEDNY has put in two proposals relating to advanced  
5 mechanisms, one, around replacing leak-prone pipe with newer  
6 pipe. One is with sleeving and the other was with detection.  
7 I think both are related to allowing for both more expedited  
8 replacement, but also less disruption. And given the  
9 territory and how difficult this is, I'm -- I'm pleased to  
10 see that. And I would ask Staff to monitor that because we'd  
11 like to see how that -- how that works out.

12 You know, clearly, for the -- the Commission,  
13 safety in terms of natural gas is one of our highest  
14 priorities. And being able to see an acceleration of  
15 replacement of old infrastructure with new infrastructure is  
16 both good for increased public safety, but also the  
17 environment as it results to methane leakage and old pipe.  
18 So with respect to that, I -- you know, I certainly intend to  
19 support this recommendation.

20 Any further questions or comments?

21 COMMISSIONER BURMAN: I just have one  
22 comment. I'm very supportive of this item, and just wanted  
23 to acknowledge my, you know, work on -- through our National  
24 Association of Regulatory Commissions.

25 I am on the advisory committee to GTI, the

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2 Gas Technology Institute, which has nothing to do with this  
3 item specifically. But as it relates to technology aspects,  
4 it is something that I follow and am supportive of, moving  
5 forward on advanced technology issues.

6 But I just did want to acknowledge that I do  
7 sit on that advisory committee, and it does not have any  
8 specific input in this item.

9 CHAIR ZIBELMAN: Okay. Thank you.

10 Any further comments?

11 I'm going to move to a vote. All those in  
12 favor in Item 101-B, which is the Brooklyn Union Gas petition  
13 to modify its capital reconciliation mechanism, please  
14 indicate by saying aye.

15 ALL: Aye.

16 CHAIR ZIBELMAN: Opposed? Hearing no  
17 opposition, the recommendations are adopted.

18 Thank you, Johanna.

19 Thank you, Bruce.

20 We're going to move on to Item Number 4 -- or  
21 Item Number 102 -- it's not the fourth item, but -- which is  
22 the Corning National Gas Corporation proceeding on motion of  
23 the Commission as to rates, changes, rules, and regulations.

24 Judge -- Administrative Law Judge Ashley  
25 Moreno will be presenting this. And we have Jeff Hogan,

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2 Bruce Alch, Mike Corso, and Debbie LaBelle, also available  
3 for questions.

4 Good morning, Judge Moreno. You're not  
5 Bruce. He's Bruce.

6 A.L.J. MORENO: Good morning, Chair and  
7 Commissioners.

8 The item before you today adopts a  
9 recommendation -- is a recommendation to adopt the terms of a  
10 joint proposal submitted by the parties to this proceeding.  
11 Advisory Staff recommends adoption of the joint proposal  
12 because it is consistent with recent Commission decisions and  
13 policy objectives and is in the public interest.

14 This joint proposal would extend Corning  
15 Natural Gas Corporation's existing rate plan by 2 years and  
16 modify some of its terms. This proceeding has followed  
17 similar processes to other recently approved joint proposals  
18 extending rate plans. Such extension plans have addressed  
19 pertinent company-specific issues while avoiding the cost and  
20 time investment of a major rate review.

21 The joint proposal's terms are consistent  
22 with the Commission's goals of a -- of accelerated leak-prone  
23 pipe replacement and advance the Commission's policy  
24 objectives of ensuring gas safety and reliability. The  
25 Commission recently instituted a proceeding to develop a

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2 process to accelerate the replacement of leak-prone pipe.  
3 The joint proposal is consistent with the objectives of that  
4 proceeding.

5 It would establish a new safety and  
6 reliability charge that would provide Corning the ability to  
7 recover carrying charges on its capital investments. This  
8 will allow Corning to continue aggressive leak-prone pipe  
9 replacement -- removal and replacement, as well as other  
10 safety and reliability infrastructure improvements.

11 The joint proposal also advances the  
12 Commission's policy of ensuring gas safety and reliability.  
13 The -- the terms of the joint proposal would establish a  
14 capital expenditure budget for various projects to meet gas  
15 safety goals. It also contains provisions that would enhance  
16 safety and performance metrics over the course of the rate  
17 plan.

18 The provisions target both enhancements to  
19 the physical system, such as leak-prone pipe, and also  
20 operational performance such as response time to emergencies.

21 The joint proposal's provisions are also  
22 consistent with Commission decisions in recent rate cases  
23 that have applied regulatory liabilities for missing gas  
24 safety targets and for noncompliance with the Department's  
25 gas safety regulations. The joint proposal is also



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2 consistent with the Commission's decision regarding gas  
3 system benefit charge funds collected from ratepayers for  
4 EEPS efficiency programs where they've not been utilized.

5 In June, the Commission determined that  
6 Corning would no longer be required to participate in energy  
7 efficiency programs and that the disposition of funds that  
8 had already been collected should be considered in the next  
9 rate proceeding. As the parties to this proceeding have  
10 noted, the timing of the filing was fortuitous in that the  
11 return of such funds could be considered in the context of --  
12 of this joint proposal and case before you.

13 The joint proposal would cease collection of  
14 the gas SBC funds and would return previously collected  
15 amounts over the course of a 3-year period. Elimination of  
16 the gas SBC would avoid approximately 15 thousand dollars of  
17 costs flowing to customers and, over the course of a 2-year -  
18 - of the 2-year rate plan extension, approximately 600  
19 thousand dollars of previously collected funds would be  
20 returned to ratepayers.

21 Returning the SBC funds at this time also has  
22 the benefit of offsetting the rate impact of the safety and  
23 reliability charge to customers that paid in to the SBC,  
24 where these customers are expected to see a modest bill  
25 reduction instead of an increase.

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2 The joint proposal also continues the  
3 Commission's policy of providing support to low-income  
4 customers. The terms of the joint proposal would increase  
5 the low customer credit from \$5 a month, included in the  
6 previous rate plan, to \$8 a month here, and would also  
7 establish a new provision waiving Corning's \$20 reconnection  
8 fee once a year for low-income program participants.  
9 Notably, these changes would be accommodated within the  
10 existing program budget.

11 The joint proposal would continue the  
12 Commission's longstanding policy of encouraging utilities to  
13 pursue remedies to reduce property tax expenses. The joint  
14 proposal increase -- would increase Corning's share of  
15 responsibility for undercollected property tax amounts,  
16 requires annual reports describing Corning's actions to  
17 control property tax costs, and would allow Corning to retain  
18 a portion of property tax decreases if the Company can  
19 demonstrate its actions caused the reduction.

20 To put the financial impacts of the joint  
21 proposal into context, the safety and reliability charge  
22 would collect approximately 1.041 million over the 2-year  
23 rate plan. However, at the same time, ceasing collection of  
24 the SBC and the return of the approximately 600 thousand  
25 dollars of gas funds would result in a total rate impact of

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2 approximately 426 thousand dollars over the course of the 2-  
3 year term.

4 The estimated bill impact analysis that was  
5 included with the joint proposal shows that residential,  
6 residential low-income, and general service nonresidential  
7 customers would see a modest bill reduction of approximately  
8 1.3 and 6.1 percent on an annual basis. Large general and  
9 industrial customers and firm transportation customers who  
10 did not pay into the SBC would see an increase on their bills  
11 of between 4.8 and 5.5 percent on an annual basis.

12 Advisory Staff recommends approval of the  
13 joint proposal because it advances Commission policy and  
14 objectives and strikes a balance between Corning, its  
15 investors and customers, it would provide Corning with the  
16 resources and motivation to continue to undertake capital  
17 projects to ensure system safety and reliability, would allow  
18 investors a reasonable return, and include benefits to  
19 customers including rate stability and affordability.

20 It's also notable that this joint proposal  
21 enjoys support of all of the parties to this proceeding who  
22 represent quite a diverse -- quite diverse positions.

23 Signatories are Corning, Trial Staff of the Department of  
24 Public Service, Multiple Intervenors, Bath Electric Gas and  
25 Water Systems, and the Utility Intervention Unit of the

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2 Department of State.

3 That concludes my presentation this morning.  
4 If you have any questions, I'd be happy to answer them.

5 CHAIR ZIBELMAN: Thank you, Judge Moreno. I  
6 understand you run a tight courtroom, which is why you're  
7 able to herd all those cats.

8 I think that clearly the fact that we have so  
9 many diverse interests show that this was a well-debated  
10 item. But mostly I -- I think, because it is so -- it is  
11 consistent with Commission precedent, this is a great example  
12 where settlement makes terrific sense because it -- people  
13 are reaching an agreement on issues that are important to us.

14 I intend to vote for the item.

15 Any further questions or comments?  
16 Commissioner Sayre?

17 COMMISSIONER SAYRE: Rate case expenses are,  
18 in general, recoverable from ratepayers. And for a small  
19 company, these can be really significant in a rate case and -  
20 - and a driver of increased rates. I'm happy to see these  
21 costs saved here and a settlement supported by such a large  
22 group of diverse parties, as Chair Zibelman said, and  
23 thoroughly reviewed by both Trial and Advisory Staff. I also  
24 support the item.

25 CHAIR ZIBELMAN: Commissioner Burman?

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2 COMMISSIONER BURMAN: I, too, support the  
3 item. I do see it as really a continuation of the 2012 rate  
4 plan with modifications. And I do point out that the two  
5 items that -- two of the items that we're addressing here, we  
6 have larger proceedings. One is the low-income affordability  
7 proceeding. And this, in no way, is reflective of what we  
8 may or may not do in the low-income affordability proceeding.

9 And this really is, you know, proceeded at  
10 and is in line with that, though we're still, you know,  
11 working on that. And I know that there's even more public  
12 hearings, which is great, that are going out on that.

13 The other is the gas safety metrics aspect  
14 that deals with acceleration of leak-prone pipe and looking  
15 at that. So I just wanted to sort of note that and point  
16 that out, that we do have these other generic proceedings and  
17 gas expansion, as well. So thanks.

18 CHAIR ZIBELMAN: Thank you.

19 Commissioner Acampora?

20 COMMISSIONER ACAMPORA: I, too, will be  
21 supporting this. And I like the provision and the earnings  
22 sharing mechanism, which I think is very helpful. So that  
23 was a good thing.

24 And I -- I do congratulate you on getting all  
25 these diverse parties who normally, you know, would be

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2 killing one another and there would be a lot of dissent on  
3 this. So this is a good thing, and -- and good also for the  
4 low-income aspect of -- of the plan. So I endorse it.

5 CHAIR ZIBELMAN: Going to move to a vote.  
6 All those in favor in Item Number 102, which is the Corning  
7 National Gas Corporation proceeding on rates, changes, rules,  
8 and regulations for gas service, please indicate by saying  
9 aye?

10 ALL: Aye.

11 CHAIR ZIBELMAN: And opposed?

12 Hearing no opposition, the terms of the joint  
13 proposals reflected in the draft order are adopted.

14 Thank you very much, Judge Moreno.

15 A.L.J. MORENO: Thank you.

16 CHAIR ZIBELMAN: And others, including the  
17 Staff team. And I -- I recognize there's a lot of work --  
18 lot of people behind this. You're just at the head of the  
19 apex.

20 A.L.J. MORENO: Yes, for -- for the -- for  
21 the sake of not wanting to take the limelight, I would have  
22 to congratulate the parties to the resolution of the joint  
23 proposal.

24 CHAIR ZIBELMAN: Yes.

25 A.L.J. MORENO: Thank you.

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2 CHAIR ZIBELMAN: Thank you.

3 Moving on to the next Item 202, which is  
4 Orange and Rockland proceeding on motion for the Commission's  
5 rates, changes, rules, and regulations, Judge Sean Mullany  
6 will be presenting that. And Mr. Hogan and Mr. Weiner are  
7 also available for questions.

8 Mr. Mullany -- Judge Mullany?

9 Morning. You're also not Leka. I know Leka  
10 likes to be in the limelight, but he's not here.

11 A.L.J. MULLANY: Good morning Chair Zibelman.

12 CHAIR ZIBELMAN: Good morning.

13 A.L.J. MULLANY: Commissioners. It's my  
14 privilege to be here this morning. My first appearance  
15 before the Commission, so I --.

16 CHAIR ZIBELMAN: Is that correct?

17 A.L.J. MULLANY: It is, yes. I did appellate  
18 litigation.

19 CHAIR ZIBELMAN: How did you run and hide so  
20 much?

21 A.L.J. MULLANY: Good; right?

22 CHAIR ZIBELMAN: Yeah, I -- I thought Kim was  
23 better than that.

24 A.L.J. MULLANY: I'm begging your indulgence,  
25 I just -- since this is the first time out for me, I want to

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2 acknowledge the support and input of the senior advisory  
3 staff and my colleagues in the office of hearings and  
4 alternative dispute resolution.

5 I want to say that Judges Phillips and -- and  
6 Van Ort and Chief Judge Liebschutz have been tremendous. And  
7 from a dissertation on the history and implementation of the  
8 Commission settlement guidelines, through acute editing  
9 comments, to -- even to the offer of Lifesavers for this  
10 morning's presentation, their advice has been astute,  
11 informed, wise, and practical.

12 CHAIR ZIBELMAN: Thank you. That's very nice  
13 of you.

14 A.L.J. MULLANY: So this morning, the item  
15 before you would adopt the terms of a joint proposal and,  
16 thereby, establish a 2-year electric rate plan and a 3-year  
17 gas plan for Orange and Rockland Utilities, Incorporated.

18 Commission's settlement guidelines provide  
19 the framework for review of this joint proposal. The --  
20 editing comments, I've reduced the settlement guidelines to a  
21 single sentence. Settlements need to balance the interest of  
22 consumers and utility shareholders, account for the long-term  
23 viability of the -- of the utility, be consistent with the  
24 policies of the Commission and the State, produce results  
25 within the range of reasonable outcomes in a fully litigated



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2 case, and ensure the continued safe and adequate provision of  
3 utility services at just and reasonable rates. So that's the  
4 framework for the Commission.

5 The first point I want to make is that the --  
6 the joint proposal is -- is lawfully before the Commission.  
7 It's the result of a fair and inclusive process. And I'm  
8 going to just go through what was done, you know, at the head  
9 of the apex to make sure the process was -- was proper.

10 O and R filed this case in November of 2014.  
11 Notice was published in the State Register. The Parties  
12 engaged in extensive discovery. They had opportunity to file  
13 testimony. Initial testimony was pre-filed by Staff, the  
14 Utility Intervention Unit, Pace University, and the Sabin  
15 Center.

16 Rebuttal testimony was filed in April by  
17 Orange and Rockland, the Staff, U.I.U., and the Municipal  
18 Consortium, which is an ad hoc group of municipalities that  
19 joined together to participate in this case. The pre-filed  
20 testimony served as a basis for settlement negotiations which  
21 commenced in April. Interested parties received notice of  
22 this impending settlement negotiations as per the  
23 Commission's rules.

24 The settlement continued for several weeks  
25 and ultimately led to the filing on June 5th of a joint

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2 proposal. The joint proposal is -- is signed and supported  
3 by a number of parties having diverse interests. And had  
4 this case been litigated, they would have been adverse  
5 litigants, in all likelihood.

6 Signatories include Orange and Rockland, the  
7 Staff, the Utility Intervention Unit of the New York State  
8 Department of State's Consumer Protection Division, Pace  
9 Energy and Climate Center, the Sabin Center for Climate  
10 Change Law, at Columbia Law School, Retail Energy Supply  
11 Association, and the Department of Defense and all other  
12 federal executive agencies. In case you're wondering why DOD  
13 is a signatory, West Point lies within O&R's service  
14 territory.

15 The JP was opposed by the Municipal  
16 Consortium. It was also opposed by the County of Rockland.  
17 Public statements were -- hearings were held in O and R  
18 service territory on June 3rd and -- in Ramapo on -- on June  
19 30th in Goshen, and in Ramapo on July 1st. The Parties had  
20 an opportunity to submit statements in support or opposition  
21 of the JP And such statements were filed by the Company,  
22 Staff, U.I.U., and Pace in support. And statements in  
23 opposition were filed by the Municipal Consortium and the  
24 County of Rockland. Reply statements were filed by the  
25 Company, Staff, and the Municipal Consortium.

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2 A number of parties actively participated in  
3 an evidentiary hearing which was held on August 4th, 2015.  
4 Hearing resulted in a transcript containing 182 pages of  
5 additional testimony and the admission into the record of an  
6 additional 125 exhibits.

7 CHAIR ZIBELMAN: Judge Mullany, you need --.

8 A.L.J. MULLANY: Closer?

9 No party claims any procedural irregularity  
10 or unfairness.

11 The second point I want to make is that,  
12 consistent with the settlement guidelines, the JP balances  
13 the interests of consumers, utility shareholders, and the  
14 long-term viability of a utility.

15 Right now Orange and Rockland operates under  
16 an electric rate plan that was effective on July 1, 2012, and  
17 under a gas rate plan that was effective November 1, 2009. O  
18 and R's initial rate filing sought a 1 -- sought 1-year rate  
19 plans for gas and electric service. And that initial filing  
20 was made in November of 2014.

21 Joint proposal would establish a 2-year  
22 electric rate plan and a 3-year gas rate plan. For electric  
23 service, Orange and -- Orange and Rockland, including their  
24 update filings, filed for a 33.4-million-dollar increase in  
25 electric delivery revenues which would represent a 5.2-

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2 percent increase on a total bill basis.

3 Staff's initial testimony recommended a  
4 0.595-million-dollar decrease in electric revenues for the  
5 utility. The JP proposes a 9.3-million-dollar increase in  
6 rate year one, which represents a 3.2-percent increase in  
7 delivery rates, and an increase of 8.8 million dollars in  
8 rate year two, which would represent a 2.9-percent increase  
9 in delivery base rates.

10 For gas service, O and R filed for a 40.7-  
11 million-dollar increase in gas delivery revenues. Staff  
12 recommended a 14.7-million-dollar increase in gas revenues  
13 and the JP proposes, under a 3-year gas rate plan, a base  
14 rate increase in rate year one of 27.5 million dollars, in  
15 rate year two an increase of 4.4 million dollars, and in rate  
16 year three, an increase of 6.7 million dollars.

17 On a percentage basis, these increases would  
18 represent 23.9 percent in rate year one, 3 percent in rate  
19 year two, and 4.5 percent in rate year three. Because of the  
20 significant impact of the -- the first rate year increase,  
21 the joint proposal recommends that these gas rate increases  
22 be levelized over 3 rate years in equal amounts of 16.4  
23 million dollars. This would translate into an increase of  
24 13.9 percent, 12.3 percent, and 10.9 percent in rate years  
25 one, two, and three respectively.

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2 In terms of bill impacts, the typical  
3 residential electric customer would see a bill increase of  
4 \$1.85 per month in rate year one, and \$2.42 per month in rate  
5 year two.

6 Under the gas plan, the typical gas heating  
7 customer would see a bill increase of \$10.63 per month in  
8 rate year one, \$10.78 per month in rate year two, and \$9.80  
9 per month in rate year three.

10 The joint proposal balances a number of  
11 competing interests. The first and most obvious balancing  
12 act is the -- the fact that the rates under the JP are  
13 substantially lower than what the Company initially filed  
14 for, but higher what -- than what Staff had initially  
15 recommended. In addition, instead of a 1-year rate plan, the  
16 joint proposal proposes multi-year rate plans which provide  
17 important rate certainty for ratepayers.

18 The multi-year rate plans also smooth out the  
19 impacts of the rate increases by spreading the rate increases  
20 out over a longer period of time.

21 Thirdly, the levelized increases, under the  
22 proposed gas rate plan, would further smooth the impacts of  
23 the gas rate increases. There are a number of provisions  
24 under the joint proposal that will serve and advance the  
25 interests of customers. For example, under the electric rate

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2 plan, customer charges would not increase for residential and  
3 small commercial service classes.

4 For gas customers, the JP would allow only  
5 modest increases in first block charges. For low-income  
6 customers, the JP would continue customer assistance programs  
7 under both the electric rate plan and the gas rate plan and  
8 would increase the budget for electric and gas low-income  
9 programs. This will enable higher discounts for both  
10 electric heating and non-heating customers, as well as for  
11 gas heating customers.

12 The JP would enable O and R to continue  
13 offering low-income customers a onetime waiver of the  
14 reconnection fee in any given year. I would note that these  
15 provisions of the joint proposal were expressly supported by  
16 the Utility Intervention Unit, which said that the JP greatly  
17 benefits low-income consumers and will -- will also serve to  
18 promote the Commission's goals.

19 As regards to the public comments received,  
20 and there were quite a few of them, many individuals, state  
21 and local officials, and others filed comments opposing any  
22 increase of O and R's rates. They argued variously that O  
23 and R's rates are already among the highest in the country,  
24 that local governments and small businesses are still  
25 struggling to recover from the economic recession of 2008-

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2 2009, and that low-income customers and retirees on fixed  
3 incomes can ill afford even higher utility rates. These  
4 commenters urged that, rather than raise rates, the  
5 Commission should require O and R to do more to lower its  
6 costs.

7 For its part, the Municipal Consortium  
8 advocated a 2-percent limit on Orange -- on any increase in  
9 Orange and Rockland's rates, citing State Law which limits  
10 municipalities to 2-percent increases in property taxes. The  
11 order under consideration balances these concerns against the  
12 fact that O and R has experienced significantly increased  
13 costs of operation.

14 One of the biggest rate drivers in this  
15 proceeding is local property taxes. They account for 39  
16 million dollars of the Company's electric revenue  
17 requirement. That's about 12 percent of O and R's electric  
18 delivery revenues.

19 Between 2009 and 2014, O and R's property  
20 taxes increased by an average of 12.9 percent annually. In  
21 the 12-month period ending June 30th, 2014 and 2015, the  
22 Company's property taxes for electric operations increased by  
23 14.8 percent and 8 percent, respectively. Compared to the  
24 final year of the 2012 electric rate plan, O and R's property  
25 taxes -- property tax expenses during the first year of the

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2 proposed electric rate plan would be 8.238 million dollars  
3 higher than in the prior plan.

4 The Company is also facing significantly --  
5 significant deferred property tax expenses, because during the  
6 previous rate plan actual expenses exceeded forecasts. The J. -- and  
7 this was a -- a disputed issue, but the -- the JP recognizes 13  
8 million dollars in -- in deferred cost property taxes.

9 A.L.J. MULLANY: Now the deferred property  
10 tax expenses amortized over 5 years would translate into a  
11 revenue requirement of 2.6 million dollars per year. When  
12 you combine these two factors, expenses going forward in  
13 deferred past property taxes, it amounts to 10.838 million  
14 dollars of O and R's electric revenue requirement.

15 The sum would exceed the 9.326 million  
16 dollars of the electric revenue requirement increase in rate  
17 year one under the JP Put another way, absent the large  
18 increase in property taxes since 2012, the Company's electric  
19 revenue requirement could have possibly been negative. In  
20 the gas case, property taxes account for 22.8 million  
21 dollars, or 15 percent of the Company's gas delivery  
22 revenues. O and R's property tax expense in rate year one,  
23 under the gas case, is higher than that in the final rate  
24 year of the 2009 gas rate order by 11.9 million dollars.

25 There's also a deferred balance of 34.034



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2 million dollars in property taxes, which, again, the property  
3 taxes -- the actuals exceeded the forecast in the 2009 rate  
4 case. Amortizing those deferred property taxes under the gas  
5 rate plan translates into a 6.8-million-dollar revenue  
6 requirement. Combining these two rate drivers under the gas  
7 plan, you get a total of 18.7 million dollars which accounts  
8 for approximately 70 percent of the gas revenue requirement  
9 increase in rate year one.

10 Another major driver is net plant. The  
11 Company has invested in its electric and gas systems in order  
12 to ensure safe and reliable system. But such plant must be  
13 paid for through depreciation expenses and a rate of return  
14 on the higher rate base levels. In the electric case, these  
15 cost increases, after reductions related to accumulated  
16 deferred federal income taxes, amount to 10.493 million  
17 dollars of the rate year one rate increase. In the gas case,  
18 they total 13.105 million of the rate year one rate increase.

19 Another significant rate driver is recovery  
20 of storm costs. Under the joint proposal, the Company would  
21 be allowed to recover 59.26 million dollars of such costs  
22 over a 5-year period, which translates into 11.85-million-  
23 dollar revenue requirement in each year of rate year one and  
24 rate year two.

25 These significant rate pressures resulted

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2 from required capital investments to ensure continued safe  
3 and adequate electric and gas service and from increased  
4 expenses. For these reasons, it is not practical or  
5 reasonable to deny the Utility any rate increase. Nor would  
6 it be practical or reasonable to limit its rate increase to 2  
7 percent.

8 Moreover, under the record in this  
9 proceeding, denying any rate increase or limiting it to 2  
10 percent would not be consistent with the Public Service Law,  
11 which requires the Company to provide safe and adequate  
12 service and requires that rates be set at a level that will  
13 enable the Company to do so.

14 Ignoring the capital and financial needs of  
15 the Company could possibly jeopardize service or deprive the  
16 Company of an opportunity to earn a fair rate of return.  
17 This could interfere with the Company's ability to raise  
18 needed capital and ensure that gas and electric systems are  
19 safe and reliable.

20 For these reasons, the rate increases  
21 recommended under the joint proposal reasonably balance the  
22 concerns of all involved, and they are supported by the  
23 record and they are consistent with the Public Service Law,  
24 as well as the Commission's established policy guiding such  
25 settlements.

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2 The next point I want to make is that the  
3 joint proposal is consistent with State and Commission  
4 policies. And I'm going to cite some examples. I'm not  
5 going to go through everything.

6 First, the return on equity and -- and the  
7 equity debt ratio, a 9-percent return and 48 percent equity  
8 is consistent with present economic conditions and with  
9 recent orders of the Commission. For both a 2-year electric  
10 rate plan -- actually, the -- the 9 percent and the 48  
11 percent are -- are recommended for both electric and gas rate  
12 plans. This -- this would provide the Company with an after-  
13 tax rate of return of 7.1 percent in rate year one, 7.06  
14 percent in rate year two, and 7.06 percent in rate year  
15 three.

16 The staff supported this proposed capital  
17 structure and cost of capital provisions, noting that the  
18 cost of capital has fallen appreciably since O and R's  
19 electric rates were last set in 2012 and noting further that  
20 the approach under the JP is consistent with what the  
21 Commission has allowed for other major utilities operating  
22 under multiyear rate plans.

23 For example, in the 2015 Central Hudson rate  
24 order, the Commission allowed a 48 percent equity share and a  
25 9 percent return on equity. Similarly, in the recently

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2 issued Con Edison order, the Commission allowed 48 percent  
3 equity and an ROE of 9 percent. In each of those cases, the  
4 Commission has found that an ROE of 9 percent with a 48  
5 percent equity ratio adequately balances the need to maintain  
6 a utility's financial strength with the -- with the revenue  
7 requirement impact of relatively expensive equity capital.

8 Next I want to turn to provisions in the JP  
9 that are consistent with and will advance the policy  
10 objectives set forth in the Commission's REV framework order.  
11 First, the JP would authorize phase one of the Company's  
12 proposed advanced metering program involving installation of  
13 116 thousand AMI meters and 91 thousand gas meter -- AMI  
14 meters in Rockland County. This would take place over a 5-  
15 year period.

16 The JP would authorize capital expenditures  
17 of up to 10.8 million in rate year one, 8.2 million in rate  
18 year two, and 9.1 million in rate year three. AMI funding  
19 would be separately tracked and reconciled, underspending  
20 would be booked as a regulatory liability, and there would be  
21 no deferral for underspending.

22 The Company would be required to develop an  
23 AMI business plan through a collaborative proceeding. The  
24 business plan would have to consider the feasibility of  
25 providing near real-time access to customers, and authorize

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2 third parties.

3 The AMI business plan would also have to  
4 include a detailed benefit cost analysis, a plan for customer  
5 engagement, including privacy principles, and a customer  
6 outreach and education plan.

7 Finally, the Company's implementation of its  
8 AMI program would have to be coordinated with the filings  
9 made and the Commission orders issued -- to be issued in the  
10 Reforming the Energy Vision proceeding.

11 In its original filing, O and R proposed  
12 deferring construction of a new substation and 138 kV  
13 underground transmission loop in Pomona Rockland County.  
14 These new facilities would have addressed projected load  
15 increases in Northwest Rockland County of between 4 and 5  
16 megawatts. They were estimated to cost 55.7 million dollars.

17 As an alternative, the Company proposed  
18 Pomona Distributed Energy Resources Program. The Company's  
19 proposal included an analysis of the benefits and costs of  
20 several technologies, including air conditioning cycling,  
21 battery based systems, gas fired distribution -- distributed  
22 generation facilities, solar and energy efficiency  
23 initiatives, and substation and transmission investments.

24 The joint proposal would authorize base rate  
25 funding in the amount of 380 thousand dollars per year,

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2 enabling O and R to recover the Pomona DER program costs  
3 expected to be incurred during rate year one and rate year  
4 two, and amortized over a 10-year period. Total spending for  
5 the Pomona DER program would be capped at 9.5 million dollars  
6 -- 2014 dollars. But O and R would be allowed to request  
7 additional funding if it could demonstrate the ability to  
8 further defer the need for the Pomona substation and related  
9 facilities.

10 The Company would also have an opportunity to  
11 earn an incentive if it is -- achieves load reductions above  
12 3 megawatts and/or if it achieves per megawatt cost savings  
13 relative to the per megawatt costs of traditional approach,  
14 the substation and the transmission line.

15 The Company's ability to own DER assets would  
16 be limited to utility-side energy storage and other  
17 circumstances that are described in the REV framework order.

18 The Company would conduct a collaborative and  
19 provide an implementation plan and accounting procedures  
20 within 60 days of the Commission's final rate order. Company  
21 would also be required to file quarterly reports. And I -- I  
22 mention all this to note that they're consistent with the REV  
23 framework order, consistent with the policy objectives and  
24 goals that have been articulated by the Commission in the  
25 context of the REV proceeding.

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2 CHAIR ZIBELMAN: Judge Mullany, I'm going to  
3 -- just because we do have a hard stop at -- at one o'clock,  
4 we have some matters that we have to -- I want to attend to,  
5 I know that we've all read the order and -- and the record in  
6 this proceeding, so I'm going to ask if the Commissioners  
7 have any questions or -- or particular comments before we  
8 take a vote. Because I think we're all familiar with the  
9 order of the JP -- recommend the JPs.

10 Any questions or comments for Judge Mullany?  
11 Or any of the other staff members?

12 Commissioner Burman?

13 COMMISSIONER BURMAN: I just have a couple of  
14 clarifications.

15 The AMI and when it comes back to us in the  
16 business plan and the collaborative, who approves those and  
17 when does it actually come back to the Commission?

18 MR. WORDEN: So -- so the Company is planning  
19 on filing its AMI business plan formally with the Commission  
20 as part of its DSIP filing, which is due next June. So  
21 there's going to be collaborative work between now and then,  
22 but that's -- that's the point it would come back to you.  
23 Essentially a checkpoint where you can give it the go, no-go  
24 point at -- after that point when they file it in June.

25 COMMISSIONER BURMAN: Okay. So then the

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2 Commission will actually be voting on the business plan and  
3 approving it?

4 MR. WORDEN: The Commission will have the  
5 option of doing that. Staff will make a recommendation to  
6 the Commission and then the Commission will decide whether to  
7 move forward with it or not.

8 COMMISSIONER BURMAN: Okay. And then is  
9 there another opportunity for weighing in on the AMI process?  
10 I seem to remember that then there's another one after, with  
11 -- down the road with implementation.

12 MR. WORDEN: There -- there's -- there's  
13 multiple places where you can weigh in on -- on what's going  
14 on. And Staff will be monitoring what's going on and  
15 reporting back to you.

16 COMMISSIONER BURMAN: For Commission action,  
17 itself? It's unclear to me in the order exactly where the  
18 Commission acts and where the Commission just merely is  
19 getting information through filings.

20 MR. WORDEN: The Commission's -- the action  
21 is going to be on the business plan.

22 COMMISSIONER BURMAN: And with the DER  
23 program, where is that in terms of the next steps and any  
24 Commission action on the DER program?

25 MR. ADDEPALLI: Are you referring to the



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2 Pomona Substation One?

3 COMMISSIONER BURMAN: Uh-huh.

4 MR. ADDEPALLI: Clearly, the -- there is some  
5 amount of revenue requirement built in for that project right  
6 now. And the Utility has issued RFPs to solicit non-wires  
7 alternatives. And the -- the Company will come back and --  
8 and file once they want to -- once they select which solution  
9 to go forward. It is expected they'll all be below the cost  
10 of the traditional solutions. And the projects will move  
11 forward based on the solicitation and -- and the Company's  
12 selection of the alternatives.

13 COMMISSIONER BURMAN: Okay. And will the  
14 Commission act on -- on that? The Commission, itself?

15 CHAIR ZIBELMAN: It's my -- it's my reading  
16 of the order is -- is that we're proving today that -- that  
17 Orange and Rockland proceed with the alternative, as opposed  
18 to the substation.

19 MR. ADDEPALLI: Correct.

20 CHAIR ZIBELMAN: And the only reason it would  
21 probably come back to us is that if it proved to be more  
22 expensive than the -- than the projected cost of the  
23 substation. It would be sort of just like any other  
24 approval, when the Company has something in its plan, we  
25 approve the revenue requirements today. And the rates -- the

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2 revenue requirements are allowing them to proceed with this  
3 alternative.

4 MR. ADDEPALLI: That's correct.

5 CHAIR ZIBELMAN: And only if the Company were  
6 to say, hey we can't do that, we got to do something else,  
7 that we would expect to vote on it again.

8 MR. ADDEPALLI: That's correct.

9 COMMISSIONER BURMAN: Clarification. And  
10 then I just -- the other clarification is on page 20 of the  
11 order, it talks about staff as a reference to societal  
12 benefits on DER. And I just want to make sure that that  
13 reference in the order that talks about the increase and the  
14 benefits due to societal benefits is not that we're saying  
15 that, you know, societal benefits should be taken into  
16 account as a whole on all other programs. This is just  
17 referencing staff's --.

18 A.L.J. MULLANY: Yes, I -- I can speak to  
19 that, Commissioner. I -- I read this order as specific to  
20 this proceeding in this case.

21 COMMISSIONER BURMAN: But are we making a --

22 A.L.J. MULLANY: And the Staff's testimony.

23 COMMISSIONER BURMAN: -- are we making a  
24 specific -- specific determination that societal benefits are  
25 weighed in here?

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2 A.L.J. MULLANY: No. What the order does is  
3 it recites a piece of the record.

4 COMMISSIONER BURMAN: Right.

5 A.L.J. MULLANY: And that's part of the  
6 balancing act. But the Commission is not making any findings  
7 relative to that -- its order.

8 COMMISSIONER BURMAN: Okay. I just wanted to  
9 clarify that because it was unclear.

10 CHAIR ZIBELMAN: And just for the record, as  
11 -- as you're aware, Commissioner Burman, we have pending in  
12 front of us the benefit cost analysis recommendation which  
13 does take into account and that will be presented to the  
14 Commission for a vote.

15 COMMISSIONER BURMAN: Exactly. That's why I  
16 just wanted to clarify.

17 CHAIR ZIBELMAN: Yeah, and I -- I understand  
18 that.

19 Commissioner Acampora, do you have any  
20 questions?

21 COMMISSIONER ACAMPORA: In the order, Judge  
22 Mullany, it states that a lot of commenters, particularly a  
23 lot of the towns and villages and also the County of  
24 Rockland, say that they paid the highest utility costs in the  
25 country. Could you just briefly, you know, look at the other

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2 Utility's surrounding area just for a comparison as to  
3 comment?

4 CHAIR ZIBELMAN: I think Mr. Addepalli is at  
5 the ready --.

6 MR. ADDEPALLI: Yes, I can just give you a  
7 quick overview, Commissioner. Clearly Orange and Rockland's  
8 are not the highest. They are higher than neighboring  
9 Central Hudson for the electric customers, but lower than Con  
10 Edison, for example.

11 On the other hand, in the gas billing, for  
12 its typical residential customers, they're even lower than  
13 Central Hudson and lower than Con Edison.

14 COMMISSIONER ACAMPORA: Yeah, I just wanted  
15 that on the record.

16 Also I like the idea of the levelization for  
17 the gas over the 3 years. I think that's the best way to  
18 mitigate some of the hurt in this. And as you discussed in  
19 your presentation, we always deal with this all the time, but  
20 this is -- we have to deal with it, but it's not by our  
21 doing, is the property taxes. They play a large role in --  
22 in these rate cases and that has -- that's at the local  
23 level.

24 We have nothing to do with property taxes in  
25 the state as far as what people pay. So I think that's

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2 important that, you know, towns and villages and counties  
3 have to look at their own situation, but we have to sit here  
4 and balance all of this. The good, the bad, and, you know,  
5 everything else included to try and get something that's  
6 fair.

7 I liked, in the rate case, where you had  
8 workforce development, aging workforce. Everybody's looking  
9 for new people and so programs at community colleges, I would  
10 think, are very important in order to keep a well-trained  
11 workforce with regard also to the expansion of gas in that  
12 particular area, and keeping the system safe by having good,  
13 trained, new, young workers.

14 And also the low-income aspect, and I noticed  
15 that in the 2012, there were concerns about the street  
16 lighting that are now addressed in this particular case. So  
17 I appreciate all of that and congratulations on your first  
18 case, and look forward to seeing you in -- in other ones. So  
19 I -- I appreciate that. Thank you.

20 CHAIR ZIBELMAN: Further questions?

21 COMMISSIONER BURMAN: I'm going to save my  
22 comments for my vote.

23 CHAIR ZIBELMAN: So first of all, I -- I want  
24 to echo Commissioner Acampora's comments. I mean, the -- the  
25 fact that what were one of the drivers of this rate case is -

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2 - is the increase in property taxes. And we're sitting in a  
3 situation where not only are they -- as I understand, the  
4 rates increasing, but the very fact that we're replacing old  
5 infrastructure with new infrastructure is also having that  
6 impact, but we do need to rebuild the system.

7 While I recognize that everyone would like to  
8 see rates not increase, we among them, we need to make sure  
9 and we have a obligation, I think, a responsibility to make  
10 sure that our gas utilities and our electric utilities are  
11 able to invest and continue to invest in the systems to  
12 maintain secure, reliable, and cost effective service.

13 I think the fact that this went through  
14 essentially an evidentiary proceeding because we had  
15 testimony -- we rate -- we had all of the good process that  
16 we normally have in terms of cross examination, data  
17 requests, due diligence and that it ended up with so many  
18 parties agreeing, people who are generally opposed really, I  
19 think, saw that this was -- where we ended up is very  
20 consistent with Commission policy and precedent.

21 And I agree with -- with you that some of the  
22 other attributes of this rate case, the Pomona project is a  
23 very interesting, continuation of our effort to look at  
24 alternatives to traditional infrastructure, the fact that  
25 we're addressing LED lighting, the fact that we're -- there's

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2 a change in the low-income approach, and then also moving  
3 ahead with communication infrastructure advanced metering.

4 I would -- one thing I -- I would want to  
5 note that for my purposes, thinking about the metering  
6 infrastructure, I think that's a necessity of business not  
7 related to REV. So I -- I don't want to suggest that it's  
8 only because we're doing REV that the utilities have to take  
9 a look at their metering infrastructure. The utilities have  
10 to take a look at their metering infrastructure because we  
11 can't continue to use 19th century metering infrastructure to  
12 address 21st century issues.

13 So we do need to begin looking at this. And  
14 I think, through the DSIP process and through the  
15 collaboratives of Con Ed and Orange and Rockland, we're  
16 hopeful that we'll arrive at a -- an approach that we all  
17 feel comfortable is -- is the right approach because there's  
18 a lot of complex issues in -- involved in this. So with  
19 that, it's certainly my intention to vote in favor of the  
20 joint proposal.

21 Commissioner Sayre, I think you had your  
22 chance; right? Or would you --?

23 COMMISSIONER SAYRE: No further comments. I  
24 think it was a very good effort and a very fair result.

25 CHAIR ZIBELMAN: Commissioner Burman?

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2 COMMISSIONER BURMAN: Well, I'm going to be  
3 voting in concurrence and dissent and will be issuing an  
4 opinion on that. I just wanted to state that, overall, I  
5 think that when we look, this does balance the protection of  
6 consumers, fairness to investors, and the long-term viability  
7 of the utility. And it is consistent with the environmental,  
8 social, and economic policies of the Commission and the  
9 State.

10 And it should, as is our standard of review,  
11 produce results that are within the range of reasonable  
12 results that would likely have arisen from a Commission  
13 decision in a litigated proceeding. So it does pass the  
14 standard of review for our approval for it.

15 I am -- I am concerned with the aspects as it  
16 relates to Commission oversight over the DER program, AMI,  
17 and REV. I am supportive of all of those, and moving  
18 forward. But I do caution that I do think that there needs  
19 to be more oversight, not in a way that is trying to choke  
20 the process, but rather to help it and to make sure that it's  
21 as transparent and robust as possible.

22 My -- my views are consistent with my  
23 position on the Central Hudson rate case that we had prior --  
24 previously done, and incorporates that. I am very, very  
25 happy to see the workforce development aspects and first



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2 responder training. I think that is essential, and I think  
3 it strikes the right necessary balance.

4 Overall, it -- it is good. I just caution  
5 that we do have to look at these things and how they relate  
6 moving forward with our generic proceedings. We have a  
7 number of them that are outstanding. And at some point, some  
8 of the generic proceedings need to either close because we're  
9 deciding these in specific cases, or to, you know, come back  
10 and have some resolution because people have put specific  
11 comments in them that need to then match up to the actual  
12 utilities and what we're doing in -- in those processes.

13 So thank you.

14 CHAIR ZIBELMAN: Thank you, Commissioner  
15 Burman.

16 And Judge Mullany, excellent job.

17 Chief Judge Liebschutz, good move having  
18 Judge Mullany in front of us.

19 And thank you again for all the Staff work on  
20 this.

21 So I'm going to move this to a vote. All  
22 those in favor of the recommendation to adopt the terms of  
23 the joint proposal, without major modification as reflected  
24 in the draft order, and described by Judge Mullany, please  
25 indicate by saying aye.

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2 COMMISSIONER ACAMPORA: Aye.

3 COMMISSIONER SAYRE: Aye.

4 CHAIR ZIBELMAN: Opposed?

5 COMMISSIONER BURMAN: And I concur and  
6 dissent.

7 CHAIR ZIBELMAN: So all of those in favor --  
8 because we have three in favor and I'll note your concurrence  
9 in favor in part, the recommendation is adopted. So thank  
10 you very much.

11 I'm going to move to the consent agenda. Do  
12 any of the Commissioners wish to recuse or abstain from  
13 voting on any of the consent agenda items?

14 COMMISSIONER BURMAN: I'm going to be  
15 abstaining on Items 462, 463, and 464. I do note that we  
16 have had -- New York American Water has been actively  
17 acquiring small water systems in New York and we -- and we --  
18 I am very supportive of looking at the small water companies  
19 and our policy as it relates to the acquisition of water  
20 companies and making sure that we are doing our due  
21 diligence, and helping where we need to and making sure that  
22 we have clear policy guidelines as a whole.

23 CHAIR ZIBELMAN: Okay. So with -- with that  
24 -- and I would note that is -- I know that Staff is working  
25 on what I expect to -- which you may not like, but a policy

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2 statement to -- that we can start looking generically.  
3 Actually, I -- I didn't -- I mean, I don't mean that. I  
4 think it might end up in another generic proceeding, but we  
5 do need to -- we are looking at this.

6 I think there's a -- a great deal of interest  
7 on the part of the Commission to look at how we can  
8 consolidate water companies, particularly with companies like  
9 the one that's in -- in front of us today that have operators  
10 who are not capable of either financing or operating, and  
11 that compromises the interest of the public. So I -- I think  
12 we all agree with you. We need to move on that.

13 I'm going to then -- all those in favor of  
14 the recommendations on the consent agenda, please indicate by  
15 saying aye.

16 ALL: Aye.

17 CHAIR ZIBELMAN: Opposed?

18 And noting Commissioner Burman's abstentions,  
19 the recommendations are adopted. Thank you.

20 We're going to take a ten-minute break. I've  
21 asked Commissioner Acampora to actually attend to something  
22 for me in Long Island. So she's going to have to leave  
23 because we don't want her to get a driving ticket. And we  
24 will come back and do the winter readiness, but we'll just  
25 take a short break.

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2 (Off the record at 12:41 p.m.)

3 (The meeting resumed at 12:51 p.m.)

4 CHAIR ZIBELMAN: We're going to do the winter  
5 preparedness for natural gas and electric supply for the  
6 2015-16 winter season. This is a discussion item only.

7 And, Mr. Addepalli, are you going to lead off  
8 the group?

9 MR. ADDEPALLI: Yes. Good afternoon, Chair  
10 Zibelman and Commissioners.

11 As you heard all morning, a regulatory  
12 paradigm rests on two pillars, reliability and price. And so  
13 every summer we have been giving you how we have prepared for  
14 the summer, both from a reliability and the price for the  
15 electric sector. And every winter we've been doing the same  
16 for the gas sector.

17 But starting last year, we started not only  
18 doing the gas for the winter prep, but also the electric.

19 And let me just give you the punchline up  
20 front. We do have adequate resources to meet the needs of  
21 firm customers this winter, both for the gas and the electric  
22 sectors. And we are also looking at lower commodity prices  
23 and hopefully lower bills for consumers, both for the  
24 electric and gas sectors.

25 So what we'll emphasize this -- in this

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2 presentation this winter is more on what are the lessons  
3 learned from the last two winters. The year before last, we  
4 had the polar vortex that taught us some lessons,  
5 particularly for the electric sector, the generation side,  
6 the availability of alternate fuels.

7 Since then we put in protocols last winter to  
8 deal with the issues that came up during polar vortex. And  
9 last winter we also got some additional lessons on alternate  
10 fuels available for the large gas customers in terms of  
11 availability of fuels and we are putting in protocols this  
12 winter to deal with that.

13 So with those lessons, and you'll get a lot  
14 more details, both on the gas and the electric, first from  
15 Dan Wheeler, who will discuss the gas sector preparedness,  
16 and then Leka Gjonaj on the electric bulk power system  
17 readiness, and then Paul Darmetko on the electric prices  
18 finally to finish up with our outreach elements for the  
19 winter sector -- winter season.

20 Go ahead, Dan.

21 MR. WHEELER: Good afternoon, Chair and  
22 Commissioners.

23 It is my pleasure today to brief you on  
24 Staff's annual winter supply review and the readiness of the  
25 State's LDCs going into this winter. Based upon our review

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2 and the representations of the LDCs regarding natural gas  
3 supply readiness for the upcoming winter season, Staff  
4 concludes the following.

5 The LDCs serving New York State have adequate  
6 natural gas supply, delivery capacity, and storage inventory  
7 to satisfy firm customer demands under severe winter design  
8 conditions for this winter. With the continued development  
9 of new supply sources and the increased -- excuse me -- the  
10 large increase in proposed and newly constructed pipelines to  
11 access these supply sources, New York State continues to see  
12 its situation improve regarding reliability of supply, gas  
13 commodity pricing, and gas price volatility.

14 While hedging strategies and assets vary by  
15 company, on average about 48 percent of winter supply is  
16 hedged. Forecast normal weather and lower commodity costs  
17 combine to decrease customer's bills, on average, 10 percent  
18 as compared to actual bills from last year. The LDCs are  
19 auditing systems, processes, and procedures, as well as  
20 scheduling tests to ensure that interruptible customers  
21 comply with the Commission's alternative fuel requirements.  
22 The utility pipeline capacity and supply fulfill the winter  
23 design weather forecast needs at each utility.

24 Improved economics for natural gas due to  
25 abundant supplies in the -- the vicinity of the production

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2 help it with the price situation. I want to make it clear  
3 that there are no issues going into the winter season.

4 CHAIR ZIBELMAN: Just -- you have that NYMEX  
5 gas supply? There's a slide up. We have the NYMEX futures  
6 gas supply slide up.

7 I just -- just like a moment of pause when  
8 you -- you take a look at those differences in prices in  
9 April of 2006 to -- to now, it just speaks volumes for  
10 everything that's going on in these energy markets. I think  
11 that's a slide that should -- we should -- any time anyone  
12 has a question, we should say look at that slide.

13 MR. ADDEPALLI: This has benefits both on the  
14 gas consumers who are consuming gas, but also it follows into  
15 the electric sector as a lot of electric prices are  
16 determined by gas now, so.

17 CHAIR ZIBELMAN: Right. And -- and as we  
18 said on several occasions, also, it's indicative of why we  
19 see issues with respect to some of the generating plants --  
20 older generators and non-gas generators.

21 Keep going. I'm sorry, Mr. Wheeler. I just  
22 couldn't resist the editorial comment.

23 MR. WHEELER: No, that's good. That -- that  
24 agrees with what I was just about to say that generally both  
25 gas prices and the volatility have come down, and you can see

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2 that by the graph. And it provides relative price stability  
3 and just by the flatness of the graph going -- going out.  
4 That little blip there on the far right-hand side is this  
5 winter, the forecast.

6 So natural gas prices are -- can be affected  
7 by many factors. Weather remains the key one. But other  
8 factors that influence gas price include storage inventory  
9 levels, the use of gas for electric generation, the  
10 divergence of oil and natural gas prices, supply disruptions  
11 due to hurricanes, perception of the adequacy of gas  
12 supplies, and environmental policy.

13 As you can see here, all the components and  
14 the commodity price charge to customers have decreased  
15 overall 15 percent statewide. This is the major component of  
16 the forecast customer bills showing on the next slide.

17 As a result, market conditions with extremely  
18 low prices, the LDCs have reduced the level of gas hedge for  
19 their winter supply portfolio. This winter, on average, 52  
20 percent of supply is unhedged flowing gas, 12 percent of  
21 flowing gas is hedged, and 36 comes from storage, which is a  
22 natural hedge.

23 We expect the average resident -- residential  
24 natural gas customer's heating bill to be approximately \$726  
25 this winter, which is about \$83 less than last year due to



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2 lower gas prices and assuming normal weather. But this does  
3 -- does vary by utility.

4 Residential heating customer bills are  
5 forecast to range from 8 to 20 percent lower based on normal  
6 weather and current price expectations.

7 We annually coordinate with NYSERDA and the  
8 oil industry on winter preparedness, which has proven to be  
9 effective in improving communications between oil and gas  
10 heating markets. Interruptible human needs gas customers  
11 that have distillate oil backup must have appropriate oil  
12 storage capacity and sufficient alternate fuel on hand.  
13 Customers lacking sufficient storage space are required to  
14 enter the heating season with oil tanks filled and a contract  
15 for replenishment oil storage inventory.

16 The LDCs must remind their interruptible  
17 customers to replenish oil storage inventories whenever  
18 accumulated gas service interruptions exceed a total of 5  
19 days prior to February 15th. The LDCs will be conducting  
20 tests and may inspect alternate fuel burning equipment of  
21 interruptible customers to ensure compliance with the  
22 requirements.

23 Staff will convene a conference call with oil  
24 dealer associations, NYSERDA, and the utilities whenever  
25 there are interruptions lasting 3 consecutive days or a

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2 forecast of 3 days of continued cold weather of 20 degrees or  
3 below. These calls will ensure that all heating customers  
4 have sufficient supplies of fuel. Interruptible customers  
5 are interrupted during periods of peak consumption of  
6 petroleum products.

7 There are several changes we would like to  
8 make in the protocols, and so we're having discussions with  
9 oil dealers and the LDCs to come to some kind of an  
10 agreement. And we've made these changes or we are  
11 recommending changes to the procedures based on the last 2  
12 winter heating seasons.

13 In conclusion, I'm happy to report that our  
14 review indicates that the LDCs serving New York have adequate  
15 supplies to meet the expected customer requirements for  
16 designed weather conditions this winter. Staff will continue  
17 to monitor supply prices and interruptible customers  
18 throughout the winter and report to you any situations that  
19 would require Commission attention.

20 The growing demand for natural gas in New  
21 York will provide the need for support -- excuse me -- the  
22 needed support for growth in pipeline capacity. Changes  
23 regarding service to interruptible customers as a result of  
24 issues in previous winters will improve system reliability.  
25 A winter with more normal weather, coupled with lower

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2 commodity costs, will result in lower customer bills for this  
3 heating season.

4 CHAIR ZIBELMAN: Thank you -- thank you, Mr.  
5 Wheeler.

6 Before we move on to Mr. Gjonaj, we'll -- any  
7 questions?

8 I do -- I do want to note my appreciation for  
9 the efforts that the Gas Staff has taken. And I know, Cindy,  
10 you've been instrumental in that in starting to work with the  
11 oil industry. In the last two winters, we've had these  
12 emergency panic calls and it's good that we're getting ahead  
13 of that and looking at the processes to -- to avoid those  
14 kind of concerns going forward. So thank you for that.

15 Any questions or comments for Mr. Wheeler?

16 Okay. Mr. Gjonaj?

17 MR. GJONAJ: Okay. Thank you.

18 Good afternoon, Chair Zibelman,  
19 Commissioners. My name is Leka Gjonaj and I'm the acting  
20 Chief of the Department's Bulk Electric System.

21 CHAIR ZIBELMAN: Congratulations for that.

22 MR. GJONAJ: Thank you.

23 I'm here this afternoon to brief you on  
24 Staff's review of the bulk electric systems preparedness for  
25 the upcoming 2015-2016 winter.

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2 At the outset I'd like to say that based upon  
3 this review we conclude that the bulk system is prepared to  
4 reliably meet the State's upcoming winter electric demands.

5 Okay. I show this chart because it shows the  
6 historic summer winter coincident peaks since the year 2000.  
7 It also shows us that what -- what we already -- what we  
8 already know that New York is a summer peaking state and,  
9 therefore, has to have and plan for available resource  
10 capability to meet loads well above those typically  
11 experienced during the winter. The red line is -- is the  
12 historic summer peaks and the blue line there is the historic  
13 winter peaks.

14 Last winter's peak, that is 2014-2015 winter,  
15 was 24,648 megawatts and it occurred on January 7th --  
16 January 7th of 2015. Just for comparison, last year's peak  
17 load was about 1100 megawatts lower than the 2013-2014 polar  
18 vortex winter record of 25,738.

19 The next slide here summarizes the installed  
20 resources and firm external capacity available to the New  
21 York ISO for this winter. The -- the expected capacity is  
22 about 35,922 megawatts. The NYISO is also forecasting a  
23 winter peak load of 24,515 megawatts. After accounting for  
24 daily operating reserve needs of 2,620 megawatts and a peak  
25 load forecast of 24,515 megawatts, there exists a, quote,

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2 unquote, capacity margin of about 8,787 megawatts, or 32  
3 percent.

4 Staff's -- a lot of Staff's effort was  
5 focused on meeting with the major generation facilities'  
6 owners, particularly in the southeast New York where -- and  
7 comprised about 12,000 megawatts of dual fuel generation  
8 capability. Those -- those generators who have the  
9 capability to switch fuels are really important to the system  
10 for flexibility and price -- so reducing price volatility and  
11 that sort of thing.

12 And what we found, when we met with these  
13 generation owners, is that they're essentially continuing to  
14 implement lessons learned from polar vortex winter of 2013-  
15 2014, including increased prewinter onsite fuel reserves,  
16 firm contracts with oil suppliers to maintain minimum  
17 inventory levels, and proactive and aggressive replenishment  
18 plans, and more proactive prewinter maintenance and  
19 facilities preparation.

20 Also for this -- we have in place this -- the  
21 DPS state agencies and NYISO winter fuel waiver protocol,  
22 which there -- there are -- there are times when a generator  
23 is unable to procure the specified fuel as required by its  
24 DEC permit, and there becomes a need to procure off spec fuel  
25 when there's a reliability issue. So we have this -- we have

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2 this group that coordinates all that to -- to process it as  
3 quickly as possible.

4 Okay. Now going on to the NYISO here, among  
5 other activities during the winter period, NYISO closely  
6 monitors generator fuel levels and replenishments. Also  
7 there is increased communications and coordination between  
8 and among the neighboring ISOs and natural gas pipeline  
9 operators, an enhance -- essentially an enhanced situational  
10 awareness.

11 For this winter, the NYISO is going to  
12 implement enhanced operating reserves shortage pricing, as  
13 well as increase total reserve requirements. Also one of  
14 their new -- another tool they'll be using is they'll be  
15 using a new automated generator fuel level and replenishment  
16 monitoring system, kind of get away from that manual sort of  
17 thing, just make it a little easier.

18 And last, our immediate neighbors -- our  
19 immediate neighboring ISOs -- ISO New England and PJM, are  
20 also making their necessary preparations for the upcoming  
21 winter and have publicly stated that their respective systems  
22 are prepared for this winter.

23 That concludes my presentation. Thank you.  
24 And I'd be happy to answer any questions that you may have.

25 CHAIR ZIBELMAN: Questions?

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2 Mr. Darmetko?

3 No questions for Mr. Leka -- Mr. Gjonaj.

4 We'll get it right.

5 MR. DARMETKO: Thank you.

6 Good afternoon Chair Zibelman, Commissioners.

7 I'll be providing you with a summary of how  
8 the electric utilities have performed at reducing the  
9 electric supply price volatility for their full service  
10 residential customers, compare this winter's forecast  
11 electric market prices to last winter's actual prices, and  
12 finally, provide you with an estimate of how full service  
13 residential customer supply bills compare to last winter's  
14 bills.

15 This graph shows the results of the utility's  
16 electric supply price volatility mitigation efforts since  
17 June of 2008. It compares the average New York ISO day-ahead  
18 market price volatility, the red line, with the volatility of  
19 the utility's residential electric supply portfolios, the  
20 blue line. Each point represents the volatility over a 12-  
21 month period, as measured by the coefficient variation.

22 The 2014 polar vortex resulted in increased  
23 market prices and increased price volatility. As a result of  
24 lessons learned from that winter, the utilities modified  
25 certain aspects of their hedging programs. These changes

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2 included increasing a level of fixed price contracts that --  
3 for their residential customers during the winter months from  
4 about 55 percent to 70 percent on a statewide average basis,  
5 as well as certain utilities maintaining multiple portfolios  
6 to better manage price volatility in different regions of  
7 their service territories.

8 This next chart shows this winter's expected  
9 average energy market prices based on NYMEX futures and how  
10 they compare to last winter's forecast and actual prices for  
11 New York City, Hudson Valley, and Western New York. Last  
12 winter's expected energy market prices that we reported to  
13 you last October are in green. Last winter's actual market  
14 prices are in blue. And this winter's expected market prices  
15 are in red.

16 As shown, last winter's actual market prices  
17 were lower than what it was forecast going into the winter,  
18 which reflected the uncertainty that remained from the prior  
19 year's polar vortex experience. Market prices for this  
20 winter are expected to be about the same as last winter's  
21 actuals. But, of course, this could change based on weather  
22 and other conditions.

23 With respect to customer supply bills, we  
24 expect that full service residential customers will spend  
25 approximately 9 percent less this winter than they did last



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2 winter on a statewide average basis. However, this does vary  
3 by utility.

4 That concludes this portion of the  
5 presentation. I'd be happy to answer any questions.

6 CHAIR ZIBELMAN: Thank you.

7 And first of all, I -- I do think -- what I'm  
8 appreciative of is -- is that after going through the polar  
9 vortex and we identified a number of measures and it looks  
10 like between -- among what the ISO has done, what the  
11 generators have done, and our own focus on making certain  
12 that we have dual fuel inventory, that's good.

13 And I do think it -- it is worth noting that  
14 with the fact that both ISO and PJM -- New England ISO and  
15 PJM have put into programs that actually mirror ours in terms  
16 of making sure that there's enhanced reliability because some  
17 of the volatility we saw in pricing was the fact that we --  
18 we were so -- so much -- that they -- they were struggling,  
19 and that created volatility in -- in our markets. In fact,  
20 we were exporting many hours.

21 So I think that all bodes well for customers  
22 going into -- to this winter. And I also think it's good  
23 that we are taking a proactive response with respect to  
24 hedging and that we're looking at our hedging strategies in  
25 light of current market conditions, rather than just

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2 remaining on a single hedging strategy. So appreciative of  
3 both Staff and the utilities for remaining current in -- in  
4 looking at that.

5 Other questions or comments?

6 COMMISSIONER BURMAN: I just want to comment  
7 that you're spot on and I thank you for that and your  
8 leadership in this issue.

9 CHAIR ZIBELMAN: Smart staff makes it easy.  
10 Ms. Keller?

11 MS. O'DELL-KELLER: Oh, sorry about that.

12 My name is Erin O'Dell-Keller and I'm the  
13 manager of Consumer Outreach and Education in the Office of  
14 Consumer Services. I'm going to be very brief.

15 Consumer Services winter outreach and  
16 education program is designed to ensure that New York utility  
17 customers have access to the information and programs they  
18 need to manage their winter energy bills and stay safe this  
19 winter.

20 Staff will continue to monitor the need for  
21 additional outreach and education efforts and will work with  
22 the utilities to make modifications as needed throughout the  
23 winter season.

24 Thank you.

25 CHAIR ZIBELMAN: Thank you, everybody.

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2 So first of all, I know that there's always a  
3 lot of work that goes behind this and all we ever see is the  
4 icing, but it was pretty. And thank you very much.

5 And I have no further questions? Anyone  
6 else?

7 Then we stand adjourned. Thank you all.

8 (The meeting adjourned at 1:12 p.m.)

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2 STATE OF NEW YORK

3 I, Kirsten Lemire, do hereby certify that the foregoing  
4 was reported by me, in the cause, at the time and place,  
5 as stated in the caption hereto, at Page 1 hereof; that  
6 the foregoing typewritten transcription consisting of  
7 pages 1 through 107, is a true record of all proceedings  
8 had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 22nd day of October, 2015.

11

12

13 Kirsten Lemire, Reporter

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