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

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, October 15, 2015
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS

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

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

CHAIR ZIBELMAN: Good morning, everybody. I'd like to bring the Commission meeting to order.

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

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

CHAIR ZIBELMAN: Thank you.

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

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

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

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

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

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

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

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

Consideration of the issues that are

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

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

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

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

Through it all and in the various

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

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

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

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

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

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

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

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

Importantly and significantly,

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

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

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

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

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

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

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

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

Secondly, that a satellite site can only

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receive benefits -- be assigned benefits from one host.

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

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

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

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

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

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

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

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

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

And I'm happy to take any questions.

CHAIR ZIBELMAN: Thank you, Scott.

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

Commissioner Sayre, any comments, questions?

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

So we have to do something in the interim. I think this is a reasonable step, and I look forward to a much deeper exploration of the value of solar as one of the many -- or several of the many arms and legs of our REV proceeding.

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

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

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

COMMISSIONER BURMAN: I was going

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

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

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

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

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

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

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

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

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

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

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

The letter that went out to O and R -- because O and R said this is what we'd like to do, we'd like to somehow notify the customers, and they gave suggested language on what they wanted to do, to notify them that the cap was reaching, and what they were going to do.

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

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

So this order attempts to now say that stands, you can't send out any kind of notice to the customers that the cap may be exceed because there is no cap. We're not increasing it. We're basically floating it, which means there is none.

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

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

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

This petition came about from a letter from O and R, merely in response to their obligation under other orders that said notify us when we reach -- when you're nearing -- reaching your cap, and they did that. We then converted that, via a letter, to a petition to O and R and we sent out a SAPA. Now I did look at the SAPA. The SAPA does say we may extend this to other utilities, but we didn't change the heading of the petition.  It still states O and R. We didn't send out a notice from the secretary to any of the customers outside of O and R territory or any of the utilities.  We just did it by a SAPA notice.

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

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

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

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

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

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

When I look at that, I am concerned that this transition is not a transition to get us from here to there deliberatively, but it actually is going to be a transition forever. And there will be no stop. There will be no opportunity because the -- the inability to go backwards, once we've lifted the cap, I think, is significant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And I do recognize the hard work that has been done and the good intent that has been done. And I do recognize that we are in agreement that this is a transition. We're just not in agreement on what this transition means and whether or not it actually could potentially have significant, unintended consequences, which I feel it does.

Thank you.

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

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

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

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

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

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

And so what I think a problem is -- is that because New York is leading here, the determination of how best to price out distributed energy resources is -- is something that is falling on this state and our initiative to really lead, and that, for me, then the best way to do this, to get the best brains in, which I think we have in New York, between the utilities, as well as the third parties who are a part of REV, to help us identify what's the best economic principle.

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

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

But -- so I -- I join you in wanting a much better picture on how we're going, as fast as we can get there. I think that's the way we've structured this. But in the meantime, I think what we needed to make sure that the industry knew that the Commission was going to allow the utilities to continue to sign up projects under the current net metering construct, ensure we get there so the utilities had the certainty that we weren't going to question them later, the industry knew, and then we had a process where we're inviting everybody to come in, help us think it out, think it out quickly.

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

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

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

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

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

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

CHAIR ZIBELMAN: Yes.

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

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

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

For example, the design of a particular

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

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

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

MR. WEINER: Yeah.

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

MR. WEINER: Of course.

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

MR. WEINER: Right.

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

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

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

MR. WEINER: Right.

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

COMMISSIONER BURMAN: Okay. I -- I understand that. My concern goes to the cost aspect of it. I won't belabor the point. I just will say that, without a true analysis, and who is paying for this, and the cost shifting that is or is not there, and how many -- how many people this affects, I do -- that's why, to me, it comes back to it sounds like we're saying, if it's a better deal for people, they could take it, but if it's not going to be then whatever is currently existing and -- and people do from here to whenever the transition ends -- so in a sense you're almost going to have a rush to get in before that happens.

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

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

MR. WEINER: Right.

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

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

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

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

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

MR. WEINER: 301-C.

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

COMMISSIONER BURMAN: Are we taking them separately?

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

COMMISSIONER BURMAN: Okay.

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

COMMISSIONER SAYRE: Aye.

COMMISSIONER ACAMPORA: Aye.

CHAIR ZIBELMAN: Opposed?

COMMISSIONER BURMAN: Opposed. No.

CHAIR ZIBELMAN: Three ayes and one opposed. The recommendations are adopted. And -- and then I -- I note that you're going to be writing a dissent on that.

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

CHAIR ZIBELMAN: Okay.

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

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

COMMISSIONER SAYRE: Aye.

COMMISSIONER ACAMPORA: Aye.

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

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

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

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MR. WEINER: Briefer now.

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

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

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

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

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

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

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

By designating their entire territories an opportunity zone, we wanted to make sure -- and the order stresses this point -- that the involvement and the participation by low-income customers remains a high priority. And the company is asked to prioritize projects during phase one in order to accommodate any projects which, in fact, provide for low-income participation.

That's it.

CHAIR ZIBELMAN: Thank you.

So any questions on 301-B, or comments?

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

MR. WEINER: Uh-huh.

COMMISSIONER BURMAN: -- increasing the cap?

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

MR. WEINER: Right.

COMMISSIONER BURMAN: Okay. Thank you.

CHAIR ZIBELMAN: Any other questions?

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

COMMISSIONER ACAMPORA: Aye.

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COMMISSIONER SAYRE: Aye.

CHAIR ZIBELMAN: Opposed?

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

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

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

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

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

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

MR. ALCH: Okay.

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

MR. ALCH: I will try to be brief.

Good morning Chair and Commissioners.

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

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

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

Statewide, the associated cleanup cost could approach 4 to 5 billion dollars in total. The Department has been actively engaged with each of our utilities and the DEC, which is the State's lead agency for ensuring that proper remediation protocols are followed to restore the environment.

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

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

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

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

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

MS. MILLER: Good morning, Chair and Commissioners.

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

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

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

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

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

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

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

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

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

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

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

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

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

If KEDNY's petition is denied and incremental recovery is not granted, the net 2014 deferred balance would not be recovered until 2022. And that would grow to about 347 million dollars by 2019, which is shown in green on the chart.

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

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

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

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

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

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

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

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

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

And that's all I have.

CHAIR ZIBELMAN: Thank you, Johanna.

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

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

So with that, I believe that it is the right thing to do to increase the recovery, to make certain that we get to a point -- well, that we can get to recover the deferred expenses, but also to avoid the compounding interest effect, which then, of course, ends up costing ratepayers more for the same expense.

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

Any further questions?

Do you want to start, Commissioner Acampora?

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

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

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

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

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

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

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

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

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

CHAIR ZIBELMAN: Commissioner Sayre?

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

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

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

ALL: Aye.

CHAIR ZIBELMAN: Opposed?

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Hearing all four approved, the item is approved.

Is there a better way to say that?

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

MS. MILLER: Okay. Thank you.

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

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

Staff is recommending approval with modifications because the incremental investments will improve safety and reliability of KEDNY's system. And because we are using customer credits, there will be no bill impacts.

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

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

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

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

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

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

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

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

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

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

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

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

That's all I have.

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

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

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

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

Any further questions or comments?

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

I am on the advisory committee to GTI, the

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

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

CHAIR ZIBELMAN: Okay. Thank you.

Any further comments?

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

ALL: Aye.

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

Thank you, Johanna.

Thank you, Bruce.

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

Judge -- Administrative Law Judge Ashley Moreno will be presenting this. And we have Jeff Hogan, Bruce Alch, Mike Corso, and Debbie LaBelle, also available for questions.

Good morning, Judge Moreno. You’re not Bruce. He’s Bruce.

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

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

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

The joint proposal's terms are consistent with the Commission's goals of a -- of accelerated leak-prone pipe replacement and advance the Commission's policy objectives of ensuring gas safety and reliability. The Commission recently instituted a proceeding to develop a process to accelerate the replacement of leak-prone pipe. The joint proposal is consistent with the objectives of that proceeding.

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

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

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

The joint proposal's provisions are also consistent with Commission decisions in recent rate cases that have applied regulatory liabilities for missing gas safety targets and for noncompliance with the Department's gas safety regulations. The joint proposal is also consistent with the Commission's decision regarding gas system benefit charge funds collected from ratepayers for EEPS efficiency programs where they've not been utilized.

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

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

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

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

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

To put the financial impacts of the joint proposal into context, the safety and reliability charge would collect approximately 1.041 million over the 2-year rate plan. However, at the same time, ceasing collection of the SBC and the return of the approximately 600 thousand dollars of gas funds would result in a total rate impact of approximately 426 thousand dollars over the course of the 2-year term.

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

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

It’s also notable that this joint proposal enjoys support of all of the parties to this proceeding who represent quite a diverse -- quite diverse positions. Signatories are Corning, Trial Staff of the Department of Public Service, Multiple Intervenors, Bath Electric Gas and Water Systems, and the Utility Intervention Unit of the

Department of State.

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

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

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

I intend to vote for the item.

Any further questions or comments? Commissioner Sayre?

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

CHAIR ZIBELMAN: Commissioner Burman?

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

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

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

CHAIR ZIBELMAN: Thank you.

Commissioner Acampora?

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

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

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

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

ALL: Aye.

CHAIR ZIBELMAN: And opposed?

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

Thank you very much, Judge Moreno.

A.L.J. MORENO: Thank you.

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

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

CHAIR ZIBELMAN: Yes.

A.L.J. MORENO: Thank you.

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CHAIR ZIBELMAN: Thank you.

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

Mr. Mullany -- Judge Mullany?

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

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

CHAIR ZIBELMAN: Good morning.

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

CHAIR ZIBELMAN: Is that correct?

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

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

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

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

A.L.J. MULLANY: I’m begging your indulgence, I just -- since this is the first time out for me, I want to acknowledge the support and input of the senior advisory staff and my colleagues in the office of hearings and alternative dispute resolution.

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

CHAIR ZIBELMAN: Thank you. That’s very nice of you.

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

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

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

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

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

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

The settlement continued for several weeks and ultimately led to the filing on June 5th of a joint proposal. The joint proposal is -- is signed and supported by a number of parties having diverse interests. And had this case been litigated, they would have been adverse litigants, in all likelihood.

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

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

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

CHAIR ZIBELMAN: Judge Mullany, you need --.

A.L.J. MULLANY: Closer?

No party claims any procedural irregularity or unfairness.

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

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

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

percent increase on a total bill basis.

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

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

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

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

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

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

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

Thirdly, the levelized increases, under the proposed gas rate plan, would further smooth the impacts of the gas rate increases. There are a number of provisions under the joint proposal that will serve and advance the interests of customers. For example, under the electric rate plan, customer charges would not increase for residential and small commercial service classes.

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

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

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

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

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

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

Between 2009 and 2014, O and R's property taxes increased by an average of 12.9 percent annually. In the 12-month period ending June 30th, 2014 and 2015, the Company's property taxes for electric operations increased by 14.8 percent and 8 percent, respectively. Compared to the final year of the 2012 electric rate plan, O and R's property taxes -- property tax expenses during the first year of the proposed electric rate plan would be 8.238 million dollars higher than in the prior plan.

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

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

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

There's also a deferred balance of 34.034

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commissioner Burman?

COMMISSIONER BURMAN: I just have a couple of clarifications.

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

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

COMMISSIONER BURMAN: Okay. So then the

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

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

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

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

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

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

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

MR. ADDEPALLI: Are you referring to the

Pomona Substation One?

COMMISSIONER BURMAN: Uh-huh.

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

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

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

MR. ADDEPALLI: Correct.

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

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revenue requirements are allowing them to proceed with this alternative.

MR. ADDEPALLI: That's correct.

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

MR. ADDEPALLI: That's correct.

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

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

COMMISSIONER BURMAN: But are we making a --

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

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

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

COMMISSIONER BURMAN: Right.

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

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

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

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

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

Commissioner Acampora, do you have any questions?

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

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

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

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

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

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

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

We have nothing to do with property taxes in the state as far as what people pay. So I think that's important that, you know, towns and villages and counties have to look at their own situation, but we have to sit here and balance all of this. The good, the bad, and, you know, everything else included to try and get something that's fair.

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

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

CHAIR ZIBELMAN: Further questions?

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

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

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

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

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

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

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

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

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

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

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

CHAIR ZIBELMAN: Commissioner Burman?

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

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

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

My -- my views are consistent with my position on the Central Hudson rate case that we had prior -- previously done, and incorporates that. I am very, very happy to see the workforce development aspects and first responder training. I think that is essential, and I think it strikes the right necessary balance.

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

So thank you.

CHAIR ZIBELMAN: Thank you, Commissioner Burman.

And Judge Mullany, excellent job.

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

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

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

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COMMISSIONER ACAMPORA: Aye.

COMMISSIONER SAYRE: Aye.

CHAIR ZIBELMAN: Opposed?

COMMISSIONER BURMAN: And I concur and dissent.

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

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

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

CHAIR ZIBELMAN: Okay. So with -- with that -- and I would note that is -- I know that Staff is working on what I expect to -- which you may not like, but a policy statement to -- that we can start looking generically. Actually, I -- I didn't -- I mean, I don't mean that. I think it might end up in another generic proceeding, but we do need to -- we are looking at this.

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

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

ALL: Aye.

CHAIR ZIBELMAN: Opposed?

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

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

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

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

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

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

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

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

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

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

So what we'll emphasize this -- in this

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

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

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

Go ahead, Dan.

MR. WHEELER: Good afternoon, Chair and Commissioners.

It is my pleasure today to brief you on Staff's annual winter supply review and the readiness of the State's LDCs going into this winter. Based upon our review and the representations of the LDCs regarding natural gas supply readiness for the upcoming winter season, Staff concludes the following.

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

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

Improved economics for natural gas due to abundant supplies in the -- the vicinity of the production help it with the price situation. I want to make it clear that there are no issues going into the winter season.

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

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

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

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

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

MR. WHEELER: No, that's good. That -- that agrees with what I was just about to say that generally both gas prices and the volatility have come down, and you can see that by the graph. And it provides relative price stability and just by the flatness of the graph going -- going out. That little blip there on the far right-hand side is this winter, the forecast.

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

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

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

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

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

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

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

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

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

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

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

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

The growing demand for natural gas in New York will provide the need for support -- excuse me -- the needed support for growth in pipeline capacity. Changes regarding service to interruptible customers as a result of issues in previous winters will improve system reliability. A winter with more normal weather, coupled with lower commodity costs, will result in lower customer bills for this heating season.

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

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

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

Any questions or comments for Mr. Wheeler?

Okay. Mr. Gjonaj?

MR. GJONAJ: Okay. Thank you.

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

CHAIR ZIBELMAN: Congratulations for that.

MR. GJONAJ: Thank you.

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

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

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

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

The next slide here summarizes the installed resources and firm external capacity available to the New York ISO for this winter. The -- the expected capacity is about 35,922 megawatts. The NYISO is also forecasting a winter peak load of 24,515 megawatts. After accounting for daily operating reserve needs of 2,620 megawatts and a peak load forecast of 24,515 megawatts, there exists a, quote, unquote, capacity margin of about 8,787 megawatts, or 32 percent.

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

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

Also for this -- we have in place this -- the DPS state agencies and NYISO winter fuel waiver protocol, which there -- there are -- there are times when a generator is unable to procure the specified fuel as required by its DEC permit, and there becomes a need to procure off spec fuel when there's a reliability issue. So we have this -- we have this group that coordinates all that to -- to process it as quickly as possible.

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

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

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

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

CHAIR ZIBELMAN: Questions?

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Mr. Darmetko?

No questions for Mr. Leka -- Mr. Gjonaj. We’ll get it right.

MR. DARMETKO: Thank you.

Good afternoon Chair Zibelman, Commissioners.

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

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

The 2014 polar vortex resulted in increased market prices and increased price volatility. As a result of lessons learned from that winter, the utilities modified certain aspects of their hedging programs. These changes included increasing a level of fixed price contracts that -- for their residential customers during the winter months from about 55 percent to 70 percent on a statewide average basis, as well as certain utilities maintaining multiple portfolios to better manage price volatility in different regions of their service territories.

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

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

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

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

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

CHAIR ZIBELMAN: Thank you.

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

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

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

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

Other questions or comments?

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

CHAIR ZIBELMAN: Smart staff makes it easy.

Ms. Keller?

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

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

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

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

Thank you.

CHAIR ZIBELMAN: Thank you, everybody.

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

And I have no further questions? Anyone else?

Then we stand adjourned. Thank you all.

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

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STATE OF NEW YORK

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

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

Kirsten Lemire, Reporter