

Monthly meeting - PSC Commission - 1-21-2016

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, January 21, 2016  
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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2 (The meeting commenced at 10:33 a.m.)

3 CHAIR ZIBELMAN: Good morning, everybody.

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

5 Secretary Burgess, any other changes -- or  
6 any changes to the agenda today?

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

9 CHAIR ZIBELMAN: Great. Well, we have sort  
10 of one of those rare days in one's career that you could say  
11 wow, look at what we're doing.

12 So first of all, I want to thank everyone for  
13 being here. And certainly before we begin, because we have a  
14 lot of very important matters in front of us today, I want to  
15 note really our appreciation to the Department of Public  
16 Service Staff.

17 I know this Staff always works really hard in  
18 multiple hours, but I can fully attest that they have -- were  
19 a lot of strained holidays during our Staff because people  
20 have been working really straight through since Thanksgiving  
21 to put these matters in front of us. And I -- I want to  
22 appreciate everyone's time and, frankly, the -- not only the  
23 hard work but I think thoughtfulness that they've gone  
24 through and is -- you know, is -- really appears in front of  
25 us today.

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2           So -- but if I could take a few minutes, with  
3 the indulgence of my fellow commissioners, because of the  
4 nature of the agenda in front of us, I'd like to just  
5 introduce the day and -- and put in a little bit of  
6 framework.

7           Ironically, if you read the New York Times  
8 yesterday, or sadly, it noted that the climate scientists  
9 were saying that 2015 is the hottest year on record and that  
10 the rate of climate change is actually proceeding, in some  
11 respects, as quickly or even faster than people anticipated.  
12 And our state, whether it's climate change or simply large  
13 climatic events, is we certainly first-hand experience  
14 associated with this types of events and the type of  
15 disruption they provide both to people's lives and businesses  
16 and a financial cost to society.

17           So, you know, as Governor Cuomo has observed  
18 this state has both the ingenuity and the ambition to be able  
19 to really start addressing climate change in a -- in a  
20 significant and ambitious way. And not -- and do it in a way  
21 that not only addresses the issue of the environment, but  
22 does it in a way that -- that also provide significant and  
23 substantial economic benefit to all of the state, both in  
24 terms of jobs, reduced cost of energy, better resiliency, and  
25 better reliability, really the heart of REV.

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2 But he's -- he's also made it very clear that  
3 we're not going to get there by accident, but we need a plan.  
4 And that's really what today is all about.

5 So in 2014 when we began the REV proceedings,  
6 this Commission recognized that there were certain  
7 fundamental truisms about the electric industry and that  
8 really compelled us to start re-looking at this -- at the  
9 industry and start taking a different path. So you know, a  
10 number of these we've talked about and we talked about them  
11 in a lot of our REV orders.

12 The first is, you know, the system itself has  
13 become increasingly inefficient. While we've seen slowing of  
14 demand, we've seen increase in kilowatt peaks, meaning that  
15 we're having to make substantial levels of investment for  
16 just a few hours of the year. And that's throughout the  
17 system. It's generation. It's transmission. It's  
18 distribution. And that's -- that's really costly for  
19 consumers.

20 The second is the fact that reliability and  
21 security and resiliency, rather than diminishing in its  
22 importance, have really increased over time. As we see the  
23 electrification of the sector, more and more we realize how  
24 important it is that we have power available 100 percent of  
25 the time with a high degree for reliability.

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2 The other thing we're dealing with is a  
3 really aged infrastructure. This is something that we keep  
4 saying. It's true. It's true throughout the northeast and  
5 that we're going to have to spend billions of dollars a year  
6 to replace that infrastructure, but we have an opportunity to  
7 replace it not on using the technology of the 20th Century  
8 but thinking about how we can use the technologies available  
9 the 21st Century and do so in a much more cost effective way.

10 So in effect, what we're saying and we say --  
11 or what we said in REV is that we have an opportunity to  
12 address all of these issues by really changing the framework  
13 and thinking about the electric -- electric industry is one  
14 that increasingly customer centric, that recognizes the  
15 advantages of technology to make the system both more  
16 efficient, more dynamic, more -- more focused on meeting the  
17 needs of consumers, and that also we have an opportunity to  
18 create this and solution that we can address the  
19 environmental needs, as well as the economic needs, and it's  
20 no longer an either or proposition. It's a both/and  
21 proposition.

22 But that requires us to make certain  
23 regulatory changes and changes of approach to the industry  
24 where we're no longer reliant on simply collecting dollars  
25 from consumers and then deploying them, but really thinking

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2    about animating the private capital, the private markets to  
3    drive efficiency and drive value to consumers.

4           So we -- we did all that. We recognized  
5    those principles and we also identified that there's certain  
6    things that need to achieve -- be achieved. One is we have  
7    to give customers the knowledge and the tools that they need.  
8    You can't simply say to customers we need you to do better if  
9    they don't have the information they need to figure out what  
10   better is.

11           Secondly, we have to think about how we can  
12   use private capital and animate private capital, rather than  
13   just simply doing programs so that we're not just using  
14   ratepayers, but we're really creating businesses around  
15   energy efficiency, businesses around renewable energy that  
16   are sustainable, economically as well as providing important  
17   benefits.

18           The other point that we -- that we talk -- we  
19   stress is improving the efficiency of the power grid. We  
20   talk about the fact that we can save ourselves hundreds of  
21   millions of dollars a year simply by making the use of  
22   electricity more efficient and making the system itself more  
23   efficient.

24           And the last thing we talk about is the  
25   importance of fuel diversity. We're entering into a time

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2       where it's very clear that natural gas is the most cost  
3       effective fuel, but that if we put all our eggs in one  
4       basket, just like a stock portfolio, we'll find ourselves in  
5       trouble. And so we're having to maintain that fuel diversity  
6       is important.

7           We see this happening in New England where  
8       they're really faced with difficulties because they're so  
9       overly dependent on natural gas. And I think it would be a  
10      bad mistake for New York to put itself in the -- in the same  
11      position.

12           So for all of that, we set a number of  
13      different policies and we launched a number of proceedings in  
14      the last year to really thought -- think about well, how do  
15      we change our practices, our regulatory oversight to really  
16      get things going. And in -- really, in a lot of ways, what  
17      we're saying in 2016, we're moving from the ideation and the  
18      -- and looking at -- to the investigation of what we should  
19      be doing, but really into action.

20           And the orders today, before us, in my mind,  
21      are really the first set of orders where the Commission is  
22      really transitioning from saying where do we need to go and  
23      really talking about how are we going to get there. And so  
24      in doing that, I think it is really important that we take  
25      these principles of what we want to achieve and apply them so

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2 that, as we're executing on REV, we're doing so in a mindful  
3 way around what it is that this Commission's mission is all  
4 about.

5 So the first and foremost, I think, in  
6 everything we need to be doing we're looking at how do we  
7 manage cost. We've recognized that ultimately someone's  
8 paying the bill. And part of our job and part of our role is  
9 to do things in a cost effective way. And what we should be  
10 thinking about is how what we're doing not only achieves our  
11 objectives of reliability, security, resiliency,  
12 environmental benefit, but also how does it help consumers  
13 manage their cost.

14 The second is to protect all consumers. Last  
15 week, we dealt with the charter merger. One of the issues  
16 that we talked about in that proceeding was the question of  
17 the digital divide. We have found ourselves in the  
18 communications industry facing an issue where there are haves  
19 and haves nots. We don't want to do that on the electric  
20 sector.

21 As we move towards renewable energy, as we  
22 move towards energy efficiency, it's going to be very, very  
23 important that issues of social justice, issues of assuring  
24 that low income consumers have the same access as everyone  
25 else remain paramount. And that is an important role of this

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2 agency to make sure that occurs.

3 The third is to really promote capital and  
4 economic efficiency. We want to make sure that we hold  
5 ourselves accountable, as well as all the agencies in looking  
6 at what we're really trying to do is get private capital in  
7 and reduce the burden on ratepayers, but really animate  
8 markets. And so thinking about that and financial efficiency  
9 would be important.

10 The other piece is to recognize that our  
11 utilities are going to have to continue to raise enormous  
12 sums of capitals. It's a very capital intensive industry.  
13 It's not going to change and we need our utilities to remain  
14 healthy, too. We're not going to be able to tolerate a  
15 situation where we see them reduce their financial health  
16 because that is only going to end up costing consumers more  
17 money.

18 The other is driving innovation throughout  
19 the sector, looking at everything we do to bring in the new  
20 entrepreneurs, bring in the new thinking.

21 And the other is to ensure investment in  
22 infrastructure. Again, the same point, but as we said in the  
23 A.C. case, we're -- the A.C. Transmission case, we can't  
24 possibly think about an industry where we don't have a robust  
25 power grid because as we think about integrating more

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2   renewables, as we think about dynamic load, we need to  
3   balance both sides.

4           So we need infrastructure on the high side of  
5   the meter, as we say. We also need infrastructure buildout  
6   and software buildout to really manage that load.

7           And then we also, obviously, at all times,  
8   need to be thinking about, in these orders, how is it helping  
9   us achieve our greenhouse reduction goals in a way that's  
10   cost effective for consumers. So in my mind these become  
11   sort of the filters or the -- or the -- that we look at. And  
12   we say, well, how does that measure up against these  
13   objectives. Are we going to -- is this going to help us  
14   achieve these outcomes or is it going to take us away from  
15   it.

16           The last thing I would say that, you know, in  
17   a lot of respects 2 years ago we would have said the dream of  
18   getting to 30 by 50 is a dream that would be very expensive.  
19   I think with the actions that we're taking, both here today  
20   and we've been taking in the last couple of years, what we've  
21   been able to do is position the state to say that not only is  
22   that a realistic goal and not only is it achievable goal, but  
23   it's the one that's going to provide the best economic  
24   outcome for the state.

25           And we've taken the changes in the industry

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2           to make sure we've positioned ourselves and New York that the  
3           environmental objectives and the economic objectives line up  
4           completely.

5                        So I am very excited about today, very  
6           excited about the work that the Staff has done. And I really  
7           do feel that we're turning the chapter to the next stage of  
8           REV. And the orders that we'll be looking at today are  
9           really that next set of whatever we're reading. I could say  
10          it's the next volume of the book.

11                       Thank you very much.

12                       And I'm going to turn now. I think the first  
13          item before us today is Item 201. And that is case number  
14          14-M-0094, which is the proceeding on the motion of the  
15          Commission to consider a Clean Energy Fund.

16                       Peggie Neville who is the Deputy Director of  
17          the Office of Clean Energy will be presenting. Ted Kelly,  
18          Assistant Counsel, is here and he's going to be available for  
19          questions.

20                       Peggie?

21                       UNIDENTIFIED SPEAKER: I'm sorry to  
22          interrupt. I was asked to deliver a letter to the  
23          Commissioners from the Senate.

24                       UNIDENTIFIED SPEAKER: Thank you.

25                       CHAIR ZIBELMAN: Thank you.

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2 UNIDENTIFIED SPEAKER: Sorry to interrupt.

3 CHAIR ZIBELMAN: It would be a hard day  
4 around here without drama.

5 So we're going to move to Item 201. And  
6 Peggie, please present.

7 MS. NEVILLE: Okay. Good morning, Chair  
8 Zibelman and Commissioners.

9 Today I will be presenting Item 201,  
10 Proceeding on the Motion of the Commission to consider a  
11 Clean Energy Fund. This item addresses the proposal  
12 submitted by the New York State Energy Research and  
13 Development Authority, NYSERDA, to --.

14 CHAIR ZIBELMAN: Peggie, I -- I think your  
15 mic --.

16 (Off-the-record discussion)

17 MS. NEVILLE: Okay. I will continue. I'll  
18 be covering the proposal submitted by NYSERDA to establish  
19 and administer the Clean Energy Fund.

20 In its May 8th, 2014, order commencing the  
21 Clean Energy Fund, or CEF proceeding, the Commission  
22 articulated the need for fundamental changes to the State's  
23 approach to clean energy in pursuit of New York's ambitious  
24 clean energy goals while at the same time recognizing the  
25 need for a transparent upper limit on ratepayer collections.

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2 The Commission directed NYSERDA to develop a  
3 proposal for a comprehensive Clean Energy Fund, taking into  
4 consideration the activities of the State's Clean Energy  
5 Policy initiatives, including New York Green Bank, New York  
6 Sun, REV, and the policies articulated in the State Energy  
7 Plan. The Commission also directed NYSERDA to consider the  
8 issue of fuel neutrality. That is allowing for the CEF  
9 initiatives to target any clean energy outcome regardless of  
10 the type of fuel it displaces and to recommend annual  
11 ratepayer collection levels for each year 2016 through 2020  
12 and beyond.

13 NYSERDA filed the original CEF proposal on  
14 September 23rd, 2014. On November 6th, 2014 the Secretary  
15 issued a notice requiring NYSERDA to submit a CEF information  
16 supplement, clarifying and expanding upon a number of topics  
17 and issues. The notice also directed NYSERDA to meet with  
18 parties, including sponsoring a broad forum to seek  
19 additional input, which was held on January 14th, 2015.

20 NYSERDA filed a CEF information supplement,  
21 which I will refer to throughout this presentation as the  
22 proposal, on June 25th, 2015. Following the submission of  
23 the proposal, NYSERDA held two webinars in July of 2015,  
24 providing an overview of the proposal and an opportunity for  
25 interested parties to ask questions which were then

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2           documented in F.A.Q.s filed in the case and posted on  
3           NYSERDA's website.

4                        Initial comments were received on August  
5           14th, with reply comments received on August 28th.  
6           Additionally, Staff issued information request to NYSERDA on  
7           September 17th, which NYSERDA responded to on September 28th.

8                        The Commission received 79 comments,  
9           representing over 100 organizations regarding NYSERDA's  
10          proposal. The comments received indicate overwhelming  
11          support for the CEF. However, commenters expressed many and  
12          divergent viewpoints on a number of elements of the proposal.  
13          Broad themes of parties' comments can be summarized as:

14                      One, transitioning away from successful  
15          resource acquisition programs too quickly before new market  
16          based approaches could be proven.

17                      Two, backsliding on current energy efficiency  
18          goals and, more broadly, whether the CEF at the level  
19          proposed will be able to contribute meaningfully to the  
20          State's aggressive clean energy goals as articulated in the  
21          State Energy Plan.

22                      Three, some parties question whether the 5.3-  
23          billion-dollar ratepayer investment is enough, while others  
24          call for more significant reductions and sooner.

25                      Four, requests for additional opportunity for

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2 stakeholder involvement and comment given the lack of clarity  
3 and detail on NYSERDA's proposed new initiatives.

4           And fifth, the need for transparency and  
5 accountability in the operation of the CEF with regard to  
6 establishment of performance metrics and the tracking of  
7 progress.

8           Given the breadth of the CEF proposal, the  
9 draft order before you is substantial. I will walk through  
10 Staff's recommendations on key policy issues and myself  
11 and/or Ted will be happy to address any other questions that  
12 you may have.

13           Before I get into the substance of the CEF, I  
14 would like to take a few moments to recognize the  
15 recommendations contained in the item before you are made  
16 with the understanding that the Department is currently  
17 analyzing a Clean Energy Standard which may result in future  
18 Commission action.

19           As I will discuss, the CEF is based on the  
20 objectives articulated in the State Energy Plan and,  
21 therefore, Staff believes the CEF would not only be in  
22 alignment with a future Clean Energy Standard, but viewed as  
23 an integral part of driving down the cost associated with  
24 achieving it.

25           Regardless, the CEF process that Staff

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2       recommends acknowledges the evolving nature of the  
3       environment in which the CEF operates and, therefore, builds  
4       an opportunity for the CEF to adapt, as well as for the  
5       Commission to provide future direction as needed.

6           The Clean Energy Fund is intended to  
7       consolidate all of NYSERDA's ratepayer supported clean energy  
8       programs under one umbrella. NYSERDA proposes the CEF as a  
9       5.3-billion-dollar program authorization for a 10-year period  
10      2016 through 2025. The Commission previously directed  
11      NYSERDA to conduct a 2016 RPS Main Tier solicitation to  
12      ensure there is no disruption in large-scale renewable  
13      efforts in 2016. Staff supports this 150-million-dollar  
14      allocation.

15           Overall, the CEF consists of four distinct  
16      portfolios. Two of these portfolios, New York Sun and New  
17      York Green Bank, are familiar and the recommended Commission  
18      actions mainly relate to authorizing the collections to  
19      support these initiatives.

20           The other two portfolios, market development  
21      and innovation and research, represent the two new portfolios  
22      which I will focus my remarks on.

23           The market development portfolio is proposed  
24      to address diverse barriers for various clean energy  
25      solutions, including energy efficiency, distributed

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2           generation, renewable thermal, energy storage, and large-  
3           scale renewables. In contrast to the resource acquisition  
4           approaches of the past, NYSERDA intends to focus on non-  
5           monetary barriers that receive insufficient focus from other  
6           market actors and deploy bridge incentives alongside these  
7           new techniques.

8                         The innovation and research portfolio is  
9           proposed to support energy related environmental research and  
10          business and innovation programs focused in the area of smart  
11          grid systems and distributed energy resource integration,  
12          renewables, building innovations, transportation, and  
13          innovation capacity and business development.

14                        NYSERDA proposes the following overarching  
15          objectives to guide the implementation of the CEF consistent  
16          with the state energy plan, greenhouse gas emission  
17          reductions, energy efficiency and renewable energy  
18          generation, customer bill savings, and the mobilization of  
19          private sector capital.

20                        In the past, the Commission has established  
21          single energy saving targets such as megawatt hours and  
22          dekatherms. While these served a purpose in a pure resource  
23          acquisition model, as we now shift towards more market-based  
24          models, Staff believes a suite of objectives is appropriate  
25          and recommends endorsing the objectives as proposed.

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2 Staff agrees with parties' comments stressing  
3 the importance of holding NYSERDA accountable through the use  
4 of performance metrics. Staff also believes it is important  
5 to quantify the Commission's no-backsliding rule previously  
6 established for energy efficiency. However, Staff is  
7 concerned that the adoption of rigid annual targets may  
8 undermine the Commission's interest in adopting alternative  
9 market transformation approaches that often require a longer-  
10 term horizon.

11 Therefore, included in the draft order is the  
12 establish of minimum performance goals for the 10-year CEF  
13 period.

14 Represented on this slide are Staff's  
15 recommended minimum performance goals linked to the 4 primary  
16 objectives of the CEF. The 10.6 million megawatt hours and  
17 13.4 million MMBTU goals represented as cumulative annual  
18 goals are based on NYSERDA's 2015 EEPS2 goal times 10.

19 The renewable energy goal of 88 million  
20 megawatt hours represents the lifetime goal associated with  
21 the New York Sun program. The lifetime goals of 133 million  
22 tons of greenhouse gas emission reductions, 39 billion  
23 dollars in customer bill savings, and 29 billion in private  
24 investment are based on the estimates -- estimated benefits  
25 included in the CEF proposal.

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2 It is important to note that these represent  
3 a suite of performance goals that are all interdependent upon  
4 one another.

5 One issue that has plagued previous energy  
6 efficiency efforts has been establishing the framework  
7 necessary to cultivate a collaborative relationship between  
8 NYSERDA and the utilities in pursuit of shared objectives.  
9 This is not to diminish the instances of successful  
10 collaboration that have occurred. However to achieve the  
11 State's objectives, this cannot be the exception rather than  
12 the rule.

13 To support this, Staff proposes the creation  
14 of a clean energy advisory council. The council will be co-  
15 chaired by Staff and NYSERDA with required representation by  
16 all utilities engaged in energy efficiency activities. NYPA  
17 and LIPA will also be invited to participate to encourage  
18 statewide coordination.

19 The council will have a structure which  
20 allows for meaningful involvement of a variety of  
21 stakeholders. The council is envisioned to be a venue that  
22 can serve as an incubator of new ideas and approaches that  
23 embraces input from market participants. The council will  
24 develop a prioritized annual work plan which will attend to  
25 specific directives set forth by the Commission and be

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2 required to provide regular written updates on its progress.

3 NYSERDA proposes to file an annual investment  
4 plan including rolling 3-year budget and benefits projections  
5 for the market development and innovation and research  
6 portfolios. Within these portfolios, NYSERDA proposes to  
7 conduct activity on over 117 initiatives during the first 3  
8 years of the CEF and proposes to provide detailed descriptive  
9 and metric information for each initiative in their annual  
10 investment plans.

11 Many of the proposed initiatives may be  
12 worthy of pursuit. However, the proposal lacks sufficient  
13 focus and clarity for Staff to arrive at a definitive  
14 recommendation to proceed as proposed. Additionally, Staff  
15 is concerned with the feasibility of NYSERDA being able to  
16 thoroughly develop and conduct the proposed level of activity  
17 within the initial 3-year period.

18 Evidence of the breadth and diversity of the  
19 proposal is demonstrated by the number and detail of parties'  
20 comments. The record consists of 100 specific statements  
21 supporting 38 discrete technologies or program initiatives.

22 Of the 79 comments filed, 52 voiced support  
23 for a wide array of technologies and programs, arguing  
24 specific initiatives deserved either additional funding,  
25 extended transition timeframes, or programmatic emphasis

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2           within the new CEF. No one technology or program received  
3           significant support over the others.

4           The volume of input demonstrates the  
5           opportunity and general support for the CEF. However, it also  
6           reveals the challenges NYSERDA will face during  
7           implementation.

8           Staff believes NYSERDA must apply a strong  
9           analytical approach to identify the opportunities where the  
10          CEF can most successfully drive change that supports  
11          independent market adoption. To accomplish this, Staff  
12          recommends building upon the investment plan proposed by  
13          NYSERDA by adopting an incremental chapter approach. This  
14          approach allows for continuity of service while allowing for  
15          deliberate transition to new approaches.

16          It enables the investment plan to be more  
17          strategic in its focus, developing the necessary details to  
18          better position the CEF for success. This will provide a  
19          clear articulation of the initiatives for the Commission,  
20          Staff, and stakeholders.

21          As with any sound business strategy, there is  
22          a need to clearly articulate the business case for taking on  
23          the initiative. Each investment plan initiative will clearly  
24          articulate what it intends to achieve, how it will accomplish  
25          it, the timeline it anticipates to do so, and the milestones

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2           and metrics it will establish to determine whether the  
3           initiative is on a path to success.

4                       This information will allow stakeholders,  
5           Staff, and ultimately the Commission to monitor progress and  
6           have a way to determine if the CEF is on track. Staff will  
7           conduct a review of each investment plan chapter within 30  
8           days of filing to affirm it meets the criteria established by  
9           the Commission. At that point, NYSERDA will gain access to  
10          the budget associated with the chapter and begin  
11          implementation.

12                      As discussed, the chapter approach allows for  
13          the necessary continuity of services, positions new efforts  
14          for success, requires NYSERDA to indicate performance metrics  
15          in which initiatives will be tracked against, and recognizes  
16          the evolving nature of the environment in which the CEF will  
17          operate.

18                      Staff recommends the Commission consider any  
19          additional direction it deems appropriate for NYSERDA's  
20          chapter filings, alongside any future commission action on  
21          the Clean Energy Standard.

22                      Now focusing on monitoring, reporting, and  
23          oversight elements of Staff's recommendations. Staff agrees  
24          with stakeholders who call for transparency and additional  
25          opportunity for input. Given the newness of the CEF and its

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2           approaches, Staff recommends a multi-level approach to the  
3           oversight and monitoring that will be placed upon the CEF  
4           while being mindful not to create unnecessary administrative  
5           burden.

6                        On an annual basis, NYSERDA will file a  
7           compiled investment plan and progress report, as well as  
8           reporting already established by the Commission for New York  
9           Green Bank and New York Sun. Staff also recommends annual  
10          informational briefings to the Commissioners. These annual  
11          activities will serve to monitor progress, discuss lessons  
12          learned, and raise areas of concern.

13                      In 2017 and every 3 years thereafter, as  
14          indicated in the green boxes on this slide, the Commission  
15          will conduct a full review including a formal, public input  
16          process. Staff agrees with the majority of commenters who  
17          support the CEF operating on a fuel neutral basis as it  
18          supports a more customer centric approach.

19                      However, Staff is sensitive to the concerns  
20          raised about cross subsidization. Staff recommends that for  
21          any initiative NYSERDA proposes to conduct in a fuel neutral  
22          manner, it demonstrates that fuel neutral approach results in  
23          greater benefits than an electric-only approach.

24                      NYSERDA's proposed ratepayer collection cap  
25          of 585 million dollars represents an immediate 91-million-

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2   dollar reduction in 2016, compared to 2015. NYSERDA proposes  
3   further declining collections in subsequent years for a total  
4   reduction in ratepayer collections of 1.5 billion dollars  
5   over the period 2016 through 2025.

6           Staff finds the collection cap and overall  
7   collection levels contained in the proposal meets the funding  
8   criteria established by the Commission in its initiating  
9   order and recommends approving it. While some parties  
10   propose 5 billion dollars should be a minimum ratepayer  
11   investment that must be increased in order to achieve the  
12   stated SEP goals, we need to balance the interest in  
13   providing direct financial support for achieving these goals  
14   with the Commission's stated objective of establishing a cap  
15   on ratepayer collections.

16           It is important to recognize that the CEF  
17   collections cap should not be viewed as a cap on clean energy  
18   spending in New York. The achievement of New York's goals  
19   will depend on a comprehensive strategy of which the CEF is  
20   only one element to develop the voluntary markets for clean  
21   energy technologies that will require little or no out-of-  
22   market support in the future.

23           As illustrated on this slide, NYSERDA's  
24   collection schedule supports the requested 5.3-billion-dollar  
25   program authorization by a combination of 250 million dollars

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2   of RGGI funds, the repurposing of approximately 1.2 billion  
3   in SBC, EEPS, and RPS program funds and interest earnings,  
4   and 3.9 billion in incremental electric collections.

5           Staff believes the proposal balances the  
6   directive of declining cap while recognizing previously  
7   authorized collections and commitments occurring in this  
8   timeframe utilizes existing uncommitted funds to the benefit  
9   of ratepayers and, with the Staff recommendations previously  
10  discussed, allows the Commission to make a long-term and  
11  meaningful commitment to clean energy in New York.

12           Staff recommends approving the proposed  
13  collection schedules with slight modifications. Staff agrees  
14  that the most equitable approach to supporting fuel  
15  neutrality is to collect the entirety of the incremental  
16  collections from electric ratepayers. The collection  
17  schedules contained in the draft order before you reflect the  
18  proposed 91-million-dollar reduction in total collections in  
19  2016.

20           However, instead of providing total reduction  
21  solely to natural gas ratepayers, Staff recommends providing  
22  relief to both electric ratepayers and -- in the amount of 47  
23  million and gas ratepayers in the amount of 44 million.

24           Staff does recognize the business community  
25  remains concerned about collection levels. However, these

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2       concerns are balanced by the effect any shift may have on  
3       other customer classes. Staff believes the business  
4       community is and needs to be a partner in meeting our clean  
5       energy objectives. And therefore, the draft order calls upon  
6       the Clean Energy Advisory Council with participation from  
7       industry and other stakeholders to consider alternatives that  
8       would maximize voluntary energy efficiency, particularly in  
9       the C and I sector, increased private sector investment, and  
10      consider impacts on all other customer classes.

11                 With regard to New York Green Bank, the draft  
12      order approves collection supporting the additional  
13      capitalization needed to fund New York Green Bank at the 1-  
14      billion-dollar level. The draft order rejects the request  
15      for additional funds for administration for New York Green  
16      Bank, as Staff's analysis indicates it is not needed at this  
17      time.

18                 Due to the growing nature of New York Green  
19      Bank's pipeline, which, based on recent information from New  
20      York Green Bank, reflects an active pipeline in excess of New  
21      York Green Bank's current available capital should all  
22      investments move to execution, Staff does recommend the  
23      Commission approve NYSERDA's request to establish a credit  
24      facility for New York Green Bank.

25                 A credit facility can provide liquidity while

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2           also supporting the declining collection schedule of interest  
3           to the Commission. However, Staff wants to ensure that the  
4           credit facility is not established prematurely, resulting in  
5           unnecessary fees and interest costs. Therefore, Staff  
6           proposes placing appropriate safeguards on its establishment  
7           by requiring NYSERDA New York Green Bank to monitor Green  
8           Bank's pipeline and available capital and make a compliance  
9           filing within 6 months of the anticipated need for the credit  
10          facility.

11                       This would allow time for NYSERDA to conduct  
12           a competitive process and contract negotiations in order to  
13           establish the credit facility.

14                       This concludes my presentation. As stated  
15           earlier, Ted and I are available for questions. Thank you.

16                       CHAIR ZIBELMAN: Thank you, Peggie.

17                       Commissioners, the letter that we received  
18           was, I believe, a letter from the State Senate, asking that  
19           we not proceed on the CEF matter. What I'd like to do is  
20           take a recess so that each of you have a copy of that letter.  
21           You have a chance to review it and then independently we can  
22           consult with counsel.

23                       MS. NEVILLE: Correct.

24                       CHAIR ZIBELMAN: And we will resume and just  
25           so people know so you're not just hanging, like at the

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2   airport, we'll resume at 11:30, and appreciate everyone's  
3   patience.

4                           (A recess was taken.)

5                           (The meeting resumed.)

6           CHAIR ZIBELMAN:  So I hope everyone had a  
7   chance to grab some lunch.

8                           So I wanted to take a couple of minutes and  
9   actually talk about why we recessed because it's obviously  
10  was -- is unusual for us, and we did it out of respect for  
11  the Senate.

12                          We received a letter from the Senate, asking  
13  us not to vote on the Clean Energy Fund and the Clean Energy  
14  Standard proceedings that are before us today.  And they --  
15  the Senate had raised a concern that the benefits of these  
16  programs have not been demonstrated to exceed their cost.  
17  And they also raised concerns about the fact that they felt  
18  there was insufficient public process.

19                          With regard to that, I want to be really  
20  clear that this petition was filed in 2014 and there has been  
21  considerable opportunity for public commentary, both in terms  
22  of a number of public statement hearings and meetings  
23  conducted by NYSERDA, as well as the process for us.  And  
24  there's no question but that we have in front of us a very  
25  robust record that the Commission is looking at and is the

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2   basis of our decision.

3           Secondly, I think it's really important to  
4   note, and while I'm going to talk about this a little bit  
5   more in my actual comments on -- on why I'm voting in favor  
6   of this, that this recommendation, while it recommends a 5-  
7   billion-dollar savings over -- or 5 billion dollars of  
8   collections over 10 years actually represents a savings of  
9   about 1.5 billion over that period beginning with a 91-  
10   million-dollar reduction in collections in 2016.

11           In addition, and we'll -- and Peggie just  
12   talked about this in her comments. Again, I'm going to talk  
13   about this again a little bit more. What this represents is  
14   a 5-billion-dollar collection over 10 years that will allow  
15   us to achieve 39 billion dollars in savings. I don't know  
16   anyone who could calculate that as anything other than the  
17   benefits exceed the cost.

18           The other piece that I think is really  
19   important, and we'll talk about this more, is that one of the  
20   things that we heard very strenuously from the parties to  
21   this proceeding, and I know is a concern shared by all of my  
22   fellow commissioners that it's not enough for us to simply  
23   put something on a piece of paper and say we're doing this  
24   because the benefits exceed the cost.

25           What we're requiring in this order is to have

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2 the same approach in actual measurement of benefits against  
3 cost that one would have if you were representing a company.  
4 In other words, we're spending our own money.

5 So we're requiring NYSERDA, as Peggie noted,  
6 to tell us exactly what they're doing, what they're going to  
7 achieve, how they're going to measure those achievements, and  
8 we're going to be monitoring that continuously. And if they  
9 don't hit it, it is our job to make sure that we change  
10 course and do the right thing.

11 So not only are we ensuring that the programs  
12 or the benefits exceed the cost, but we're going to do our  
13 job and make sure that this is not just someone saying so;  
14 it's someone doing so. And that's what we do. And so that's  
15 something I know has been critical for all of us because we  
16 recognize these are big dollars and we need to do a much  
17 better job of measuring where we're going and achieving what  
18 we want to achieve.

19 On the CES, that is an issue that is -- we're  
20 opening a proceeding today. Like all of our proceedings it's  
21 going to be started with an order. In this case, we're going  
22 to have a Staff white paper that identifies what its  
23 recommendations are for the Commission to do, with plenty of  
24 questions and plenty of comments.

25 But no question that if we didn't start this

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2     proceeding today -- and one of the issues that I think  
3     everyone in the State should share is that we have some  
4     nuclear units who have to make decisions. And we need to act  
5     on this now so that we don't end up having, from our  
6     inaction, a fait accompli and we lose a nuclear unit that we  
7     might want to retain. So -- but we are going to have process  
8     about it.

9           So for that reason and, you know, we have our  
10    counsels looked at this to see if there's anything wrong  
11    about us voting, but I don't believe there's anything in this  
12    letter that suggests or even -- and has even close to any  
13    reason why this Commission shouldn't proceed on these  
14    proceedings. This is our job. We're going to do our job and  
15    I intend to move to a vote.

16           Now, if anyone has any questions? If counsel  
17    wants to add anything in terms of anything that they see in  
18    the letter that would suggest legal imperfection, please let  
19    us know.

20           MS. HARRIMAN: So I just want to confirm, I  
21    can share your statement that the letter does not raise any  
22    legal infirmities in the record or the process applied by the  
23    Commission to get to this juncture. And I want to  
24    specifically note that some of the relief requested in the  
25    letter is for consideration of the disposition of funds from

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2           CEF and other ratepayer-funded programs be considered in the  
3           budget process.

4                       And I want to specifically draw your  
5           attention to the separation of powers. There is a  
6           legislative authority and that authority creates the state  
7           budget and those funds are derived from tax rolls and other  
8           sources of revenues. This Commission has a hundred-year  
9           history, a strong history in rate setting authority. And  
10          what's before you is a question of exercising that authority.

11                      The Public Service Law vests you with the  
12          ability to set rates. Rates can be set on more than just  
13          cost of service. They can be set to effectuate policy goals.  
14          Public Service Law 5, sub-division 2 allows you to set rates  
15          for programs that are in furtherance of the environmental  
16          goals of this state. And what you're doing today is  
17          consistent with your legal authority.

18                      CHAIR ZIBELMAN: Thank you.

19                      So with that, we'll all take a breath. We'll  
20          all count to ten. I'd like to move on.

21                      So let me start. And as I, you know, as  
22          obviously it is my intention to vote in favor of the Clean  
23          Energy Fund. The first instance I think that NYSERDA has  
24          done what the Commission asked them to do, which is really to  
25          take a look at how to change our approach to clean energy,

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2           and particularly their role from looking at a procurement  
3           mechanism to one that looks at a transformative basis of  
4           using state ratepayer collections as a way to animate private  
5           market, as well as R and D, and to really get where we want  
6           to go at a lower possible cost with a great deal of leverage  
7           going on so that it's not simply grants anymore, but it  
8           really is facilitating and animating a market.

9                        I think that the -- the concept of having  
10           both the market development and research accompanied by both  
11           the Green Bank and New York Sun does exactly what the  
12           Commission ask NYSERDA to do when we -- when we asked them to  
13           develop the Clean Energy Fund.

14                       But the other point is -- is the fact that,  
15           you know, as we've talked about -- as I've talked about, the  
16           -- you know, really what I'd like to see now is a -- is this  
17           culture of accountability and -- and measurement.

18                       So one of the things that the Staff required  
19           is -- is that we don't just say we're not going to backslide,  
20           but that we put real points on the page. And so we're  
21           looking at 39 billion dollars in savings associated with the  
22           5 billion dollars in collections.

23                       If you want to put this in real terms that  
24           most people can understand, this is about -- if you look at  
25           it over time with the reduction starting in 2016, which ends

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2   up, as I said, being a reductions every year -- well, I think  
3   it's about 1.5 billion?

4           MS. NEVILLE: Over the 10 years, yep.

5           CHAIR ZIBELMAN: Over the 10 years, we're  
6   going from about \$3.90 a month for average residential  
7   customer to \$2.30 amonth for an average residential customer  
8   by the end of this period in real dollar terms. At the same  
9   time, my Staff -- the Staff has calculated that's about \$19  
10   dollars in savings. That to me seems benefits outweigh  
11   costs.

12           The other point is -- is that those numbers  
13   and the metrics that -- that Peggie talked about in terms of  
14   CO2 emission savings, MMBTU are, if you think about it from a  
15   dollars amounts in terms of megawatts of renewables, we're  
16   talking about 1700 megawatts of wind or 3400 megawatts of new  
17   solar, enough to power, on average, 480,000 homes. The CO2  
18   savings represent, according to our calculation, about 2,000  
19   megawatts of fossil fuel being eliminated from our footprint  
20   in New York or 1.8 million cars off the road, however you  
21   want to look at it.

22           In terms of energy efficiency, that's about  
23   1.2 million homes getting more energy efficiency. So I -- I  
24   think that from that standpoint, you know, putting those on  
25   the page, saying that we're going to hold you accountable,

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2 there's no question that we're putting ourselves on the road  
3 where we need to go both as a state and as a society.

4 So the other piece though -- and I think this  
5 is -- this is really important. I said it before and I'm  
6 going to stress it again.

7 One of the things that Staff looked at and  
8 that we heard a lot of the stakeholders talk about this,  
9 great vision. We embrace the idea too much. Unclear where  
10 you're going, we need a lot more focus.

11 So what we've said is -- is that we're going  
12 to focus this down. We're going to create this chapter  
13 approach and in each type of initiative NYSERDA's going to  
14 do, they're going to have a clear benefit and cost. They're  
15 going to have their metrics. They're going to have their  
16 measures. And we're going to be watching that not only every  
17 quarter, not only every month, but every year we're going to  
18 be back in front of the Commission, looking at these  
19 programs, are they working, and in every 3 years we're going  
20 to take a really good hard look to see if we need to change  
21 course correction.

22 But we've also asked NYSERDA to develop a  
23 dashboard so that it's easy for everybody to look at this.  
24 So this is an abundance of transparency. I don't know  
25 anywhere in government where you're going to be able to see

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2 are we hitting our metrics, are we doing what we want to do,  
3 and if not what are we going to do about it.

4 The other piece -- and I think that, you  
5 know, a lot of this is always directed towards what if they  
6 don't get where they want to go. The other element of this,  
7 which I think is important, is I think actually NYSERDA's  
8 going to exceed expectations in a lot of areas.

9 And so as -- I know we've talked about before  
10 if in fact they're getting where we want to go faster in one  
11 area, we may say well then maybe you should move the money  
12 somewhere else where it is not exceeding so why do we put  
13 money into something that the market is already doing for us.

14 And if we really are getting there faster the  
15 Commission's going to have every opportunity in the future to  
16 say, well, maybe we don't need to collect so much, because  
17 we're getting there where we want to go and we're using  
18 private money rather than ratepayer money.

19 So this has -- you know, there is a sort of  
20 glass half full and glass half empty, but I think what this  
21 does is it makes it a really a clear glass. We're going to  
22 see what's going on and we're going to be able to take  
23 actions as necessary, given our responsibility. And I know  
24 that this Commission and future commissions will do that  
25 well.

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2 The other piece about this is in terms of the  
3 other elements that I find very important about this plan.  
4 One is, as Peggie mentioned, is the collaborative approach.  
5 I heard from the beginning days that I was here, I'm sure  
6 Patty can talk about her experience, we got to put an end to  
7 the idea of utilities and NYSERDA competing. They're not  
8 competing.

9 And, you know, in business we call it coop --  
10 co-optition rather than -- rather than competition. They're  
11 going to work together. We're going to -- we have a single  
12 goal, single state, single aim, single set of ratepayers, and  
13 we're going to insist that we're working together to make  
14 sure that we're leveraging both sides of that equation and  
15 we're going to have staff in the room to make sure that  
16 everyone stays honest.

17 The other piece that we're asking that happen  
18 with this group, the clean energy advisory group is that we  
19 seriously look at this -- not seriously. We've asked them to  
20 come back to us and address the concern that the business  
21 community has raised. You know, I took a look and Newsweek  
22 recently published the top green companies in the United  
23 States.

24 And taking -- taking a page out of  
25 Commissioner Burman's -- I actually went outside -- went --

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2       did some little bit of research myself to see what was there.  
3       And the top 10 companies, Biogen, Allergan -- this is U.S. --  
4       Adobe, Broadcom, Sigma, Hershey, Ecolab, Coca-Cola, Aflac,  
5       Mead Johnson Nutrition Company. These are all companies who  
6       are the top 10 environmental company, sustainability  
7       companies in the U.S.

8           I can guarantee you each of them are doing  
9       this not because it's simply because they want to be  
10      environmental stewards, because they're looking at the triple  
11      bottom line. They know it's good for their shareholders, as  
12      well as for their reputation in -- in -- to their customers.

13           Consequently, that's the kind of thing we  
14      want to do in New York. We want to encourage companies who  
15      are willing to step up and be sustainable on their own and  
16      put their own dollars at work to get rewarded for that. So  
17      part of the work that we're asking this collaborative to do  
18      is if there are companies are to say, hey, I'll go a hundred  
19      percent green, hey, I'll spend a lot of money on energy  
20      efficiency, we should be encouraging that and giving them  
21      true economic benefit.

22           So one of the things I've asked this group to  
23      look to come back with is a showing on how we're actually  
24      going to do it because it's something I know the business  
25      community has been asking for. We did the self-direct

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2           program with the utilities. It's time to expand that with  
3           the CES and I'd like to expand that with the NYSERDA programs  
4           as well. So that -- that is not just a let's talk about it,  
5           it's a truly let's do it in the order.

6                        The other thing that we -- we talk about in  
7           the order is the issue of innovation. One of the things  
8           that, you know, we've done in REV with -- with demos is to  
9           recognize that we have to innovate around business models.  
10          It's, you know, apparent to all of us. I mean, we're  
11          regulators. You don't normally think of regulators as the  
12          most innovative people around. And guess what? We normally  
13          don't think of utilities as the most innovative companies  
14          around. But we're entering into a world, just like we did in  
15          other types of industries, where the ability to innovate, the  
16          ability to attract innovators in business models, as well as  
17          technology, is going to win the day.

18                       So part of the work that we want of this  
19          collaborative and also working with new innovators who want  
20          to come in and add value is have this not as a simply we're  
21          going to do, but a cultural change that goes throughout both  
22          what we do and what the industry does.

23                       And then the other piece is that I -- I think  
24          is really important is that for energy efficiency. We're  
25          going to be talking about the Clean Energy Standard in a

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2     little bit, but it's really clear to me that we'd need a  
3     similar type advance way of procuring energy efficiency. And  
4     we've asked that they -- that this group work together that  
5     they come back to us with a proposal. And I can guarantee  
6     you if we don't get one soon enough, we'll do it ourselves.  
7     But we absolutely need to improve how we procure energy  
8     efficiency in the state.

9           And lastly is the issue of the Clean Energy  
10    Standard. There's no question that the -- that our Clean  
11    Energy Standard, which we will be talking about in a little  
12    bit, and the Clean Energy Fund are sort of like those -- you  
13    know, are Siamese twins. They got to work together, they got  
14    to be reflective of each other, and they have to be  
15    consistent throughout.

16           So one of the things that I do expect, as --  
17    as Peggie mentioned, is that once we get the Clean Energy  
18    Standard developed, we will want to look at the Clean Energy  
19    Fund and we'll want to take a pause to make sure that  
20    everything we're doing is consistent. At this point, I think  
21    they will be, but on the other hand I want to make sure that  
22    that is true, not just a hope.

23           So with that, I think that providing the  
24    continuity, providing the certainty, making sure that  
25    everyone understands that this is a real commitment of the

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2       State, we're going to get to these benefits and we're not  
3       going to be questioning ourselves, but in the meantime we're  
4       going to have the processes involved to make sure that it's  
5       not just a dream but a reality. It involves me to say I  
6       highly recommend that we vote for -- for this recommend --  
7       for this order.

8                       With that, I will turn it over to my fellow  
9       commissioners. Gregg, did you want to proceed?

10                      COMMISSIONER SAYRE: I'd like to start with a  
11       brief response to the letter that we received this morning.

12                      The Public Service Commission is an  
13       independent regulatory agency. We have our own process and  
14       it's a transparent process. We followed that process with  
15       extensive input in this proceeding from the public and from  
16       all interested parties.

17                      I sincerely respect the signatories to this  
18       letter, but I don't see anything in the letter that would  
19       move me to derail our process at this time.

20                      Now, I'll move to my comments on the item  
21       that's in front of us right now, the Clean Energy Fund order.  
22       There are a number of elements in this order that I  
23       particularly like. I'll be very brief because Chair Zibelman  
24       has already mentioned them all.

25                      CHAIR ZIBELMAN: Sorry.

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2 COMMISSIONER SAYRE: First, it caps and  
3 reduces the amounts that we're asking ratepayers to invest in  
4 clean energy. Clean energy is very important, but we need to  
5 make sure that we're very carefully limiting and targeting  
6 ratepayer funding and stimulating private investment wherever  
7 it's possible.

8 Second, it takes a large step toward getting  
9 rid of competition between programs that are run by NYSERDA  
10 and programs that are run by utilities, both of which are  
11 funded by ratepayers. Competition is generally a good thing,  
12 but it isn't necessarily beneficial if both sides are being  
13 funded by a -- a group of customers, the same group of  
14 customers.

15 Third, the review and evaluation of the  
16 progress of the clean energy initiatives are much more  
17 continuous under the proposed order than they are now. They  
18 are more iterative. They are better milestones. That are --  
19 there are better metrics. There are more checkpoints. And  
20 there are clear opportunities for us to do what we've done  
21 sometimes in the -- in the last couple of years, take a look  
22 and see what's not working and, if necessary, make some  
23 changes where appropriate. We will not hesitate to do that.

24 So with that, I will be voting for this item.

25 CHAIR ZIBELMAN: Commissioner Acampora?

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2 COMMISSIONER ACAMPORA: Well, everyone has  
3 spoken very eloquently and I don't want to beat a dead horse.  
4 I will say with respect to the letter that we received, the  
5 letter was dated today and I think that there has been more  
6 than enough opportunity. In fact, through the years, the  
7 Legislature at times has been annoyed that our process took  
8 too long. So there really is no merit to the request that's  
9 being made here.

10 You know, over the years, as the Chair had  
11 said, there's been a rivalry between NYSERDA, the utilities,  
12 and even some with our own agency. This is the time where  
13 everybody needs to step up and join together and really lead.  
14 And New York is doing that.

15 So to continuously put up obstacles in the  
16 way of moving forward and making real progress and making New  
17 York a leader that the rest of the country can actually see  
18 what we're doing and we don't mind being copied because it's  
19 the right thing to do.

20 And we've learned a lot from our past EEPS  
21 experiences. And I agree wholeheartedly what the Chair has  
22 said and what Commissioner Sayre has said with regard to  
23 making sure we're holding everyone's feet to the fire. This  
24 is not going to languish. When something needs to be fixed,  
25 it's going to get fixed.

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2 And my favorite word, as usual, is  
3 flexibility. And this really builds in the flexibility  
4 factor that's really important as we move forward.

5 So there's a lot of good things in here. I'm  
6 really happy with the chapter approach. I think that it's  
7 really innovative and it's going to be a real positive effect  
8 on what we're trying to get done.

9 So I think that, you know, we've had a  
10 process. It's been a long, drawn out process. I really  
11 appreciate all the Staff's work on this. I know this was not  
12 easy and the Chair mentioned it. This has been a long road,  
13 but it's a road to going forward in a way that really -- it  
14 enhances the consumer's availability and knowledge of what is  
15 going on out there and it also re-invents our utilities.

16 I think, you know, we're really moving  
17 forward as a showcase in the 21st century. New York has a  
18 lot to be proud of. And for those people who still may have  
19 suggestions, if they think something is wrong, they have the  
20 availability to make sure that they let us know and we'll  
21 certainly take a look at it. But today is a day to move  
22 forward.

23 CHAIR ZIBELMAN: Thank you.

24 Commissioner Burman?

25 COMMISSIONER BURMAN: Because I understand

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2           that we'll be voting on these all at the end, I'm going to  
3           save my remarks, as I did back in December of 2013, I  
4           believe, where we dealt with a number of related REV issues.  
5           I think it's important for me to do the same. Thank you.

6           CHAIR ZIBELMAN: So what I'm going to do is  
7           we'll move now to the ETIPs matter. And then we will address  
8           the BCA and then we'll address the CES And then we will vote  
9           as a group on all of those.

10           But I would like to -- we'll take comments  
11           after the ETIPs matter.

12           So Deb LaBelle, our next matter before us is  
13           what my handy-dandy -- is the Item Number 0548, which is the  
14           motion on the -- of the Commission on the -- no, that's the  
15           wrong item. It's in the Matter of the Utility Energy  
16           Efficiency Programs, which is Matter Number 252.

17           CHAIR ZIBELMAN: And Debra LaBelle will be  
18           presenting that to us.

19           Welcome, Deb.

20           MS. LABELLE: Thank you.

21           Good morning, Chair Zibelman and  
22           Commissioners.

23           As the chair stated, I'll be -- I'll be  
24           presenting Item 202, which addresses Utility Energy  
25           Efficiency programs.

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2 (Off-the-record discussion)

3 MS. LABELLE: It addresses utility energy  
4 efficiency programs and authorizes budgets and targets for  
5 those programs for the years 2017 and 2018.

6 Before I discuss the recommendations in the  
7 draft order before you, I'd like to provide a little bit of  
8 background. Through the end of 2015, utilities implemented  
9 energy efficiency programs under the Commission's Energy  
10 Efficiency Portfolio Standard, or EEPS.

11 Programs under EEPS were typically resource  
12 acquisition programs oriented toward direct rebates and  
13 subsidies to encourage customers to employ more efficient end  
14 use equipment and systems. In a February order in the REV  
15 proceeding, the Commission took steps to reform the retail  
16 electric industry and, as part of that reform, established a  
17 new framework for the implementation of energy efficiency  
18 programs by investor-owned electric utilities.

19 In a June order in this proceeding, the  
20 Commission adopted that same framework for efficiency  
21 programs implemented by investor-owned gas utilities.

22 The new framework provides utilities with  
23 increased flexibility in the design and management of their  
24 programs, as opposed to the specific program authorizations  
25 that were necessary under the EEPS framework and requires

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2           utilities to begin using more market-based approaches to  
3           drive a greater value for customers and to gradually evolve  
4           their efforts to align with both REV and the new market  
5           transformation approach of NYSERDA.

6           The February and June orders established a 3-  
7           year program cycle whereby on an annual -- on an annual  
8           basis, the Commission will authorize a third year of energy  
9           efficiency funding and targets providing at least 2 years of  
10          market certainty.

11          To initiate the first cycle the Commission  
12          maintained the 2015 budgets and targets for 2016 and directed  
13          the utilities to propose budgets and targets for 2017 and  
14          2018 in budgets and metrics plans to be approved by the  
15          Commission.

16          In addition, the Commission directed the  
17          utilities to file Energy Efficiency Transition Implementation  
18          Plans, or ETIPs, outlining the planned programs for the 2016  
19          through 2018 cycle, not for Commission approval but to inform  
20          the authorization of the proposed budgets and targets.

21          In compliance with the Commission directives,  
22          the utilities filed budgets and metrics plans and ETIPs on  
23          July 15th, 2015. Pursuant to the State Administrative  
24          Procedure Act, the budgets and metrics plans were published  
25          in the State Register on August 5th, 2015. In addition, on

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2           the same date, the Secretary issued a notice soliciting  
3           comments on both the budgets and metrics plans and the ETIPs,  
4           setting dates for both initial and reply comments.

5                        During the review period, Staff issued  
6           information requests to each utility regarding the proposed  
7           budgets and targets, as well as program details outlined in  
8           the ETIPs in order to gain more insight and to the planned  
9           energy efficiency activities. Staff information requests and  
10          utility responses to those requests were filed with the  
11          Secretary. 9 sets of initial comments and 2 sets of replies  
12          were received in response to the SAPA and the notice  
13          soliciting comments.

14                       In general, those providing comments  
15          characterized the ETIPs as underwhelming, lacking in  
16          innovation, and largely business as usual. Commenters  
17          expressed concern that utilities had not gone far enough in  
18          the integration of energy efficiency with demand response,  
19          demand reduction, and other REV initiatives and also failed  
20          to address coordination among utilities and NYSERDA.

21                       With regard to budgets and targets, those  
22          providing comments generally agree that the Commission should  
23          authorize increased budgets and targets for utility energy  
24          efficiency initiatives during 2017 and 2018.

25                       Staff agrees that the ETIPs largely maintain

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2           existing programs. However, those programs serve to ensure  
3           continued support for utility energy efficiency initiatives  
4           during the evolution of REV. ETIPs are, by their very name,  
5           transitional and the current ETIPs represent the starting  
6           point in their shift for more traditional programs  
7           implemented under EEPS to those approaches envisioned under  
8           REV. And as REV evolves, Staff expects future ETIPs to  
9           evolve as well.

10                         With that said, the ETIPs do include  
11           fundamental first steps toward a new energy efficiency  
12           paradigm, including the use of new technologies to assist  
13           with load control, tools designed to increase customer  
14           engagement such as web-based educational platforms and e-  
15           commerce sites, and efforts to engage third party providers.

16                         And although this is a good starting point,  
17           the draft order direct Staff to work with the utilities to  
18           create procurement mechanisms that appropriately value energy  
19           efficiency as a means of achieving permanent load reduction  
20           and load shaping, allowing third parties in the market to  
21           identify least cost solutions and to reduce total bills.

22                         These efforts will be undertaken by the clean  
23           energy advisory council discussed earlier by Peggie and also  
24           Chair Zibelman and in detail in the draft Clean Energy Fund  
25           order.

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2 The draft order before you reaffirms the  
3 previously authorized budgets and targets for 2016 and  
4 maintains those budgets and target levels for both 2017 and  
5 2018.

6 Slide one outlines the recommended annual  
7 electric budgets and megawatt hour targets. As you will see,  
8 if approved, electric utility annual budgets will total  
9 approximately 180 million dollars with a corresponding  
10 megawatt hour target of 550,000. The last line of the table  
11 illustrates the total electric utility budget and megawatt  
12 hour target over the entire 2016 through 2018 program cycle.

13 Slide two displays the same information for  
14 gas utility programs with a total gas utility annual budget  
15 of approximately 61 million dollars and a corresponding  
16 target of approximately 1.7 million dekatherms.

17 Staff's recommendation to maintain budgets  
18 and targets at the current levels is consistent with the  
19 Commission's desire to cap and gradually reduce surcharges.

20 Maintaining the current annual energy  
21 efficiency budgets funded through surcharges and the  
22 associated energy savings targets will prevent backsliding  
23 and market disruption as a clean energy advisory council is  
24 established and begins its work to foster a more coordinated  
25 approach to energy efficiency programs across the state,

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2           identifies and addresses market gaps and program overlap, and  
3           provides a clearer path forward. Until that path is better  
4           understood, it would be premature to make changes to the  
5           current levels of surcharge-funded energy efficiency budgets  
6           and targets.

7                         Staff's recommendation to maintain current  
8           budget and target levels also recognizes that utility  
9           investment in energy efficiency is not limited to the funding  
10          authorized in the draft order. Under REV, additional  
11          investment and energy efficiency will be incorporated into  
12          utility distributed system implementation plans, as well as  
13          REV demo projects.

14                        Staff, therefore, recommends that the budgets  
15          and targets authorized by the draft order be considered the  
16          minimum expectation for investment in and savings acquired  
17          through utility energy efficiency efforts.

18                        That concludes my presentation and I'd be  
19          happy to answer any questions you might have.

20                        CHAIR ZIBELMAN: Thank you, Deb.

21                        Are there any questions for Ms. LaBelle?

22                        Okay. I believe that this order does strike  
23          the right balance. The picture in my mind is my  
24          granddaughter is learning to ride a two-wheeler with training  
25          wheels, put her on the bike but we still have the training

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2       wheels and couple -- in a year or so we expect those wheels  
3       to come off. And that's exactly where we are. We're going  
4       to be doing the DSIPs, but we need to continue to maintain  
5       where we are as we think about moving towards the future and  
6       not create disruption in the market.

7           I think, while, as Deb noted, there was a lot  
8       of concern that they -- that folks didn't see the changes  
9       they were anticipating, I'm confident that with both the DSIP  
10      filings and with us continuing on with REV and the  
11      development of these markets, we will get there, and we'll  
12      get there not in due time, but we'll probably get there  
13      faster than we anticipate. So I intend to support the order.

14           Any further questions? Comments?

15           Thank you.

16           All right. Moving on. Mr. Weiner, the third  
17      item before us is Item 203 and that's the proceeding on the  
18      Commission in regard to the Reforming Energy Vision and  
19      specifically as it relates to the development of a benefit  
20      cost analysis.

21           And while folks are sitting down, Scott  
22      Weiner will be presenting that for us today.

23           MR. WEINER: Just getting my team assembled.

24           CHAIR ZIBELMAN: And Warren Myers and Len Van  
25      Ryn will be joining him.

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2 UNIDENTIFIED SPEAKER: Just to give you my  
3 legal perspective.

4 MR. WEINER: And Len's going to offer his  
5 economic analysis.

6 CHAIR ZIBELMAN: Generally, I find lawyers  
7 make better economists and economists make better lawyers.  
8 So it's good with me.

9 MR. WEINER: Len would agree with that.

10 CHAIR ZIBELMAN: And we all make better  
11 engineers and accountants. Okay.

12 MR. WEINER: Okay.

13 CHAIR ZIBELMAN: Mr. Weiner, welcome.

14 MR. WEINER: Okay. Thank you, Chair Zibelman  
15 and Commissioners.

16 This matter pertains to the adoption of a  
17 benefit cost analysis framework, certainly keeping in the  
18 theme for the day.

19 Before I begin, I want to expressly  
20 acknowledge the work of a team of people who have been  
21 laboring at this for quite some time. And that team is led  
22 by Warren and Len and also Marco Padula.

23 In light of the time, I'm going to be  
24 uncharacteristically brief. The consideration of today's  
25 draft order was preceded by the issuance of a Staff white

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2   paper.  In July we received, as one would expect, robust  
3   comments by interested parties.  Those comments are contained  
4   and summarized in some detail in the order that's before you  
5   now.

6           The BCA and its development and consideration  
7   by you today is grounded in the objectives of REV that you  
8   discussed earlier, Chair Zibelman.  And together, they  
9   reflect the fundamental precept that clean energy deployed at  
10  scale holds a potential to address environmental and energy  
11  challenges while unlocking economic potential for New York.

12           The BCA is a tool that's going to enable  
13  informed decisions based on a consistent approach to  
14  comparing benefits and cost that will lead to the efficient  
15  and strategic investment decisions that are going to be made  
16  in the coming years.

17           In its first application, the BCA is tied  
18  directly to inform decisions regarding investment and it will  
19  become an integral part of the DSIP process that you'll be  
20  considering over the course of the next couple of months and  
21  the utilities will be responding to them.  And it will also  
22  inform decisions about compensation mechanisms as part of the  
23  REV framework.

24           The order goes into some detail about all the  
25  issues that are contained within the BCA.  I want to use this

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2           time to draw the Commission's attention specifically to 5 key  
3           issues that are addressed by the order.

4                       The first is the purpose of the BCA  
5           framework. This really rises in 2 parts. One, as I  
6           mentioned, is that at its heart and its first application,  
7           the BCA is going to provide a tool that is going to allow for  
8           the comparison of alternative investment choices in a  
9           consistent framework across the state.

10                      The BCA white paper also articulated a set of  
11           principles and that these principles became the guide for the  
12           selection of the components of the benefit-cost framework so  
13           that we apply the principles and decide which we measured.  
14           The principles in of themselves don't drive the outcomes. It  
15           helps us select the tools or the components.

16                      There was one significant issue that came up  
17           during that discussion, and there was -- there was a good  
18           deal of robust comment that's summarized. But the one  
19           principle that I do want to articulate today is the  
20           acknowledgment that one of the purposes of REV and therefore  
21           the BCA framework is to open new opportunities for  
22           distributed energy resources. And that becomes a core  
23           principle in the development of the tool.

24                      The second issue deals with the selection of  
25           tests or screens and how they would be applied. The white

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2       paper discusses the application of 3 tests, the societal cost  
3       test, the utility cost test, and the rate of impact mechanism  
4       measure. I will not go into the details of all that. I'd  
5       say again for those that wanted, it is in the order.

6           I do want to point out that the joint  
7       utilities proposed a new test. Those three tests that I  
8       mentioned are standard recognized tests throughout the  
9       industry. A new test was proposed in place of the utility  
10      cost test that would focus exclusively on distribution and  
11      delivery cost to the exclusion of wholesale commodity cost.

12           That test was not adopted and included within  
13      the draft order that's before you.

14           Significantly, the order provides for the  
15      adoption of a societal cost test as the primary or initial  
16      measure of cost effectiveness under the BCA framework. The  
17      reason for that is that this test, the societal cost test,  
18      recognizes and provides for the recognition of impacts of DER  
19      and society as a whole. It aligns with the New York clean  
20      energy goals which respond to the effects of pollutants and  
21      climate change on society as a whole, and accordingly  
22      includes the express measure of externalities which I'll  
23      discuss in a moment. So that becomes the initial screen.

24           The other two tests I mentioned, the U.C.T.  
25      and the RIM test, would be conducted as a secondary analysis

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2    after the screen of the S.C.T. which provides the preliminary  
3    impact on customer bills and screen for further analysis.

4           As mentioned, the selection of the S.C.T. as  
5    the primary test also raises the question of externalities  
6    and, in that term, embodies or encompasses a recognition that  
7    public good such as clean air and clean water can be over-  
8    consumed if and when the effects of actions are ignored by  
9    consumers and producers by excluding the measure of damage  
10   that occurs to those resources as a result of those actions.

11           Not surprisingly, there was a considerable  
12   amount of dispute among commentators about whether or not  
13   externalities should be expressly included and, if so, what  
14   the measure should be. The key issue for us, when we looked  
15   at externalities, us New York, is how to treat CO2, carbon,  
16   and other air emission pollutants.

17           The white paper proposed 3 alternative  
18   approaches towards the valuation of carbon. They're  
19   discussed in detail in the order and we're happy to respond  
20   to questions, but won't take the time now to compare those 3,  
21   but they're in the draft order.

22           So the draft order before you reflects some  
23   very important components regarding externalities. First is  
24   that an externality value should be reflected and it's a  
25   fundamental purpose of REV and the SET test, the societal

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2   cost test, calls for that recognition.

3           The issue at hand then becomes what's the  
4   value to place on carbon emissions. And the order reflects  
5   the adoption of reference to a established model, the  
6   societal cost of carbon model that's developed by the EPA  
7   And it applies a value that it's a self -- is the difference  
8   between the SCC value as determined by the EPA model after  
9   consideration of the RGGI price that's assumed in the CARIS'  
10   LBMP model currently used and published by New York ISO.

11           The draft order recognizes the action of the  
12   Commission formally initiating the CES proceeding today. And  
13   it does so because the future adoption of the CES in whatever  
14   form it may take could present another means to properly  
15   value the impact of carbon because a CES would create a new  
16   category of cost that could be avoided through DER.

17           Now, when the opportunity arises, if it  
18   arises, where CES cost can be accurately valued, those costs  
19   can be supplement to or incorporated into the CARIS LBMP  
20   values. But of course today and until the Commission should  
21   take action, there is no CES program. So the application of  
22   the EPA's societal cost of carbon model serves as a bridge to  
23   the future and is recommended for adoption in the order.

24           I want to point out that this value of  
25   externalities is not applied to resources that are carbon

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2           emitting resources. I also want to point out that SO2 and  
3           NOx values are recognized as the values that are already  
4           embedded in the CARIS model, which is a tool that's embedded  
5           in the framework of the BCA that's recommended.

6                       We also took a look at non-energy benefits.  
7           There's a detailed discussion of a circumstances of when and  
8           how those non-energy benefits may be considered and the  
9           manner in which they would be considered in the order.

10                      The fourth issue is the selection of a  
11           discount rate. And this issue of discount rates, as we know  
12           and as you know, helps measure actions today that will have  
13           effect into the future. And then it's hard. This issue  
14           presents a choice between the measure of the weighted average  
15           cost of capital, which utilities use when evaluating  
16           investment decisions, and what is called a societal discount  
17           rate that attempts to capture the value much later in years  
18           in the selection.

19                      The order reflects the use of the weighted  
20           average cost of capital in recognition that that is the  
21           measure used today by utilities for capturing the value  
22           actually avoided. Of course, with every rule, there's an  
23           exception and we do want to point out the exception to the  
24           use of the weighted average cost of capital. And that's the  
25           application of the societal cost of carbon model I just

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2           mentioned where the EPA uses a 3 percent discount rate in  
3           recognition specifically that that model operates over a very  
4           extended period of time.

5                       The fifth area and issue I want to mention is  
6           that of handbooks, which we believe is a very significant  
7           initiative. And the purpose of the handbook, quite simply,  
8           is to provide guidance to DER providers. A guidance as to  
9           how the utilities -- a utility and utilities collectively  
10          will, in a consistent manner, apply the BCA framework to  
11          their applications.

12                      So the order provides that these handbooks  
13          must accompany the DSIP filings of each utility now scheduled  
14          for June of this year. And importantly, utility  
15          collaboration is required in preparation of handbooks so they  
16          can be applied in a uniform manner throughout the state,  
17          deviating only when necessary to reflect the unique  
18          characteristics among service territories.

19                      So in keeping with your earlier remarks,  
20          Chair, the BCA framework order that's before you becomes a  
21          very important component in the comprehensive approach of  
22          REV. Significantly, it provides a consistent approach to  
23          measuring value. Significantly, it recognizes and provides a  
24          value for the impact of carbon and the cost of carbon. And  
25          as a whole, it enables a more granular understanding of the

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2           value of distributed energy resources, both in terms of a  
3           specific investment choice but also to our system as a whole.

4                       I'd be happy to answer any questions.

5                       CHAIR ZIBELMAN: Thank you. I think even  
6           though you met your goal with brevity, I have to say that in  
7           the contest of the day of who could get the most acronyms,  
8           you win.

9                       MR. WEINER: Wait, I got another one.

10                      CHAIR ZIBELMAN: So first of all, I  
11           appreciate this. When we started out in looking at the need  
12           for benefit cost analysis, it was to make certain that when  
13           utilities were making alternative investments in traditional  
14           wires and substations, we had a consistent way of evaluating  
15           the benefits of those investments against more traditional  
16           types of investments. And so I think, you know, that was one  
17           piece of it.

18                      The other and equally important element was  
19           the question of transparency and also information asymmetry.  
20           One of the things we want to have done is that anyone coming  
21           into this market who may want to have an offering to a  
22           utility and say, hey, I can help you meet your needs at a  
23           cheaper cost, that they understand how the utilities will  
24           look at that and they can use -- use -- do the calculations  
25           themselves and make presentations that they can have a great

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2           deal of confidence actually do achieve what we would perceive  
3           as benefits and that we have a consistent way of doing it  
4           across the state.

5                         One of the things that we know from our  
6           history on wholesale markets is that if everyone does it  
7           differently and there's no standardization that it makes it  
8           very difficult for anyone to do business and that's certainly  
9           a continuous theme we have because we're trying to put  
10          everyone on equal footing.

11                        I think that the approach that we're doing --  
12          recommending in a BCA is important and allows for that. The  
13          other element is -- is the concept of consumer centric  
14          approach. I mean, customers ultimately pay the entire bill.  
15          They don't just pay the distribution bill. They don't just  
16          pay the commodity bill. We're talking about end-to-end  
17          optimization of the system using distributed energy resources  
18          or bulk power resources, however it's best used both from a  
19          planning perspective and an operations perspective.

20                        We can't get there if we would, as the  
21          utilities recommended, that we just look at things from the  
22          perspective of distribution systems. We have to look at it  
23          from the consumer perspective. And I think using the  
24          societal cost test along with environmental externalities  
25          gets us exactly where we need to be.

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2 I also appreciate, again, that we are, with  
3 the Clean Energy Standard, going to be looking at the issue  
4 of environmental externalities differently in the future, but  
5 in the meantime until we get there, we needed a measure that  
6 we could use. And I -- and I certainly concur that using the  
7 EPA numbers, which is a derived number based on much  
8 analysis, is a better approach than simply trying to develop  
9 one ourselves.

10 So with that, I intend to vote in favor of  
11 the recommendation.

12 Any further questions or comments on the BCA?  
13 None?

14 We'll move on. Okay. Ms. Harriman?

15 CHAIR ZIBELMAN: The last item in front of us  
16 today is Item 301, and that's the Matter of Implementation of  
17 a Large-Scale Renewable program. And Kim Harriman, our  
18 general counsel, will be presenting that today.

19 Welcome.

20 MS. HARRIMAN: Thanks, Chair.

21 Good afternoon, Chair and Commissioners.

22 I'm batting cleanup today, at least on the  
23 regular agenda. And I will be brief, two page and -- brief.

24 UNIDENTIFIED SPEAKER: No acronym?  
25

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2 MS. HARRIMAN: No -- well, there's a couple  
3 acronyms.

4 Item 301 before the Commission today is a  
5 draft procedural order expanding the scope of the large-scale  
6 renewable proceeding to consider a Clean Energy Standard, or  
7 CES I'm going to use an acronym, and directing Staff to  
8 issue for comment a white paper on policy and program  
9 framework for CES.

10 A little bit of background. As you recall in  
11 February of 2015, the Commission issued its framework order  
12 in the Reforming Energy Vision, or REV, proceeding. In that  
13 order, the Commission called for a reassessment of renewable  
14 portfolio standard, that is the state program that was  
15 designed to incent the construction of renewable generation.

16 Furthermore, the order called on NYSERDA in  
17 consultation with Staff to examine a variety of program  
18 adaptations that could take place given the changing  
19 marketplace.

20 On June 1, a notice was issued instituting  
21 the LSR proceeding and putting forth for comment the LSR  
22 options paper. That is the paper that NYSERDA submitted to  
23 the Commission into the docket for consideration. Numerous  
24 comments have been filed with respect to that paper.  
25 Technical conference has been held. And there was an

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2           anticipation at the time that Staff would come back to the  
3           Commission with an ultimate recommendation on how to address  
4           large-scale renewables going forward.

5                       Nothing is static in New York and on June  
6           25th, 2015, the State Energy Planning Board issued the 2015  
7           State Energy Plan. And in that plan, it did a number of  
8           things, but most notably for us today is it set forth a goal  
9           of having 50 percent of the state's electric consumption come  
10          from renewable resources by 2030. And we love acronyms, so  
11          we call this now the 50 by 30 goal.

12                      During this and in the backdrop of it, in  
13          2014, the Commission began receiving at least a notice from  
14          one specific nuclear generator that wholesale market prices  
15          were woefully inefficient to sustain its continued economic  
16          operation. That's a nuclear generating facility.

17                      That's an open docket before you and it  
18          should be coming to you soon with respect to an RSSA., which  
19          is a Reliability Support Services Agreement, that's been  
20          deemed necessary because the plant is needed for local  
21          reliability reasons.

22                      In addition to Ginna, the Commission has  
23          received notice from the FitzPatrick nuclear operating  
24          facility that it, too, is finding woeful inadequate wholesale  
25          market revenues to sustain its economic operations and that

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2           it intends to retire possibly as early as the end of this  
3           year.

4                         Along with that came a letter from the  
5           Governor in early December that recognized two pertinent  
6           things. One, that the SEP had set out an aspirational goal  
7           for the state's renewable energy focus and targets. And two,  
8           that the nuclear energy facilities, specifically those  
9           upstate that are completely licensed, presented an  
10          opportunity for us to preserve the emissions reductions that  
11          10 years of clean energy programs have been able to achieve.

12                        This letter specifically called on the  
13          Department to address both of those goals with actionable  
14          steps to develop a framework for CES and to bring that  
15          framework back to the Commission by June of this year.

16                        So with that being said, we had an open  
17          proceeding looking at large-scale renewable generation. We  
18          had a goal that we'd have to come back to the Commission by  
19          June 2016 and we needed a procedural vehicle to get there.

20                        The draft order before you recommends that  
21          the Commission expand the scope of the large-scale renewable  
22          proceeding to include the consideration and development of a  
23          Clean Energy Standard. Again, this is consistent with the  
24          ultimate step and vision in the LSR proceeding that Staff

25

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2           would come to the Commission with a recommendation on how to  
3           treat large-scale renewables.

4                       Now we're going to look at large-scale  
5           renewables as well as small-scale renewables. Again, the  
6           robust record in the LSR proceeding, which touched on a  
7           variety of topic areas that are pertinent to the development  
8           of CES, lies before you. We're going to build upon that  
9           record.

10                      In addition, as the Commission knows, the  
11           emissions base that we've been able to achieve through 10  
12           years of clean energy programs in this state is an important  
13           one to preserve. And therefore, it is relevant and pertinent  
14           for CES to include the consideration of a nuclear bridge  
15           while you ramp up to the clean energy goals envisioned by the  
16           State Energy Plan.

17                      Lastly, the order directs the Staff to  
18           develop a white paper for the framework for CES and it gives  
19           Staff some guidance along the way as to what should be looked  
20           at in the white paper. It's not an exhaustive list and I'm  
21           not going to list it out for you.

22                      But some of the considerations the Commission  
23           has asked Staff to -- to take into account when developing  
24           the white paper and the record on CES includes CES's  
25           alignment to REV, the national best practices that are

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2           already out there using -- dealing with CES standards, and  
3           then the cost effective methods to achieve compliance.

4                        So those are just a few. There's more listed  
5           in the order and I'm sure more will come up as the record is  
6           developed.

7                        That's all for my presentation. I'm  
8           available for questions.

9                        CHAIR ZIBELMAN: Thank you.

10                      First off, any questions for Ms. Harriman?

11                      Okay. So as the Commissioners are aware, we  
12           received a letter -- the Department received a letter in  
13           December from Governor Cuomo requesting that we put in the  
14           Clean Energy Standard mandate and that we explicitly look at  
15           how we could make certain that we were not put into a  
16           position where we're losing Upstate nuclear plants that are  
17           in license that are financially stressed. And as -- both  
18           because of the effect it would have on our clean energy  
19           goals, as well as the disruption, as we know, would occur  
20           when these things happen.

21                      But primarily, let's -- you know, thinking  
22           about the clean energy goals. I ask the Staff immediately to  
23           start working with NYSERDA to begin looking at this issue.  
24           As I mentioned, these folks have been hard at work. One of  
25           things which we're very much aware of is that particularly

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2     with the FitzPatrick unit, they are going to be in a  
3     refueling cycle next year and that that refueling cycle  
4     actually needs to become this year in order for them to not  
5     shut down the unit.

6           And we needed to get on this and have it done  
7     by June as the Governor requested. So time is of the  
8     essence.

9           That -- and the other piece that I thought  
10    merited this action today is that as we're looking at the  
11    large-scale renewable proceeding and as I know that one of  
12    the things this Commission does not like is having multiple  
13    proceedings that will create confusion, as it made sense to  
14    put -- to include within the consideration of how to address  
15    large-scale renewables the Clean Energy Standard and to  
16    expand that proceeding, rather than keep -- start a new one.

17           And so that's really what's in front of you  
18    today is the decision to say let's expand the LSR proceeding  
19    to conclude consideration of the Clean Energy Standard and  
20    have that done by June.

21           I think that that's an appropriate thing to  
22    do. I see this as largely almost administrative, but I would  
23    agree that we're going to have a process around this and move  
24    forward.

25

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2 So with that, I would recommend that we take  
3 it to a vote. And I think that's the end of our matters in  
4 front of us today.

5 So I know, Commissioner Burman, that you've  
6 requested that you'd be able to comment on these matters.  
7 Did you --I'll ask you for -- I'm going to move to a vote and  
8 then I'll let you to make your comments unless you want to  
9 make them now.

10 COMMISSIONER BURMAN: I'll make them before,  
11 but does anyone else have any comments before?

12 CHAIR ZIBELMAN: Oh, sorry. Thank you.  
13 Thank you.

14 Does anyone else have any comments on this  
15 matter?

16 COMMISSIONER ACAMPORA: Oh, I'll just make  
17 one.

18 CHAIR ZIBELMAN: Yeah.

19 COMMISSIONER ACAMPORA: Naturally, we have  
20 not seen the white paper and I think that's important to  
21 state, but I'm sure that it will get a very thorough lookover  
22 and that we will have a lively discussion about it. So I'm  
23 looking forward to reading it.

24 CHAIR ZIBELMAN: Okay. May I? Just on that,  
25 I have asked Scott because Staff has been working on and it's

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2           our intent to be able to issue the white paper on Monday, to  
3           just provide us a great, big overview, but I'm not asking the  
4           Commissioners to comment on it or part of your vote because  
5           you have not seen it.

6                        COMMISSIONER ACAMPORA: Right.

7                        CHAIR ZIBELMAN: And so these are -- all  
8           we're voting on today is the procedural matter, but I did  
9           think that it would be important, since this is such an  
10          important issue, that take a few minutes and provide some  
11          highlights, but I intend to do that after they vote.

12                      But Commission Sayre, Commissioner Burman,  
13          any further comments on this particular matter?

14                      COMMISSIONER SAYRE: Not from me.

15                      CHAIR ZIBELMAN: Okay. So with that --

16                      COMMISSIONER BURMAN: I'll speak --.

17                      CHAIR ZIBELMAN: Commissioner Burman, yes?

18                      COMMISSIONER BURMAN: Thank you.

19                      So I have notes all over the place so forgive  
20          me for that. I think that this morning when I woke up was --  
21          the start of my day was a difficult one. My husband is away  
22          and so the process was all off for me. Last time he was away  
23          on garbage day, I failed to put out the garbage.

24                      So today I was particularly focused on it's  
25          garbage day and rushing to put it out and take care of

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2 everything that I had to do, I knocked over the garbage all  
3 over the place and it became a complete disaster. And I  
4 thought, well, today can only go better from here.

5 But when I look at it from that perspective  
6 is that I was rushing forward in this way of trying to  
7 achieve a result without, sort of, taking time to walk  
8 through and have it happen in a seamless way. And so my  
9 exercise in putting out the garbage became a lot longer and a  
10 lot more confusing, and especially with the dog barking and  
11 everything else that was going on.

12 So I do sort of take pause and note that the  
13 Clean Energy Standard proceeding that's before us is before  
14 us because of a letter from the Governor, with his leadership  
15 asking us to take a look at this and open up a proceeding.

16 And then this morning, we had a letter that  
17 was delivered to us from the Senate Republican leadership.  
18 And for me, it's not about that it's an untimely letter that  
19 it came, you know, right before session or during session.  
20 But to me what I take pause in, in that it is a unique  
21 situation. It's unique for us to have a letter from the  
22 Governor and it's unique to have a letter from another  
23 governmental body.

24 And it's very important for us, as  
25 regulators, to carefully look at the record before us and

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2           sort of ask why are we doing what we're doing, what is the  
3           purpose of what we're doing with our clean energy.

4                       And so, I really offer, sort of, my, sort of,  
5           thoughts along the way this, sort of, process and endeavor  
6           really came to fruition.

7                       And under the leadership of the Chair, we  
8           both started relatively around the same time on the  
9           Commission in 2013. And we've embarked on a very aggressive  
10          and groundbreaking initiative that requires a lot of hard  
11          work. And you know, throughout the time period here, we've  
12          been very busy on a number of different things.

13                      And, you know, Henry David Thoreau, I know I  
14          always have to quote, but Henry David Thoreau had said It's  
15          not enough to be busy, so are the ants, what are we busy  
16          about?

17                      And so for me, it's the same thing. What are  
18          we busy about? What are we trying to achieve? And is our  
19          process taking into account all the different perspectives  
20          that we need to look at? And what happens when, in our rush  
21          to get things done, we do get thrown a monkey wrench or a  
22          letter that asks us to take a pause and look at what we're  
23          doing?

24                      So I welcome, you know, the input, whether  
25          it's, you know, at the very beginning or at the very end or

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2     at the -- you know, somewhere in between. And so I look at  
3     it and I say, for me what's always been important, and I've  
4     said this before, is that the integrity and reliability of  
5     our energy system is paramount.

6           In New York, we have been focused  
7     historically and throughout the REV process on ensuring we  
8     have a safe, reliable, and clean energy system. There are  
9     three prongs safe, reliable, and clean. And we do need to  
10    have reasonable balance.

11           We have to have balance for the industry who  
12    wants to participate and have opportunity. We have to have  
13    balance for the ratepayer who wants to have safe, reliable,  
14    and clean, and affordable, reasonable costs. And we have to  
15    have balance as regulators on all these things to ensure that  
16    we're fair and reasonable and understanding how this will all  
17    work to the benefit of all of New York now and in the future.

18           I was here before in a Staff capacity. And  
19    in anticipation of what we are doing today with the Clean  
20    Energy Standard, I went back through all the records since  
21    2003 of all of the proceedings on RPS and got all the  
22    transcripts, got all of the orders, and read through it,  
23    looked at some of the records that were reflected in the  
24    orders and the transcript.

25

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2 And I realized just how much had happened  
3 when I was a staffer going through the process and a lot of  
4 the same issues were raised, a lot of the same concerns were  
5 raised. And there's been a lot of good work and there's been  
6 a lot of things that still need to be relooked at and we need  
7 to ask some hard questions.

8 And it doesn't mean that because we addressed  
9 it back in 2003 or 2004, 2005, go throughout the years,  
10 doesn't mean that it's not an opportunity for us to look at  
11 and maybe address it differently or stay the same, depending  
12 on what the circumstances are. We need that feedback. We  
13 need that input. And it's very important that stakeholders -  
14 - all stakeholders are included and are encouraged to give  
15 their thoughts however different it may be from the thought  
16 process that we have, and potential solutions to that.

17 When I look at it, I look and say that it  
18 really has to be about the results. So however we are  
19 executing our strategy, it's not just about the -- and I'm  
20 sorry, but I will quote Sir Winston Churchill, However  
21 beautiful the strategy, we should occasionally look at the  
22 results.

23 So for me, I want to make sure that when  
24 we're executing the strategy that we're doing it in a way  
25 that gives us the achievable results, that at the end of the

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2 day, this wasn't an exercise in the ants being busy, but it  
3 was an exercise in busyness that had a purpose and had a  
4 direction and had some finality that actually gave us what  
5 the achievements were that we want to achieve.

6 We are stewards of the ratepayer funds. We  
7 have embraced that and we need to take a careful look. RPS  
8 programs are being looked at throughout all of the different  
9 states that have them and even in ones that don't have them  
10 right now. There's an opportunity. It's coming now to the  
11 end of the target for them, so it's an opportunity to look at  
12 and say what do you do with that? What do you do with these  
13 different ratepayer subsidies? How do you look at it from a  
14 market-based approach?

15 And it's important. A market-based approach  
16 is a very important one and one that we really need from an  
17 essential point of view so that when we look at this, we need  
18 to make sure that when we're transitioning to supporting and  
19 building the market, that we take a careful look at what  
20 we're doing and not just peeling off the Band-Aid too soon,  
21 but that we're also looking at how to get to the results that  
22 we want and the bridge that we want.

23 There are many, many, many things that are on  
24 our plates. And it is very difficult, even for me who lives  
25 and breathes this, and I'm sure for the other Commissioners

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2   as well as the Staff, to follow all the different things that  
3   are happening, to go to all of the technical conferences, to  
4   submit comments on all of the different things, to submit  
5   reply comments, to try to find that pathway.

6           So the letter, to me, today, represented an  
7   opportunity and also represented a challenge of are we doing  
8   enough effective communication. How can we make sure that  
9   we're not just operating in a silo, but that we're actually  
10   operating with all of the stakeholders? Throughout this  
11   entire process, I have been very strongly focused on the  
12   costs, the benefits, and the oversight role that the  
13   Commission has, and the transparency and the input that's  
14   needed from stakeholders.

15           The Clean Energy Fund will result in  
16   declining collections immediately and over time. But I am  
17   mindful that it still represents the commitment of very  
18   substantial ratepayer dollars. And again, we are stewards of  
19   those ratepayer funds and we need to look at it. We are  
20   asking utilities, we are asking others who are partnering to  
21   do a lot with less. We are asking for innovation in a quick  
22   timely fashion. And that's part of what drives us, is making  
23   sure that at the end of day what we're doing actually will  
24   have achievable and positive direct benefits to the  
25   ratepayers, taxpayers, and everybody that we touch.

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2 When I look at this, I'm very cognizant of  
3 the fact that this Commission has listened carefully and has  
4 made adjustments when necessary. And I'm very mindful of the  
5 fact that the draft order that's before us does make a number  
6 of modifications to NYSERDA's proposal to -- in order to  
7 ensure sufficient Commission oversight, continued stakeholder  
8 input, and creates transparent reporting requirements.

9 Is it as far as some people would want? No.  
10 Is it something that we can also work on and fine-tune as we  
11 need to? Yes. We did that with the Green Bank. The July  
12 order in -- in 2015 made significant modifications. We  
13 continue to look at that. We continue to drill down.

14 And it's my obligation as a -- as a regulator  
15 to look and say I'm laser-focused on this and there are  
16 deliverables that we need to achieve. And there are also  
17 opportunities and challenges to that. And we need to make  
18 sure that the Commission does have proper oversight. And we  
19 need to make sure that it is real and transparent and also  
20 achievable.

21 The purpose of the Clean Energy Fund is to  
22 achieve the goals set forth in the State Energy Plan, as well  
23 as the goals of REV. And they do have minimum targets for  
24 NYSERDA to achieve in targeting those goals. The chapter  
25 approach is a unique approach, but it also means that we need

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2           to be laser-focused on it now and make sure that the  
3           deliverables that are being done in the planning, in the  
4           execution, in the filings are actually achieved.

5                     It is no comfort if the chapter approach  
6           doesn't work. It needs to work. And we also need to make  
7           sure that we are laser-focused, but those folks who are also  
8           invested in this working actually produce tangible and real  
9           results.

10                    It goes to the same thing with the Energy  
11           Efficiency item before us. We have given an opportunity for  
12           everyone to have buy-in, utilities especially, on the energy  
13           efficiency goals, but we need to have real conversations on  
14           that.

15                    We need to make sure that we step up and  
16           others step up. And we need to be able to understand what  
17           some of the dynamics are that may not be in line with what  
18           we're thinking, and we need to understand is it in line with  
19           what we're thinking -- not in line with what we're thinking  
20           because it doesn't make sense or just doesn't make sense to  
21           us. So we need to then figure out how to get to the pathway  
22           for something that really has, again, tangible, real results  
23           and achievable.

24                    I do think that there is a lot of progress  
25           that's been done. There are a lot of things that, when we

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2    look forward -- when we look backwards, we can see. Since my  
3    being here on 2013, there are a lot of tangibles. This week  
4    alone, the first case solar at the school for the blind is  
5    wonderful. I know that the folks over at the school are very  
6    excited by it. And it is something that, at the end of the  
7    day, we can say had a direct benefit and we watch and see  
8    what are some of the things that we can do to make things  
9    even better.

10           I am concerned, and I've expressed it before,  
11    on some of the governance issues that are before us with REV.  
12    I do believe that we do have an opportunity for more  
13    oversight, not to be dictating or to inappropriately  
14    micromanage, but to make sure, because it is something that  
15    is unique and new, that we are properly looking at what's  
16    happening and whether or not there needs to be any tweaks.

17           But I am mindful of the history. There have  
18    been times where the micromanaging has actually not helped.  
19    Government sometimes is too bureaucratic. And we need to  
20    look at those things and we need to look at the history of it  
21    and make sure that we're not going too far astray from not  
22    bringing it to the Commission for some of the necessary  
23    oversight.

24           We do need to be careful that when we think  
25    that we have conveyed enough to others of what we're doing

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2           that we're not -- we're not wrong. So to the extent that we  
3           live and breathe it, we need to make sure that it is being  
4           done in a way that's communicating in a timely fashion and  
5           also in an appropriate fashion so that folks can engage from  
6           the front end and during, and that it's an open process that  
7           allows for the flexible back and forth, the disputes that  
8           will happen.

9                        There are states that have knockout, drag-out  
10          fights on different issues. Net metering is one. We can  
11          have an opportunity to find pathways on some of these very  
12          hard, difficult issues, and make sure that we reach the  
13          proper balance. There doesn't need to be winners or losers.  
14          We don't need to pick winners or losers. We need to be  
15          mindful that we are not unfairly playing the game.

16                       I do think when I look at this that, for me,  
17          it is appropriate to fold into the large-scale renewable  
18          proceeding, the Clean Energy Standard. In fact, I think it's  
19          appropriate to be looking at the Clean Energy Standard,  
20          especially in light of the work that's been done on RPS and  
21          to look at it.

22                       It does not mean that I have a particular  
23          focus on what the outcome should be, but I do have a  
24          particular focus on making sure that we do our -- our  
25          homework. We make sure that we look very carefully and we

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2 make sure that we -- that we are engaged with others in the  
3 process to, at the end of the day, get to an achievable  
4 result and make sure that what we do on the Clean Energy  
5 Standard truly does align with the state energy policies.

6 It's very important that we do get it right.  
7 It's very important that we make sure that what we're doing  
8 is communicated and worked through with people that can bring  
9 the perspective to us. I don't think it's inappropriate for  
10 state energy policies, and especially when it has a fiscal  
11 focus, to be done in the budget.

12 I don't think that that means that we should  
13 say at this point we're going to sit and wait. But what it  
14 does mean is we need to look carefully and say it is  
15 important that items of fiscal responsibility get done in a  
16 comprehensive cohesive way. And that may mean that we need  
17 to be focused on that the budget process is one area where  
18 that can be taken care of.

19 So for me, when I look at this, I do believe  
20 that my focus is on moving forward in opening the proceeding  
21 on the Clean Energy Standard so that we're not behind the  
22 eight ball. And it doesn't mean that there's finality on  
23 that today. There is a drive to have this before us in June.  
24 And so this 6-month period is an opportunity for us to make  
25

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2 sure that we're aligning what we've done with where we want  
3 to go and where we should be.

4 So I look at the Clean Energy Fund and I know  
5 that there was a one commissioner order that was confirmed --  
6 I did not vote on the item -- that focused on giving a 2-  
7 month extension. But February 29th is fast approaching and  
8 if we do nothing today, it means that those programs stop  
9 February 29th.

10 So there is a particular interest to me in  
11 the transition while we go through this period of transition  
12 in not only going from subsidy-based, but also looking at  
13 what that means to go to where we build competitive markets.  
14 They already exist, but to help flourish and develop that  
15 even further.

16 So my focus is what do we need to do right  
17 now to get us through until there is some decisional points.  
18 So I look at the Clean Energy Fund and my comfort level is on  
19 this being done through to June. I am concerned that what  
20 happens in June and that window of 6 months.

21 When I look at the Energy Efficiency program  
22 and we're looking at a budget from 2016 to 2018, the  
23 Commission has already blessed the programs for 2016. I am  
24 concerned that what they were focusing on 2017 and 2018  
25 without necessarily making sure that it's aligned. So part

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2   of my issue is looking at that and again how do these things  
3   fit, how do they fit into potentially rate cases that may  
4   come before us.

5           There are a lot of items that need to be  
6   addressed from a policy perspective.

7           It doesn't necessarily mean that it's  
8   addressed solely by the Commission, but we do have low-income  
9   issues that we need to address. We do have community choice  
10  aggregation. We have DER proceedings. We have net metering  
11  issues, community net metering. There's a whole host of  
12  issues that are there that we need to make sure that we don't  
13  -- they don't fall off the table and that they do get folded  
14  in appropriately.

15           To me, I'm a -- I'm a puzzle person. I love  
16  puzzles. But I am -- it has to be in a way that is, you know  
17  -- and my kids will tell you, you can't do a puzzle unless  
18  you follow mom's rules. And for me, it has to be organized  
19  and laser-focused. And I love the puzzles. I love the  
20  ability to put it all together when it seems like a big mess,  
21  and to figure it out. And I do see this as our opportunity  
22  to make sure that when we do that puzzle, we don't have a  
23  missing piece and that we do it in a timely fashion.

24           So I guess my focus really is on I support  
25  our clean energy focus. I support on looking at making sure

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2           that we do this in a cost effective way. And I support that  
3           when we go through this process that we don't see others who  
4           may have different points of view as inappropriate, but we  
5           embrace it and try to figure out the pathways for resolution.

6                        I am very mindful of the nuclear issue and  
7           the nuclear facilities. I'm very mindful of the time  
8           sensitivity and also the policy sensitivity and the passion  
9           around that.

10                      So for me, I also want to make sure that what  
11           we're doing isn't too late, that these discussions that  
12           happen, whether it's on nuclear or other issues, that they  
13           are done in a way that we're not, sort of, you know, coming  
14           too little too late, and that we're making sure that we  
15           embrace all the different sides and figure out the pathways  
16           so that then there can be a robust, safe, reliable, and clean  
17           energy system that continues and that provides real benefit  
18           to all New Yorkers.

19                      CHAIR ZIBELMAN: Commissioner Burman, I think  
20           these are -- are we ready to move to a vote? I know it's  
21           important matters, but I think it's -- we've heard.

22                      COMMISSIONER BURMAN: That's fine. I'll  
23           finish up right now.

24                      Any consideration of the Clean Energy  
25           Standard should include a robust discussion on the methods of

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2 compliance that foster the competitive markets and create  
3 cost efficiencies for consumers.

4 So as to the items on the Clean Energy  
5 Standard, I embrace voting on that to open the proceeding,  
6 understanding that I have not seen the white paper and that  
7 this will be a discussion for us and looking at that.

8 As to the other items, my hesitation is only  
9 on that I don't want to inappropriately, too early, lock us  
10 in. But I do understand the need for some certainty and I  
11 look at it from -- only from the perspective of that it's  
12 without prejudice to, in June, to look at it and make sure  
13 that what we're doing is appropriate, and also to see what's  
14 been done that may affect us in other avenues.

15 Thank you.

16 CHAIR ZIBELMAN: Thank you.

17 Okay. Any further comments by Commissioners?

18 Okay. I'm going to move to a vote.

19 Okay. In my fidgeting, I lost my notes.

20 And the first item -- thank you. The first  
21 item before us is Item 201. And all those in favor say aye.

22 COMMISSIONER SAYRE: Aye.

23 COMMISSIONER ACAMPORA: Aye.

24 CHAIR ZIBELMAN: Opposed?

25 COMMISSIONER BURMAN: This is item --

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2 CHAIR ZIBELMAN: 201.

3 COMMISSIONER BURMAN: It's the Clean Energy  
4 Fund?

5 CHAIR ZIBELMAN: It's the Clean Energy Fund.

6 COMMISSIONER BURMAN: So, I vote only --

7 CHAIR ZIBELMAN: Thank you.

8 COMMISSIONER BURMAN: -- in concurrence as to  
9 the necessity for having some transition through to June and  
10 without prejudice to review these items -- without prejudice  
11 to review these items in June.

12 CHAIR ZIBELMAN: Okay. So, all 3 in favor  
13 and I will take that as a concurrence with a pause in June,  
14 the item passes and the recommendation is adopted.

15 Item Number 202, which is the utility ETIPs  
16 program, all those in favor?

17 COMMISSIONER SAYRE: Aye.

18 COMMISSIONER ACAMPORA: Aye.

19 CHAIR ZIBELMAN: Opposed?

20 COMMISSIONER BURMAN: And I concur only to  
21 the extent that we are looking at the 2016 programs, without  
22 prejudice to review not only in rate cases but also in June.

23 CHAIR ZIBELMAN: Okay. Just to be clear,  
24 though, on that from counsel, the Commission always has the  
25 right, even in voting in favor of it, to reopen dockets.

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2 MS. HARRIMAN: Correct, on your motion,  
3 absolutely.

4 CHAIR ZIBELMAN: Okay. Thank you.

5 I will take that 3 in favor and here -- the  
6 recommendations are adopted.

7 Item Number 203, which is the proceeding on  
8 the motion to Commission in regard to Reforming the Energy  
9 Vision that is the benefit cost analysis, all those in favor?

10 COMMISSIONER SAYRE: Aye.

11 COMMISSIONER ACAMPORA: Aye.

12 CHAIR ZIBELMAN: Three in favor --.

13 COMMISSIONER BURMAN: And I concur only to  
14 the extent it reflects my comments in 201, 202, and 301.

15 CHAIR ZIBELMAN: Okay. With three in favor,  
16 the recommendations are adopted.

17 And then fourth item is Item 301, which is in  
18 the Matter of the Implementation of a Large-Scale Renewable  
19 Program. All those in favor, please indicate by saying aye?

20 COMMISSIONER SAYRE: Aye.

21 COMMISSIONER ACAMPORA: Aye.

22 COMMISSIONER BURMAN: I vote in favor because  
23 we're opening the proceeding.

24 CHAIR ZIBELMAN: That's four. Okay. And the  
25 recommendations are adopted.

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2 Thank you very much.

3 Scott, would you take just a few minutes, I  
4 just -- again, we are not going to go in-depth. The intent  
5 is to issue this white paper by Monday, but since we're all  
6 here and there's been so much discussion about the Clean  
7 Energy Standard, I think it's appropriate for you to give us  
8 a preview of what coming attractions.

9 MR. WEINER: Absolutely.

10 A little background and perspective and  
11 because process was mentioned so much today, as it should,  
12 and it's important, I just want to start out by saying that  
13 the consideration of the white paper, when issued, will be  
14 accompanied by a very active outreach and public comment  
15 process that will include a comment period that will be  
16 outlined in the notice that accompanies the issuance of the  
17 white paper.

18 Technical conferences are now being planned  
19 and scheduled to begin towards late February or probably  
20 include others beyond that. And we're anticipating a series  
21 of public statement hearings around the state to get the  
22 benefit of the public's input.

23 The white paper, itself, tends to pick up  
24 where the LSR options paper left off. The Commission is  
25 familiar with that paper and as well as the fact that we

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2       received extensive comments on it. So our goal with the  
3       white paper was to advance the discussion. And to that end,  
4       Staff will be making specific recommendations pertaining to  
5       the CES. And of course, we'll be welcoming comments as to  
6       the recommendations, as well as any related item to the white  
7       paper, and in a few instances specifically request party  
8       comments.

9           The -- let me touch on the key issues or the  
10      key elements of the proposal. The first thing we turn to is  
11      the question of what entities are going to be covered by the  
12      mandate, upon whom does the obligation fall.

13           The answer in terms of Staff's recommendation  
14      is that all electric retail load serving entities -- I'm  
15      doing my best to edit in real time -- edit out acronyms in  
16      real time. So all retail load serving entities, utilities  
17      and other providers selling electricity to homes and  
18      businesses, we believe should share the obligation of the CES  
19      mandate in proportion to their annual retail electricity  
20      sales.

21           Significantly, this includes entities outside  
22      of the P.S.C. jurisdiction such as NYPA and LIPA, and all  
23      jurisdictional entities subject to the Commission's  
24      authority, including investor-owned utilities, jurisdiction  
25

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2           municipal utilities, and all competitive energy service  
3           companies.

4                       Needless to say, the reference to non-  
5           jurisdictional entities anticipates a voluntary participation  
6           and compliance since they are outside the Commission's  
7           jurisdiction.

8                       The next question that we address is what are  
9           the eligible renewable resources upon which can satisfy this  
10          mandate. And we recommend that existing and new renewable  
11          energy resources that are currently eligible for the state's  
12          RPS will be eligible to satisfy the obligations of the Clean  
13          Energy Standard. And Staff is also going to be recommending  
14          that the -- this include certain out-of-state resources that  
15          will expand the supply options and provide enhanced  
16          competition, as well as address the cost of compliance.

17                      The paper will then turn to a discussion  
18          about the nuclear power bridge to a renewable future that's  
19          been touched upon. And it notes the economic pressures on  
20          upstate nuclear plants that has been referenced earlier  
21          today.

22                      The Staff's proposal and recommendation is to  
23          establish a requirement, again, on all load serving entities,  
24          both jurisdictional and non-jurisdictional, to procure a pro  
25          rata share of Zero Emission Credits, I have to do this, or

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2       ZECs. So we have ZECs and RECs. But this Zero Emission  
3       Credits will represent the emission free value of energy  
4       produced by the nuclear power plants specifically. And the  
5       price of the ZECs would be established based on the going-  
6       forward cost of the financially distressed nuclear plants,  
7       and that is the amount necessary to eliminate the financial  
8       losses and stability.

9           In order to -- to administer a mandate such  
10      as the ones intended, compliance targets have to be  
11      demonstrated. There has to be a way to demonstrate  
12      compliance. And the demonstration will be through a tradable  
13      Renewable Energy Certificates, RECs, for renewable energy  
14      purchases, and Zero Emission Credits, the ZECs I just  
15      mentioned, for qualified nuclear generation purchases.

16           Importantly, I want to underscore that these  
17      are two separate obligations under the mandate, so that a ZEC  
18      doesn't satisfy a REC, a nuclear energy generation doesn't  
19      satisfy the mandated requirement addressing renewable energy  
20      generation.

21           The entities upon whom the obligation, all  
22      load serving entities, will be required to procure RECs from  
23      existing and new renewable energy resource tiers. There will  
24      be a whole discussion about how the tiers are established,  
25      why they're established, and very specifically, today's

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2       discussion, they've been designed with an intent to  
3       facilitate market responses and market competition.

4           As well as ZECs for the nuclear tier, which  
5       is so it's separate and apart from renewables, with firm  
6       requirements through 2020 and additional targets through  
7       2023, which will be developed in close consultation with  
8       interested parties.

9           Among the principles that is embedded  
10       throughout the white paper is a recognition of the critical  
11       importance of providing stability and predictability of this  
12       program for the benefit of investors that will be investing  
13       in these new renewable energy resources, as well as for those  
14       entities upon whom the compliance obligation is placed.

15           Cost containment is another important  
16       principle that is reflected in the white paper. Consistent  
17       with programs such as this, we are proposing that the  
18       adoption of alternative compliance payment mechanism by the  
19       Commission for each of the separate tiers of the Clean Energy  
20       Standard.

21           The operation of alternative compliance  
22       payments have the effect of essentially capping the cost of  
23       compliance and also provide a flexible alternative means of  
24       compliance in the event that there is an insufficient supply  
25       of RECs or ZECs, as the case may be.

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2 The Clean Energy Standard will also be  
3 implemented in concert with REV initiatives to advance clean  
4 energy solutions under the market transformation programs  
5 funded by the CEF, which action you took today, the ETIPs  
6 programs that you took today, and other utility investments  
7 and demand-side resources.

8 A fundamental policy which is reflected in  
9 the white paper is that all those programs be focused on  
10 contributing to driving down the costs of compliance.

11 An important area that the white paper  
12 discusses is the importance of long-term contracts to ensure  
13 robust -- a robust development pipeline which will provide  
14 the renewable energy which lies at the heart of the clean  
15 energy mandate.

16 Significantly and in keeping with the  
17 principles of REV, the white paper expresses a strong  
18 preference, an overwhelming preference for self-initiated  
19 market-based activities that will lead to the outcomes that  
20 are sought. The paper goes on to explain the market dynamics  
21 and the importance of long-term contracting to provide the  
22 ability of new resource to be built which will provide the  
23 energy and the accompanying RECs that will enable reaching  
24 that 50 by 30 goal.

25

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2 So we talk about the opportunity to utilize  
3 long-term REC procurements by NYSERDA, similar to what  
4 NYSERDA does today, the significant difference being rather  
5 than taking the RECs and retiring them, those RECs will now  
6 be resold or remarketed, if you will, by NYSERDA to be made  
7 available to the load serving entities so that they can  
8 compete for them and buy them in a market.

9 Also under consideration and recommendation  
10 is, to a limited extent, long-term bundled energy and REC  
11 contracts to be procured by utilities for new renewable  
12 energy projects in order to support the project financing,  
13 reduce compliance cost, and provide both generators and  
14 customers with price stability.

15 This is obviously a very significant  
16 recommendation that was taken after great consideration. The  
17 white paper goes into much more details of the basis of this  
18 recommendation and the limits of the recommendation.

19 A related question is that of utility  
20 ownership of renewable resources. Some states do permit  
21 that. Staff believes that, consistent with the prior orders  
22 of this Commission, and most notably the framework order of  
23 just about a year ago, we propose to continue those policies  
24 that prohibit utility ownership of renewable resources absent  
25 exceptional circumstances where there's a demonstrable value

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2           to achieving consumer benefits that competitive providers or  
3           competitive markets do not provide.

4                       That's a capsulation of the principles which  
5           we suggest that come out of the Track One order, the  
6           framework order, of last February that we suggest be  
7           followed.

8                       The white paper also contains a Staff  
9           recommendation of allowing innovative investments by  
10          utilities that may be applicable in those rare circumstances,  
11          that rare exception that's called for by the framework order,  
12          but specifically looking for innovative market responses  
13          where the utility might be partnering with third parties all  
14          to the end of lowering the cost to compliance and consistent  
15          with the principles in the prior REV orders.

16                      Lastly, last point I make is, again,  
17          consistent with the important policies articulated today.  
18          Staff recommends that the Commission review progress along  
19          the path to achieving the 50 by 30 goal every 3 years. And  
20          that will provide the Commission the opportunity to assess  
21          market conditions, determine the success of meeting the  
22          interim pathways along the way, and most importantly, be able  
23          to assess what actions you can take as the Commission to help  
24          move us towards a market-based solution, rather than mandated  
25          solutions.

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2 CHAIR ZIBELMAN: Thank you.

3 Okay. So I'm going to forbear any discussion  
4 on this because I think it's appropriate for us all to see  
5 the white paper and have an opportunity to review it, more  
6 process.

7 So with that, I'm going to move on then to  
8 the consent agenda. Do any of the Commissioners wish to  
9 recuse from items on the consent agenda?

10 COMMISSIONER SAYRE: Yes, I've recused myself  
11 from Item 562

12 CHAIR ZIBELMAN: Okay. Any comments on the  
13 consent agenda?

14 All those, then, in favor of the  
15 recommendations on the consent agenda, with the notation of  
16 Commissioner Sayre's recusal from Item 562, please indicate  
17 by saying aye.

18 COMMISSIONER BURMAN: Aye.

19 COMMISSIONER SAYRE: Aye.

20 COMMISSIONER ACAMPORA: Aye.

21 CHAIR ZIBELMAN: Opposed?

22 There being no opposition, the  
23 recommendations are adopted.

24 Secretary Burgess, are there any other items  
25 in front of us today?

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2 SECRETARY BURGESS: There are no other items  
3 today. The next Commission session is February 23rd, and  
4 that will be at the New York City office.

5 CHAIR ZIBELMAN: Great. Thank you very much,  
6 everybody.

7 (The meeting concluded at 1:29 p.m.)

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2 STATE OF NEW YORK

3 I, Hannah Allen, do hereby certify that the foregoing was  
4 reported by me, in the cause, at the time and place, as  
5 stated in the caption hereto, at Page 1 hereof; that the  
6 foregoing typewritten transcription consisting of pages 1  
7 through 98, is a true record of all proceedings had at the  
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 28th day of January, 2016.

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Hannah Allen, Reporter

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