

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Regular Meeting of the Public Service Commission

THURSDAY, APRIL 18, 2013
10:30 a.m.

Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York 12223

COMMISSIONERS:

GARRY A. BROWN, Chairman
GREGG C. SAYRE
MAUREEN F. HARRIS
PATRICIA L. ACAMPORA
JAMES L. LAROCCA

D I S C L A I M E R

This is an unofficial transcript of a public meeting of the New York State Public Service Commission held on April 18, 2013 in the Commission's Offices at Three Empire State Plaza, 19th Floor Board Room, Albany, New York.

This transcript may contain inaccuracies, and it may not include all discussion conducted at the meeting.

The transcript is intended solely for general information purposes and is not part of any formal or informal record of a Commission decision of any matter discussed. Expressions of opinions in this transcript do not necessarily reflect final determination of beliefs which are set forth in the Commission's Decisions and Order.

No pleading or paper may be filed with the Commission in any proceeding as a result of or addressed to any statement or argument contained in this transcript, except as the Commission may authorize.

INDEX

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
102	Case 13-G-0136, National Fuel Gas Temporary Rates presented by Ben Wiles, managing attorney, office of general counsel, and Joe Lochner, chief office of accounting audits and finance	5
103	Status report on expansion of fuel supply options presented by Cindy McCarran, chief gas policies supply and Anthony Belsito, assistant counselor	21
303	12-E-0503, review of generation retirement contingency plan presented by Raj Addepalli, deputy director from the office of electric, gas and water	32
301	Examination of alternating current transmission upgrades presented by Diane Barney, the utility supervisor and Liz Grisaru and managing attorney, and Raj Addepalli, deputy director of office of gas and water	49
304	Application of Champlain Hudson Power Express, presented by Michelle Phillips and Kevin Casutto Administrative Law Judges Office of Hearing and Alternative Dispute Resolution	62
305A	13-E-0062, Investigation of Liberty Power Corporation, presented by Doug Elfner, Director of Office of Consumer Policy	88
305B	13-M-0139, investigation of Family Energy Inc. presented by Doug Elfner, Director of Office of Consumer Policy	95
302	13-E-0140, Utility Emergency Performance Metrics presented by Mike Warden, department--Emergency Manager	101
501	Verizon, waiver of certain fourth quarter 2012 results presented by Chad Hume, Director of Office of Telecommunications	117
	Status Report on Verizon's long-term standing restoration in lower Manhattan, Far Rockaway, Queens and Fire Island presented by Chad Hume	120

1 CHAIRMAN BROWN: Good Morning. I would like
2 to call the April 2013 Session of the New York State
3 Public Service Commission to order. Madam Assistant
4 Secretary, are there any changes to the agenda?

5 MADAM ASSISTANT SECRETARY LYNCH: Yes, there
6 is one correction to the agenda and that is for Item
7 501 it should state that it is a waiver of certain 4TH
8 Quarter 2012 results.

9 CHAIRMAN BROWN: Thank you. Let's move to
10 the consent agenda. Do any of the Commissioners wish
11 to recuse or abstain today from any items on the
12 consent agenda?

13 COMMISSIONER GREGG SAYRE: Yes, Chairman, I
14 recuse on item 561.

15 CHAIRMAN BROWN: Ok, Let the record show
16 that Commissioner Sayre is recusing from Item 561.
17 All of those in favor of the recommendations on the
18 consent agenda please say aye.

19 ALL COMMISSIONERS: Aye.

20 CHARIMAN BROWN: Opposed, hearing none the
21 recommendations are adopted. Any comments from the
22 Commissioners on the consent agenda?

23 COMMISSIONER MAUREEN HARRIS: I just want to
24 comment on Item 167 the pilot program with NFG for the
25 deferred payment agreements I just want to commend

1 Barry Bedrosian and Marty Insogna who have been
2 working on this. I think this is a very exciting kind
3 of program for customers that they don't have to go to
4 the office to sign these deferred payment agreements,
5 and that they are negotiated over the phone for ease
6 of to relieve the burden on customers, and they can
7 enter into these deferred payment agreements in these
8 pilot program, and they can understand the terms of
9 these agreements, and I do believe that this is a
10 success in that more utilities will be able to do this
11 pilot program in the future.

12 CHAIRMAN BROWN: We'll keep our eye on that.
13 Thank you, Commissioner. Okay, we have a fairly
14 lengthy agenda today, so I'll take you one second and
15 give you the order that we will be following. We will
16 be going 102, 103--now we start confusing you--303,
17 301, 304, 305A, 305B, 302, and 501. So it's in the
18 300 items that we're going a little bit out of order.
19 But we will start with the 100 item that's before us
20 today, item 102, Case 13-G-0136, National Fuel Gas
21 Temporary Rates presented by Ben Wiles, managing
22 attorney, office of general counsel, and Joe Lochner,
23 chief office of accounting audits and finance, who
24 will be available for questions. Ben, please begin.

25 MR. BEN WILES: Thank you. Is this on?

1 CHAIRMAN BROWN: Just talk loudly.

2 MR. BEN WILES: It is on?

3 CHAIRMAN BROWN: Yep.

4 MR. BEN WILES: This item is a procedural
5 order. I wanted to make that point on the outset it
6 is order setx up certain processes that we're going to
7 be using in the next few weeks and months to examine
8 national fuel gasses rates. National Fuel Gas was--
9 lasted for rates in case 07-G-0141, which was that
10 case resulted in an 2007 rate order which set rates
11 for the rate year ending 12/31/08. In the intervening
12 five years since that rate order and every year,
13 things have changed. Most notably, the company has
14 significantly reduced its cost-structuring in a number
15 of different ways, and so costs went down, but since
16 the costs had gone down, the company had no need and
17 did not seek rate relief, and rates have stayed the
18 same in this period. We should note and be careful to
19 recognize that the cost structure is--to the company
20 was able to reduce the cost structure without
21 sacrificing its generally very good perform against
22 consumer metrics or incurring a significant decline in
23 the safety metrics that we apply to all - - . The
24 financial result of this changing the costs while
25 maintaining the same rates is that the rate plan that

1 was designed in 2007 to allow the company to earn a
2 9.1% ROE appears now to provide, after adjustments to
3 justify staff with a 13.13%, 13.15% ROE. Compounding
4 the situation, the rate order that we was entered in
5 2007 is based on a one-year - - and did not include,
6 probably for that reason, did not include any earning
7 shares provisions Consequently, there's no mechanism
8 to rate payers with some financial gain in the event
9 the company over earned, in comparison with the
10 allowed ROE. Therefore, if no action is taken, it
11 appears the company will earn at a rate, which is
12 higher than necessary today for safe and adequate
13 service. This situation is further compounded by the
14 fact that NFG during this period and currently has
15 been building deferrals, which the company's rate
16 payers will have to repay in later years. These
17 deferrals are building pursuant to 2007 rate order and
18 they're fully consistent with it but they are
19 troubling because they are a rate payer IOU created,
20 when the company is already making returns higher than
21 forecast on the provisions authorizing the deferrals
22 we put in place. When a company over earns, it has no
23 incentive to seek rates, it's understandable, and
24 therefore is not likely to start a new rate case.
25 Under the public service law, however, the Commission

1 can initiate its own case to examine the company's
2 rates, and can, after a proceeding much like a
3 conventional rate case, set new and lower rates. This
4 order first and foremost establishes this new
5 proceeding for NFG. The new proceeding will take
6 several months and may extend even beyond 11 months,
7 which is the normal rate--which a normal rate case
8 takes. Eventually, however, new rates are set. But
9 these new rates will only apply going forward from the
10 day they are set. There is no automatic provision
11 available that would adjust the rates in the period
12 after the case has begun--that's really basically now--
13 -and up to the date of the new rate order. If it's
14 determined that new and lower rates are necessary, it
15 is likely the customers will have been paid more than
16 necessary for the entire period where the rate case
17 was pending and up until the new rate order. The
18 remedy for this, under public service law, is to
19 establish temporary rates, subject to rate fund during
20 this period. This is pursuant to - - section 114. In
21 and of itself, the establishment of temporary rates
22 [background noise] does not make the rates the
23 customers must pay go down. It can, however, provide
24 a customer refund, if rates go down as a result of the
25 permanent rate - - . A showing of the statute

1 requirements to establish a temporary rate is quite
2 limited. Under the statute, there must be a
3 proceeding. It must be done in a proceeding involving
4 the reasonableness of rates. It must hold a hearing
5 before the temporary order is entered, and we must
6 find that the--commission must find that the
7 establishment of temporary rates is in -- interest.
8 Consequently, or therefore this is the second aspect
9 of the proposed order. It's normally called an order
10 to show cause, it invites the company to show cause
11 why the Commissioner should not establish temporary
12 rates, subject to refund for NFG while the proceeding
13 to set permanent rates is completed. With respect to
14 temporary rates, this is actually potentially the
15 first of two orders. Today's order does not make the
16 rates temporary, it advises, explain why temporary
17 rates are not necessary. After the company has this
18 opportunity, and has a response from staff or other
19 parties, the commission can decide to create temporary
20 rates. If the decision to make temporary--rates
21 temporary, this will occur in a subsequent order by
22 the commission after the procedural steps we need to
23 follow have been completed. We used the order to
24 define pretty precisely, very precisely what these
25 steps are going to look like. We direct the company

1 to file its response to go to show cause by May 8th,
2 20 days from now. There is an additional ten days the
3 staff and the parties have to file their response, and
4 there's a reply period three days after that. There
5 would be a hearing after that, and I think, if we work
6 out the time, I assume the hearing basically occurs
7 within a week after the end of the filing periods.
8 It's a total of 20 days from the time the company
9 files until it gets to the commission. If we had
10 seven days to prepare and circulate the draft order,
11 it'd be 27 days, which would make those - -
12 anticipation of the June 1st session on June 13th.
13 This is a problem. I think this is as promptly as it
14 can be brought to the Commission. I got over
15 confident. This assumes that the company wishes to
16 litigate fully the decision to make its rates
17 temporary and subject to - -. It's possible the
18 company may decide that this--that aspect of the
19 litigation is not necessary. There are several
20 reasons why we they could conclude that and the order
21 using the option to avoid that litigation by, within
22 seven days, agreeing to voluntarily make their rates
23 temporary. If that occurs, then there would be no
24 filings with respect to the temporary rates and the
25 proceeding move to the really fundamental issue, which

1 is what permanent rates should be. I think I
2 described in the order we're recommending, if there
3 are any questions, I'd be happy to answer them and Joe
4 Lochner is with me to answer the questions which I
5 can't.

6 CHAIRMAN BROWN: Questions or comments?

7 MR. PETER MCGOWAN: So I was going to add
8 one more point, as Ben described, the main focus of
9 the item today is the prompt implementation of
10 temporary rates, and the subsequent resetting of rates
11 to get a better balance of rate payer and shareholder
12 interest. In considering this more traditional
13 regulatory tool, we also studied the quirky and never-
14 used provision of the public service law, section
15 66.20, which focuses on above-normal historic returns.
16 Advisory staff has not yet developed a consensus view
17 on this provision, and before coming to any view and
18 making the recommendation to the Commission, I would
19 recommend that a closer examination of the
20 applicability and appropriateness of 66.20 be
21 conducted by the parties under the supervision of the
22 administrative law judge. So proposed add a sentence
23 page seven of the order indicating that.

24 CHAIRMAN BROWN: Comments or questions,
25 we're moving forward here. Mr. Sayre.

1 COMMISSIONER GREGG SAYRE: I'd like to make
2 it clear that from our viewpoint the company is not
3 doing anything wrong here and in fact they've done the
4 right thing and reduced their costs without reducing
5 their service quality. But the way rate of return
6 works, the Commission does need to step in and take a
7 look, when it appears that the utility is earning more
8 than we think is appropriate, and that's all that's
9 going on here.

10 CHAIRMAN BROWN: Commissioner Harris?

11 COMMISSIONER MAUREEN HARRIS: I'd like to
12 echo those same sentiments that in looking at this
13 particular case that the last thing I'd want to do is
14 provide any disincentive for any utility company out
15 there, to reduce costs and reduce property taxes. But
16 the way, as Commissioner Sayre stated, the way this
17 rate making mechanism works, that we have to institute
18 this if we want to take a closer look at setting rates
19 at--at setting rates. But this is in no way an
20 indication, in my opinion, that the company has not
21 done an excellent job in reducing costs and reducing
22 property taxes, and while providing customer service.
23 But this needs to be - - . Thank you.

24 CHAIRMAN BROWN: Thank you. Anything else?
25 Commissioner Larocca.

1 COMMISSIONER JAMES LAROCCA: Thank you, Mr.
2 Chairman. I think both my colleagues make a very
3 fundamental point. This is not about fault of
4 failure. It's about a regulatory process that
5 requires an examination when the numbers reach a level
6 of variation in a rate history. It's important to
7 keep in mind I think that when rates are set, the of
8 course their perspective, and because of that they
9 rely on projections. And while there is a lot of
10 science to that, there's also a lot of intuition and
11 guestimation, and so a rate plan goes forward on the
12 best information available at the time but variations
13 do develop. It's been said in the discussion going on
14 in-house recently that we have mechanisms that are
15 symmetrical, meaning that when earnings exceed a
16 projection, we can address them. And when earnings do
17 not live up to projection, there's a mechanism for
18 that as well. That may all be true, but none of it
19 argues against the examination that's the first line
20 of information that allows us to consider whether any
21 action at all is required. We say we're looking
22 forward and we're using projections, by definition,
23 we're talking about an imperfect process, and that is
24 not a failure of the company, it's not a failure of
25 the staff in doing the best job they can in making - -

1 . So I think while these matters can be sensitive, it
2 should be absolutely clear as my colleagues just said,
3 we're not making an assumption about fault or failure
4 or anything like that. In the course of this matter
5 coming up, what are the lines of inquiry that is some
6 definition on how wide of variation requires the level
7 of inquiry or particularly this level of inquiry. And
8 one of the outcomes I'm hoping we see as this case
9 goes forward is that we would internally exam what
10 those parameters are. There seems to be some
11 difference in history based on whether there are
12 sharing mechanisms of prior rate cases and so forth,
13 but it is important to know how much cushion is right
14 and fair based on the imperfect of the projection
15 process and how the world can change, and how much
16 should require an intervention. I don't have an
17 answer for that but I think the question is put and
18 raised by the circumstances for this case. A second
19 important matter that seems to me as we do this is the
20 examination of remedies. And the process that goes
21 forward is about remedies. It is said that the way
22 the regulatory architecture we use, financial
23 architecture we follow inevitably makes the remedies
24 we might develop prospective. Nothing about the
25 process we use looks backward except with regard to

1 how did we get there. And in this particular case
2 where we've had a rate structure in place since 2007,
3 we're beginning to examine--and I don't like the
4 vocabulary but I'll use it - over earnings situation.
5 We examine and we look back a number of years, and if
6 we find that the variation was too great that we want
7 to address, the remedies are all prospective, meaning
8 that whatever overearnings occurred during that time,
9 which would have been paid to the rate payers, is not
10 recoverable in any present tense. I think one of the
11 things we want to examine in this case is, is that
12 really the best way. There are any number of
13 counterparts point to elsewhere, this is in finance
14 and elsewhere, that would not confine a remedy to be
15 forward looking. By definition it means we're not
16 creating any restitution or recovery, except into the
17 future. I think that's a fundamental issue that's
18 raised by the circumstances without fault and one that
19 we should take an honest and open and fresh look at
20 what is the - - and - - prospective law where other
21 devices have made allow for other corrections based on
22 the - - receiver. The third thing that comes to mind
23 to me is that, and Ben mentioned it, every company is
24 subject to our jurisdiction in this late world that we
25 have, lines up with the inventory - - of deferrals.

1 And we have the protocols in place for those deferrals
2 that have not been examined in a sort of de nova way
3 in a very long time. I actually raised this with one
4 utility executive and he laughed out loud at me for
5 even raising the question. I don't think it's a funny
6 question. If a company has a bank deferral of some
7 magnitude, must the only way to address it be
8 prospective and into the future. Perhaps there is a
9 way to relate those deferrals to the present tense,
10 particularly when you're in an over earnings
11 environment, if that's what the case determines. So
12 one of things I would like to ask that the case look
13 at as it goes forward, is the possibility that the
14 bank of deferrals in this particular case can play a
15 role in a revenue - - . The answer to that may well
16 be no and I'm prepared to accept that. All I'm asking
17 for is that we examine that question along with these
18 other big questions that I think are raised by the
19 circumstances. I think if we do all those things,
20 this case can be more important than it already is. I
21 want to finish by saying I absolutely agree with my
22 colleagues and have felt all along that this case
23 should not be misread either without a company or
24 those who watch this business. We are not assessing
25 anything here but a desire to examine the numbers and

1 I would hope also examine our own architecture, and
2 come to a remedy that's fair to the company and fair
3 to the people who pay the rates. I'm driven a little
4 bit by the fact that this is from part of the state
5 where the economy is very tender and if there are any
6 remedies that could be found that are good for the
7 company and good for the people who pay the rates out
8 there, all the better. So, Mr. Chairman, the staff
9 has done already very substantial work bringing it
10 this far. I look forward to a good case and hopefully
11 a good examination in these broader issues.

12 CHAIRMAN BROWN: Thank you. I just have one
13 comment on Commissioner Larocca's interesting
14 comments. I think what they highlight to some degree
15 is the value of sharing mechanisms, and I just wanted
16 to ask Joe or Ben or anybody else, at this point in
17 time, most of our companies that we've decided rate
18 cases in my tenure it seems like almost all of them
19 have had sharing mechanisms in there. Is that a
20 correct assumption?

21 MR. JOSEPH LOCHNER: Yes, most of the major
22 energy utilities in the state are running multi-year
23 rate plans. And so a key ingredient in those plans is
24 an earnings share mechanism.

25 CHAIRMAN BROWN: But let's do this

1 situation. Let's say the multi-year rate plan that
2 ended in 2010, but they're continuing on with the
3 tariff as is and they're starting to get earnings
4 above, the sharing mechanism stays in place even
5 though the rate plan would only be the three-year
6 window of rates that were originally determined, is
7 that correct?

8 MR. JOSEPH LOCHNER: That depends. In the
9 past, many of the multi-year rate plans did not have
10 the earnings sharing going forward after the end of
11 the plan. However, lately, most of the plans now have
12 that here and the sharing mechanism continues even
13 after the three-year period or whatever the multi-year
14 period was defined.

15 CHAIRMAN BROWN: Thank you. Commissioner
16 Acampora.

17 COMMISSIONER PATRICIA ACAMPORA: Okay. Mr.
18 Chairman, you stole just what I was thinking in my
19 head. I really wanted to go back to the earnings
20 sharings mechanism and how important it has become.
21 And to reiterate what my colleagues have said, this in
22 no way should be looked upon as a smack to this
23 particular company who has done an excellent job. But
24 of course, we all have a process, and our job is to
25 balance and bring fairness to both sides, to our

1 business side and to our consumer side. So I think
2 that by moving forward, I think that we will come to a
3 remedy that should make all sides happy, and, again,
4 bring this company under the umbrella of all the other
5 companies that do have the earnings sharings
6 mechanism.

7 CHAIRMAN BROWN: Commissioner Harris.

8 COMMISSIONER MAUREEN HARRIS: I just want to
9 go back and ask some procedural questions about this
10 remedy that we are now going to consider that has
11 never been used before. Procedurally, how will that
12 work? I mean, we're not accepting that this remedy
13 will be applied, but is somebody going to be doing an
14 analysis first of this retrospective remedy and
15 whether or not--I mean, I'm trying to figure out
16 procedurally the steps here, because this has never
17 been used before, this particular remedy, and I'm
18 just--I don't want it to be--at this point it's just
19 an exploration of the remedy. We are not in any way
20 sanctioning that this is the applicable remedy.

21 MR. PETER MCGOWAN: Correct. The basic
22 sentence, I think, the order that I propose to include
23 into the order is that the ALJ will also be tasked
24 with examining the applicability and appropriateness
25 of public service law 6620, as a potential remedy in

1 addition to temporary rates. So the ALJ will be
2 working with the parties and likely developing a
3 process where the issue will be joined probably on
4 papers, so that would be the pros and cons and
5 consequences of that potential remedy can be fully
6 examined before the ALJ who will then make a
7 recommendation to the Commission.

8 CHAIRMAN BROWN: Peter, you mentioned a key
9 word in there, too, but I want to emphasize
10 applicability. It's not just pros and cons, it's
11 whether this--whatever they meant when they passed
12 this legislation fits what we're seeing here, and I
13 think it's a legitimate open question that we're going
14 to be examining during this process.

15 MR. PETER MCGOWAN: Correct.

16 COMMISSIONER MAUREEN HARRIS: I do want to
17 make sure that the genesis of that remedy is
18 considered as the ALJ moves forward with this, with
19 looking at whether this is a potential applicable
20 remedy. I think this particular remedy was created at
21 a certain point in time, perhaps with a certain
22 purpose. And I'm not saying that this is not a remedy
23 we shouldn't explore at this point, but I'm just
24 saying I want to make sure that that piece of it is
25 considered, and--

1 MR. PETER MCGOWAN: It will be.

2 COMMISSIONER MAUREEN HARRIS: Okay.

3 CHAIRMAN BROWN: Okay, any other comments or
4 questions here? Very good, let's move forward. All
5 those in favor of the recommendations as described by
6 Ben, please say Aye.

7 ALL COMMISSIONERS: Aye.

8 CHAIRMAN BROWN: Opposed? Hearing none, the
9 recommendations are adopted. Thank you, folks.
10 Second item for discussion, status report on expansion
11 of fuel supply options presented by Cindy McCarran,
12 chief gas policies supply and Anthony Belsito,
13 assistant counselor, is also available on this item.
14 Thank you. Cindy.

15 MS. CINDY MCCARRAN: Good morning, Chairman
16 Brown. Can you guys hear me okay?

17 CHAIRMAN BROWN: Yes.

18 MS. CINDY MCCARRAN: Okay. Chairman Brown
19 and Commissioners, good morning. I'm going to update
20 you on the status of case 12-G-0297 which began from
21 the energy highway blueprint, and from time to time I
22 may you use the abbreviation LDCs, which stands for
23 local distribution companies, that's another term for
24 gas utilities. Next slide. Just to remind everyone
25 of the background, we had an order instituting

1 proceeding, which discussed the environmental cost and
2 economic development benefits of natural gas. It also
3 explained that there were about a half a million
4 customers in the state within a hundred feet of a gas
5 main who were not currently heated with natural gas,
6 and about the same number that were more than a
7 hundred feet from a gas main but within a approved
8 natural gas franchise territory, also not heating with
9 natural gas. And it directed staff to conduct a
10 review of the existing policies, stating that all
11 stakeholders would benefit from a better understanding
12 of the costs and benefits of the expansion of the
13 natural gas system. Next slide, please. Status of
14 proceeding, we held a technical conference as directed
15 by the Commission on January 9th. We, at that
16 technical conference, formed working groups, which met
17 on January 30th. We also received comments as
18 directed by the Commission on March 12th. We have
19 spent a lot of time reviewing those comments and I'll
20 describe them a little bit in a minute, and we formed
21 a fourth working group which met just Tuesday of this
22 week in New York City, it's a working group devoted to
23 New York City's specific issues. Next slide, please.
24 The comments--we received comments from 93 individuals
25 and 22 parties. It was a lot of comments. Most of

1 the comments from individuals, New York citizens,
2 focused on environmental concerns. The parties
3 included a wide range--and you can see the list there--
4 --of different interests of groups within the state.
5 Next slide. Many parties discussed the economic
6 benefits to the state, especially in terms of jobs
7 added of expansion of the use of natural gas. The
8 America's Natural Gas Alliance and the Northeast Gas
9 Association, which are obviously natural gas industry
10 groups, discussed the abundance and the relative low
11 cost of natural gas and how those are expected to be
12 with us for quite some time. The labor unions
13 basically were representative of those folks employed
14 by the utilities, so they were in support of the
15 expansion of the natural gas system. And the
16 representatives of large customers, and this included
17 multiple interveners of Alcoa, they were concerned
18 that customers who already have natural gas service
19 not be negatively impacted by the cost of expanding
20 the natural gas system to other customers. Next
21 slide. There were a few environmental groups that
22 commented, they tended to focus on the benefits of
23 renewable energy, and also the fact that methane is
24 a greenhouse gas. And the heating oil industry filed
25 comments which I don't understand. They see expansion

1 of the natural gas system as competition for their
2 members, which is a concern to them. Next slide. As
3 I mentioned, we formed three working groups and then
4 added the New York City working group. The three
5 working groups focus on these groups of customers,
6 which we found it makes sense to group customers these
7 way because of the applicable statutes and
8 regulations. There is some overlap of issues between
9 these groups. The groups basically, again, those
10 already within 100 feet of the gas main, there's more
11 than 100 feet but within an approved franchise. And
12 then the third group is those customers who live
13 outside of any approved gas franchise, and there's
14 about 2 million of those households in the state of
15 New York. Staff's immediate focus is to try to reach
16 the first group, because there's fewer barriers for
17 them to convert to natural gas. Next slide. So the
18 Commission asked parties to comment on what the
19 barriers are to conversion to natural gas service.
20 The parties identified these barriers. The customer
21 knowledge is a big problem. Incomplete customer
22 information and understanding is probably the best way
23 to phrase it. Cost of replacement of customer
24 equipment, obviously putting in a new furnace is not
25 cheap, but we all know that. If you are more than

1 that 100 feet from a gas main, the utility has the
2 ability to charge you what's called a contribution in
3 aid of construction, or CIAC, so that's a barrier for
4 some people. And convenience of timing, as everybody
5 knows, your furnace dies on January 29th, so is the
6 utility in your neighborhood that day expanding the
7 natural gas lines? Probably not. In many situations,
8 a customer may be able to obtain replacement equipment
9 at significantly reduced costs, and that's because
10 there are a variety of programs. Energy efficiency
11 programs administered by both the LDCs and NYSERDA,
12 there's on bill financing. There are conversion
13 rebate programs offered by several of the utilities.
14 That can really significantly help with the purchase
15 price of equipment. And another issue that we found,
16 in addition to coming up with the cost, the outreach
17 and education of just letting the customers know that
18 these programs are out there, in addition to the
19 benefits of natural gas service were big issues. The
20 hundred-foot rule is being applied inconsistently
21 among the utilities and we really see that as a
22 barrier as well. So after review of the comments that
23 we received both in written form and at the technical
24 conference and working group meetings, which I have to
25 say the technical conference and working group

1 meetings were very well attended and the participants
2 really were engaged and it was really beneficial. We
3 have identified these areas that we would like to do
4 additional work in, outreach and education, the
5 hundred foot rule, data collection, and then further
6 work groups and coordination. Next slide. So
7 outreach and education, staff plans to convene a
8 working group to target outreach and education. This
9 group is going to work on several facets of outreach
10 and education, one being website content and design,
11 another being coordination of the various public
12 benefit programs, which I referred to previously.
13 Another improving the applicant utility interface,
14 which definitely needs improvement. Other areas of
15 improving or increasing customer access to
16 information, which we won't know about, obviously
17 until we convene a working group and talk to the
18 stakeholders. Next slide. The hundred foot rule, and
19 I printed it out and brought it with me in case you
20 have any specific questions. I won't read it, but it
21 has specific language dealing with residential non-
22 heating, residential heating, and non-res customers as
23 to what they're entitled to from the utility in terms
24 of length of service line, length of gas main, then
25 how the utility is supposed to calculate the cost,

1 over and above the amount they're entitled to. But
2 what we're seeing is that because the language is a
3 little complicated, maybe--you know, it's maybe not as
4 clear as it should be, it's been around for a while,
5 utility personnel in the field are interpreting it in
6 different ways, and we want to look into that. We
7 want to have another round of comments on this issue,
8 getting at specific areas of concern so that, if
9 necessary, we would come back to the Commission with
10 recommendations for potential clarifications of that
11 rule. Yes.

12 CHAIRMAN JAMES LAROCCA: Just a quick
13 question of this hundred feet. The rule is universal.
14 The problem is in the application of understanding of
15 the individual companies or their personnel?

16 MS. CINDY MCCARRAN: Yeah, I mean, there's
17 YouTube videos out there that we've watched of
18 utilities meeting with the public and we can spot
19 wrong information that's being given out at these
20 public meetings. I think it's--these are well meaning
21 people, but they don't have a complete understanding.

22 CHAIRMAN JAMES LAROCCA: So the response
23 part of what you're looking at is not so much perhaps
24 having to rewrite it as better training, better
25 understanding protocols that make a more uniformed

1 application.

2 MR. ANTHONY BELSITO: Absolutely correct.
3 So at this point we're not looking into whether or not
4 the regulation needs to be rewritten, it's just a
5 clarification of what it means. Having said that,
6 once we get far enough into seeing exactly what's
7 going on, we may propose actual different language for
8 the regulation itself, but at this point we're not
9 anticipating that, or at least not in the near future.

10 CHAIRMAN BROWN: Thank you.

11 MS. CINDY MCCARRAN: Okay. Next slide.
12 Data collection. There is apparently a significant
13 disparity on the type and quality of information
14 regarding new service requests and other new business
15 opportunities that is currently being collected by the
16 LDCs, and staff intends to issue a proposal for more
17 consistent and thorough reporting across all the LDCs
18 with the goal of improving utility planning, the
19 Commission's ability to review that planning and
20 informing the development of Commission policy
21 regarding expansion of the natural gas service. So
22 we'll come back to you on recommendations on that.
23 Next--thank you. Additional work groups, like I
24 mentioned, we convened just this week, the New York
25 City work group, and we will have to continue with

1 that work group. We also planned in the next months
2 to convene a working group focused on natural gas
3 vehicles, which will also tackle the associated issues
4 of compressed natural gas and liquefied natural gas.
5 Liquefied natural gas is of interest to long haul
6 truckers. Compressed natural gas is used in, like
7 local fleet and garbage, school busses, that kind of
8 thing. There is a collaborative that recently the
9 Commission approved in the National Grid upstate gas
10 case dealing with a gas conversion program, so we're
11 coordinating that with this generic case, and there
12 are other things being done in other cases. And we
13 are continuing to receive franchise applications or
14 modifications from the LDCs and those also will be
15 coordinated with this generic proceeding. So as far
16 as next steps, we're going to issue a couple of SAPAs
17 [phonetic], one on the hundred foot rule and one on
18 the due collection of analysis issue. After the SAPA,
19 comment periods expire, you know, we'll know better if
20 any recommendations need to be made to the Commission.
21 We're going to institute the NGB working group and as
22 Tony referenced, we have to continue to work on the
23 longer-term issues and policies, especially those
24 related to Commission's policy on franchise
25 expansions, which was issued in 1989. So if you have

1 any questions, we'd be happy to take them.

2 CHAIRMAN BROWN: Commissioner Acampora.

3 COMMISSIONER PATRICIA ACAMPORA: Cindy, you
4 mentioned about outreach and education. Could you
5 just go into what areas you're thinking of how to do
6 that, and it almost sounds like you need some outreach
7 and education on utility personnel's part also.

8 MS. CINDY MCCARRAN: Yeah, if Doug Elfner
9 [phonetic] wants to jump in here, I would certainly
10 welcome that, but we're working closely with him on
11 this issue. But yeah, again we talked about the
12 websites which, for most people, that's going to be
13 your first point of contact with the utility if you're
14 looking for information. But the utilities also do a
15 lot of other--they have publications, they have
16 community outreach groups that they work with
17 routinely. But yeah, I think you're right,
18 Commissioner, in that it may very well be that we have
19 conversations with them about maybe what people on the
20 call centers or out in the field are saying to people
21 that are interested in converting.

22 COMMISSIONER PATRICIA ACAMPORA: Right, so
23 when someone calls up, I mean the number of 500,000
24 people who are eligible within the hundred foot is a
25 huge number of people. And I also might suggest that

1 we utilize elected officials with their newsletters,
2 because people really do pay attention to what their
3 elected officials are talking about, and they do take
4 stock in that. So think that might be another way to
5 do some outreach.

6 MS. CINDY MCCARRAN: Thank you. We will
7 take that into advisement.

8 COMMISSIONER PATRICIA ACAMPORA: Thanks.

9 CHAIRMAN BROWN: Commissioner -- .

10 MS. CINDY MCCARRAN: Oh, yeah, Tony just
11 reminded me also--the Department staff has the website
12 power to choose and we will be making enhancements to
13 that as well. Sorry.

14 COMMISSIONER MAUREEN HARRIS: Hi, Cindy.
15 Earlier, in the first slide, you mentioned that there
16 are about half a million New Yorkers that are
17 currently within the hundred feet of the gas line. Do
18 you remember geographically where those customers tend
19 to be? Are they downstate?

20 MS. CINDY MCCARRAN: They're all over.
21 They're really all over the state. You might drive
22 down a block--I know on Long Island there are homes,
23 for example, where they have all natural gas service
24 because their home owner prefers to cook with natural
25 gas, but they never converted the heating system, so

1 they're heating with oil. You have that situation, or
2 you'll have--I know in Buffalo we've talked to
3 National Fuel Gas about this, you can--the oil truck
4 will be driving down the street and it will stop at
5 one of five houses, but the other four have natural
6 gas. It's just all over the state.

7 COMMISSIONER MAUREEN HARRIS: Okay, thanks.

8 CHAIRMAN BROWN: Thank you, Cindy. That's
9 thorough. We don't have to take any action today, so
10 we'll move forward with the recommendations that you
11 made administratively, and you will eventually come
12 back to us with a variety of issues related to this,
13 so thank you very much, you and Tony, on the work that
14 you've been doing and will continue to do on this.
15 The third item for discussion today is item 303 12-E-
16 0503, review of generation retirement contingency
17 plan. This will be presented by Raj Addepalli, deputy
18 director from the office of electric, gas and water,
19 and there are some other staff that will be available,
20 Warren Myers, Ben Wiles, Tammy Mitchell, Tina Palmero
21 that will be available for questions on their aspects
22 of what they're doing on this proposal. Raj.

23 MR. RAJ ADDEPALLI: Good morning, Chairman
24 and good morning Commissioners. I'm just trying to
25 get this--okay, first slide please. Let me start with

1 a little bit of background just to refresh our memory
2 here. If you recall, the Commission ordered last
3 November asking Con Edison to work with the Power
4 Authority and to file a reliable contingency plan
5 should the Indian Point Power Plant not be
6 available. And the company filed on February 1st, and
7 some of the key parameters in the filing including
8 that they would be liable to violations potentially in
9 2016 summer, and there would be a deficiency of about
10 1,450 megawatts, and Con Edison proposed and NYPA
11 proposed a three-prong solution to meet the needs.
12 The three prongs include generation of transmission
13 RFPs, their own transmission solutions, and energy
14 efficiency solutions. And then the filing asked for
15 three specific actions, three steps and those three
16 steps, to keep them straight, we call them the March
17 order, the April order, and hopefully the September
18 2013 order. In the March 2013 order, the filing asked
19 for permission to issue the request for proposals,
20 RFPs for generation and other transmission solutions
21 for 1,350 megawatts, and the filing also asked for
22 another order this month, this one now do we move
23 forward with three of their own transmission order
24 transmission solutions known as tots [phonetic].
25 Those are the Staten Island so-called embarking

1 project, the -- project and the -- upgrades. Those
2 are the three proposed by Con Edison and NYPA. And
3 then they came up with a wedge of 100 megawatts to
4 promote efficiency demand production and combined
5 needed power solutions to meet the need. And then
6 they asked for a final order in September to evaluate
7 all of the above and come up with a final portfolio
8 solutions that would help meet the deficiency and the
9 lowest cost. And the Commission did take action last
10 month. You allowed then to move forward with the RFP
11 for the generation and other transmission solutions,
12 and since the order came out, the New York Power
13 Authority actually issued the RFP for 1,350 megawatts
14 of resources from generation and other transmission
15 Solutions. The RFP was issued on April 3rd, and the
16 responses are due May 20th. And the Power Authority
17 in fact held a bidders' conference last week to
18 discuss the RFP details. So what they're asking for
19 now in this order for this month are two components to
20 move forward with the tots transmission projects, to
21 move forward with efficiency and demand reduction part
22 of the solution, and to address how to collect costs
23 and how to allocate costs, costs regarding the
24 allocation. So these have been issued for comment.
25 We've discussed, you discussed in your order, the

1 comments that were received on February 22nd, dealing
2 with the broader issues, and then another SAPA was
3 issued, specifically dealing with these tots and
4 efficiency parts of the solutions. Those comments
5 were received on April 8th. Collectively there were
6 40 sets of comments were received, and I'll just
7 discuss with you briefly the high level, the key
8 thrust of the comments that were filed and the staff's
9 response that we're recommending to you. The first
10 major comment from some of the parties regarding the
11 tots projects is that why start now in April, why not
12 wait until September when you figure out what the
13 optimum solution is that considers not only the tots
14 but also the RFP results from the NYPA RFP that just
15 went out. And our response to that is, based on the
16 schedules that the TO's have provided, the
17 transmission owners, Con Edison and New York Power
18 Authority, the time is short. We just have about
19 three years to go. And delaying the solutions from
20 moving forward is not advisable, and given the time
21 schedules and the short timeframe we should move
22 forward, subject to certain conditions, and I will
23 discuss those conditions in a second. The second
24 major comment from some of the parties is that the
25 transmission owners should not get preferential

1 treatment for the three totos projects compared to the
2 solutions in the RFP that are being filed next month.
3 And our response is the transmission owners, unlike
4 other developers, have an obligation to provide
5 reliable solutions. Others have an opportunity, but
6 not an obligation. And hence, giving them some
7 prudent initial development costs is reasonable, given
8 the obligation that these utilities carry. The third
9 major comment is that the cost should not be allocated
10 to upstate customers because they perceive that this
11 is more of a downstate issue, the reliability concerns
12 are more focused on downstate customers. Our
13 preference, the staff response is the cost allocation
14 should be based on a very general beneficiary
15 principle that has been adopted before by you in a
16 2009 policy statement, and by the FERC , and that
17 embedded the ISO tariff, New York ISO tariffs. And in
18 this case, the beneficiaries should be paying for only
19 associated costs, and defining precisely who the
20 beneficiaries needs more work, and we should issue a
21 straw proposal to identify who the beneficiaries are,
22 get comments and bring them back to you for final
23 decisions. Next. The other comment on the efficiency
24 front is that the filing that was made by Con Edison
25 and NYPA, the costs seem to be excessive, although Con

1 Edison did file subsequently an update to its cost
2 estimates for the efficiency demand reduction. And we
3 agree that they need more work on the cost estimates
4 and we have a recommendation for that. And finally,
5 some of the commenters suggested, given the bias
6 potentially that the utilities may have in evaluating
7 the RFP solutions, given that they have their own
8 transmission solutions in the mix that there should be
9 a neutral, unbiased entity like the DPS that should
10 evaluate all the solutions and make recommendations
11 for the Commission, and we agree with that concern.
12 So in light of these comments and our response, our
13 recommendations to you for this order are that we
14 allow the TOs to move forward,, with the three tots
15 projects, given the lead time issues, but with these
16 conditions. First, that permission is only until
17 September when we finish evaluating all the solutions
18 that come from RFP results and the tots and figure out
19 where the best portfolio is, and if the tots survive
20 this scrutiny, they can move forward at that time,
21 based on a subsequent order from you. If they don't
22 survive, there are better solutions than them then
23 they would be halted. And in the interim for the next
24 six months, to the extent the utilities have to spend
25 some money for the development costs, they will be

1 capped to minimize rate payer exposure to \$10 million.
2 They need to be prudent and incremental and
3 verifiable. And tots should be subject to scrutiny
4 along with the RFP projects, and so Con Edison and
5 NYPA should file further data on the tots projects on
6 May 28th, along with the RFP responses that come in.
7 And so staff can evaluate, DPS staff can evaluate the
8 tots along with the RFP responses. On the efficiency
9 prong of the solutions, we recommend that Con Edison
10 should work with NYSERDA and in consultation with the
11 power authority, jointly prepare and submit a revised
12 plan, given that the last plan was not sufficient, and
13 the cost estimates were not firm. It should file
14 within 45 days. And we also recommend that we get
15 more granular data on the cost estimates, either
16 supply cost curve to give an indication what does it
17 cost for the first incremental, let's say 25
18 megawatts, the next 25 megawatts and so on. There may
19 be some low hanging fruit at the low end, but as the
20 cost curve--as the supply goes up, the cost may go up,
21 so you can get a better feel for the cost curve for
22 the efficiency and demand reduction and CHP projects .
23 And then that would help us decide--help you decide by
24 September what's the right amount of these resources.
25 We would have the data from the tots. We would have

1 the data from the RFP results. And you can put these
2 aside, alongside and see what makes sense. The cost
3 recovery and allocation front, again, the allocation
4 should be based on the reliability of benefits who is
5 getting reliability benefits because this is a
6 reliability issue, the contingency plan is focused on
7 the reliability needs, meeting the reliability needs,
8 so those who benefit from reliability benefits should
9 be the ones who should pay for this project. It's--
10 again, we need more granular information on how to
11 identify the beneficiaries. On the recovery front,
12 that's the allocation, who pays for it, and how you
13 collect the money is the recovery part. There are two
14 approaches. One could use the ISO federal tariffs,
15 but they may or may not be available to be used at
16 this time for this purpose, so there should be a
17 mechanism for the utilities state--using the state
18 tariffs to collect the costs associated with these
19 ultimate projects that you approve. And to the extent
20 NYPA signs power purchase agreement coming out of the
21 RFP, there needs to be a mechanism for the Power
22 Authority to collect the cost from our utilities, the
23 beneficiaries of these projects and reimburse NYPA so
24 NYPA pay to develop. Next slide. And so we recommend
25 that staff be tasked to come up with a straw proposal

1 for how to collect the costs and allocate the costs
2 based on the principles I just discussed, and come
3 back to you this summer with a recommendation for you
4 to adopt. Next slide, please. So to summarize,
5 April, today, hopefully you'll adopt these
6 recommendations on the tots and efficiency. May 20th,
7 the RFP responses would be due, and the tots responses
8 would also be due at the same time. And in 45 days
9 from the issuance of this order, the efficiency and
10 demand reduction plan should be filed, a revised plan
11 by Con Edison, working with NYSERDA and the power
12 authority and in the summer the DPA staff will issue a
13 proposal for cost allocation and recovery, and bring
14 back to you recommendations for that. And in the
15 summer DPA staff would also evaluating all the
16 responses that come from the RFP and the tots and the
17 efficiency demand reduction elements and come back to
18 you in September with a recommendation. There's a lot
19 of confusion out there in the marketplace that somehow
20 the costs, the allocation recovery has already been
21 settled, and that is not the case. That is still an
22 open issue. Staff will issue a proposal and come up
23 with recommendations to you in the fall. Until you
24 decide in September, the cost of allocation recovery
25 is not final. And in terms of cost--actual cost, it's

1 premature to spell out how much it cost. There's
2 information out there, perhaps misinformation that
3 this project is reliable contingency plan will cost X
4 dollars. We don't know that yet. We need to see what
5 the RFP responses are, what the tots costs are, what
6 the efficiency costs are. We need to figure out what
7 the optimal portfolio is in September. There are a
8 lot of moving parts in here, and the cost estimates
9 will be different from what people perceive they might
10 be now, so it's premature to jump to conclusions as to
11 what the costs are. And so that's in a sense, a high
12 level summary for you the recommendations to move
13 forward with the tots projects, subject to the
14 conditions I just discussed. And on the efficiency
15 front have the utility file a revised plan in 45 days
16 and direct the staff to issue a straw proposal of cost
17 recovery and allocation, and come back to you in the
18 summer with the recommendation on that aspect. And if
19 you have any questions we'll be happy to answer them.

20 CHAIRMAN GARRY BROWN: One clarification. I
21 don't think you mentioned it today, and I know you've
22 mentioned it in the past. One of the things we are
23 going to be looking at is the value of some of these
24 upgrades, energy efficiency, even if Indian Point
25 stays open, that some of these things may have more

1 value. I think we called it no regrets in the past.
2 And I would assume that the two actions we are taking
3 today with the - - and the energy efficiency would
4 certainly follow, at least some of the projects would
5 probably fall in the category of something that may be
6 valuable under any circumstance.

7 MR. RAJ ADDEPALLI: Yes, you're exactly
8 right. Some of these projects may have value for rate
9 payers. Even if Indian Point were to stay open and
10 they may be, well be--we may recommend to you that
11 they be, continue to move forward on - - . That's
12 something we're still looking at but--and--

13 CHAIRMAN BROWN: All I'm asking that will be
14 examined as part of the process.

15 MR. RAJ ADDEPALLI: Yes, absolutely.

16 CHAIRMAN BROWN: Other comments or
17 questions? Commissioner Larocca.

18 COMMISSIONER JAMES LARocca: This is really
19 a sidebar. There was reported again recently about
20 the status of nuclear waste at Indian Point. We are
21 very carefully not involved in the substantive
22 discussion of the closing or not or licensing or not
23 of the plant. But I did ask - - to provide all of us
24 with an update of the status of storage and other
25 waste storage on all the plants throughout the state,

1 so we can stay current. The recent reporting on
2 Indian Point, read that that issue might wind up
3 trumping the other questions that are out there. So
4 just as a sidebar, be aware that I've asked for an
5 update for all the plants in the state on the
6 inventory of wastes.

7 CHAIRMAN BROWN: Bridget I assume is--

8 MR. RAJ ADDEPALLI: Yes, Bridget is
9 diligently working on that and should have an answer -
10 - .

11 CHAIRMAN BROWN: Commissioner Sayre.

12 COMMISSIONER GREGG SAYRE: Raj, although the
13 recommendation is to go forward with development of
14 the tots projects, would there actually be any shovels
15 in the ground between now and September or are we
16 talking about engineering work?

17 MR. RAJ ADDEPALLI: More of development
18 engineering work, not necessarily shovels in the
19 ground.

20 CHAIRMAN BROWN: Some of these would have to
21 go through a siting process, and others--or a formal
22 siting process and others may be more in the way of
23 upgrades is my understanding.

24 MR. RAJ ADDEPALLI: Some of them already
25 have the permits, like Article 7 permits, like - - but

1 some of them may need some local permits, not
2 necessarily Commission permits.

3 CHAIRMAN BROWN: So that means some of the
4 development work that would be happening over the next
5 few months.

6 MR. RAJ ADDEPALLI: That's correct.

7 CHAIRMAN BROWN: Commissioner Harris.

8 COMMISSIONER MAUREEN HARRIS: Raj, I know
9 we've had multiple discussions over the past few weeks
10 on this item and all the nuances. But can you walk me
11 through, again, the piece--two pieces. We have the
12 tots [phonetic] project. We are approving the initial
13 work on these no regrets projects, these tots
14 projects, up to a \$10 million cap, and we will make a
15 further decision about the tots projects as compared
16 against the RFP projects in September. Is that an
17 apples to apples comparison? You know, I'm looking at
18 the tots projects and then the RFP projects, and we
19 will be comparing them against each other, right?

20 MR. RAJ ADDEPALLI: As best as we can, yes.

21 COMMISSIONER MAUREEN HARRIS: As best as we
22 can. And what do we use to make that comparison?

23 MR. RAJ ADDEPALLI: There are multiple
24 factors in the first instance. These projects have to
25 meet the reliability need. They should count towards

1 meeting the deficiency, right, they need to be in the
2 right places and contributing towards the need.
3 Second, - - the cost elements, what does it cost the
4 rate payers ultimately. And what are the benefits
5 from it. In addition to reliability benefits there
6 may be other local benefits. For example, within the
7 city, they may avoid future delivery infrastructure,
8 or deferral. So there may be additional reliability
9 benefits that we would look at. And third, we would
10 be looking at the environmental aspects of how it
11 affects the mission profiles perhaps, and fourth,
12 economic development, perhaps, there may be multiple
13 factors that we'll look at, but the critical ones
14 would be the reliability and economic costs.

15 CHAIRMAN BROWN: Raj, you just forgot my
16 fifth, the one that I just mentioned. I think you're
17 also going to want to examine the value of the options
18 under the different circumstances.

19 MR. RAJ ADDEPALLI: No regrets.

20 COMMISSIONER MAUREEN HARRIS: So how do the
21 hundred megawatts of energy efficiency demand response
22 CHP fit into to that piece of it? Will we be
23 comparing those RFP projects, tots projects, together
24 with the 100 megawatts of what I'll just call the
25 demand response projects, altogether or are we going

1 to be evaluating them separately?

2 MR. RAJ ADDEPALLI: We've been evaluating
3 them separately to begin with, but also we'll be
4 combining them with the RFP and the tots. And there
5 we might want to look at a life cycle type of cost
6 analysis. It's not as easy to say it's dollar per KW
7 or dollar per kwh. The energy efficiency has a
8 different dimension of demand reduction. So the
9 metrics have yet to be decided, but we'll do a
10 comprehensive evaluation and we're leaving you a lot
11 of flexibility to decide what makes sense at the end
12 of the day.

13 COMMISSIONER MAUREEN HARRIS: Okay, because
14 I think what I'm going to be looking for in the plan
15 that is filed in the next 45 days is how this
16 particular plan and the costs associated--I know
17 there's been some revised costs and projections--how
18 this fits in with the current EEPS [phonetic] programs
19 that the city has--and the current--and that Con
20 Edison has, the RPS programs, D programs. I'm going
21 to be looking to see how all of this fits in and then
22 compare that against the RFP projects or the tots
23 projects. I don't want to make an assumption here
24 that we're automatically carving out the 100
25 megawatts, but I do at some point want to just compare

1 it against the programs that are currently in place.

2 MR. RAJ ADDEPALLI: You should do that. I
3 would just caution that the efficiency projects, the
4 EEPS have different goal of reducing - - usage. It
5 could be around the clock, whereas the demand
6 reduction that we're looking for here typically,
7 right, you're looking for goes to peak related demand
8 reduction. It's more focused on demand reduction. So
9 the cost estimate may be different accordingly.

10 COMMISSIONER MAUREEN HARRIS: But if we're
11 going to be looking for incremental programs, I want
12 to see what demand response programs and at what cost
13 we currently have in place, and then we're going to be
14 looking at incremental costs and incremental programs
15 on top of that, as valuable as they may be. But I
16 don't want to necessarily compare the apples to
17 oranges, I want to compare those incremental programs
18 with the existing programs.

19 MR. RAJ ADDEPALLI: We have the same goal.

20 CHAIRMAN BROWN: Well, Raj makes a point,
21 especially in energy efficiency demand response by its
22 definition is a non-peak. That's much more comparable
23 to what's in other programs. EAPS, because it focuses
24 on reducing KWH doesn't mean many degrees of care
25 where the KWH happens, where this one it's absolutely

1 essential that the KWH be peak coincident or they
2 offer no value in this process.

3 COMMISSIONER MAUREEN HARRIS: I'm aware of
4 that. I fully understand that. But I'm asking for--

5 MR. RAJ ADDEPALLI: So what's your point of
6 being--

7 COMMISSIONER MAUREEN HARRIS: --incremental
8 versus existing of these programs. And every time we
9 go up another little bit to get that extra megawatt or
10 whatever, whatever piece if people are looking for, I
11 want to make sure that we evaluate that value.

12 MR. RAJ ADDEPALLI: And that's why we're
13 asking for the supply cost curve type of--

14 COMMISSIONER MAUREEN HARRIS: Right

15 MR. RAJ ADDEPALLI: So that's means that's
16 what you're asking.

17 COMMISSIONER MAUREEN HARRIS: So at this
18 point we're not necessarily approving 100 megawatts.

19 MR. RAJ ADDEPALLI: That's correct.

20 COMMISSIONER MAUREEN HARRIS: Okay, we're
21 just looking--we're approving them filing a plan for
22 that.

23 MR. RAJ ADDEPALLI: That's correct.

24 COMMISSIONER MAUREEN HARRIS: Thank you.

25 CHAIRMAN BROWN: Okay, any other comments or

1 questions here? Chairman, I just want to thank the
2 whole staff for putting a lot of effort in getting
3 these done in a very, very tight deadlines. The
4 comments just came in last week, and we got you the
5 item. I'm sorry it was delayed, I know a few days
6 back but it was done on time. Thanks to the staff.

7 CHAIRMAN BROWN: Thank you and I will note
8 this is a proceeding kind of a little different than
9 any other proceeding that I can remember, that's a
10 unique set of circumstances, so it's a creative
11 process, and again, thank you for your work and all of
12 the staff's work in this. So on item 303, we have a
13 recommendation as proposed by Raj. All those in favor
14 please say aye.

15 ALL COMMISSIONERS: Aye.

16 COMMISSIONER BROWN: Opposed? Hearing none,
17 the recommendations are adopted. Let's move to the
18 fourth item of the day, item 301, examination of
19 alternating current transmission upgrades. This will
20 be presented by Diane Barney, the utility supervisor
21 and Liz Grisaru and managing attorney, and Raj
22 Addepalli, deputy director of office of gas and water,
23 and again, Warren, Tammy, Tina are all involved with
24 this one as well. So they'll be available for
25 questions. So I'll let Diane get a second to get

1 settled, and when you're ready, please begin.

2 MS. DIANE BARNEY: Okay. Chairman Brown,
3 Commissioners, good morning. In November you
4 instituted a proceeding to achieve the energy highway
5 blueprint goal of reducing congestion from upstate to
6 downstate by pursuing an increase in the AC electric
7 transmission system capability by 1,000 megawatts.
8 You requested that staff return with a recommendation
9 on the process, to conduct the proceeding. To help
10 staff formulate a path forward, the order requested
11 the prospective developers submit AC transmission
12 upgrade project proposals by January 25th. Six
13 developers submitted statements of intent,
14 encompassing 16 possible projects. These proposals
15 cover three major routes. The first, starting at the
16 western end of the state and coming across the
17 southern tier; the second starts in the Utica area and
18 proceeds down the Hudson Valley; the third starts in
19 the Utica area and drops to the south. The developers
20 consist of both the incumbent transmission owners and
21 private developers. In developing a process going
22 forward, it is important to identify the benefits to
23 be gained by constructing new AC electric transmission
24 in this area of the state. While the prime objective
25 is congestion relief, there are reliability,

1 environmental, and economic benefits that will also be
2 gained. Some of these are quantifiable, and others
3 are not. Relieving the congestion in this corridor
4 will allow easier entry and exit of generation to the
5 system, the system reliability will be enhanced
6 through increased system resilience and flexible
7 operation. Many facilities in this area will need to
8 be rebuilt over the next 20 years due to aging
9 infrastructure, and the increased system flexibility
10 will allow faster, lower cost reconstruction than if
11 the congestion persisted. Increased transmission
12 capability will allow existing generation additional
13 access to downstate markets, and will encourage
14 upstate development of new wind resources and other
15 generation. Environmental benefits should result for
16 utilization of more efficient generation, which will
17 reduce air emissions. If the Indian Point facility
18 were to retire, increased transmission capability
19 would contribute to mitigating the system deficiency.
20 Economic development benefits are also anticipated in
21 the form of job growth, increased economic activity,
22 increased revenues to upstate generators, and through
23 an augmented and strengthened property tax base. I'm
24 turning now to the statements of intent and how we use
25 them to draft the proceeding process. Note, given the

1 requests for statements of intent targeted only AC
2 proposals, those are the projects we focused on. Our
3 first question was, do the proposals meet the
4 proceeding goal of increase transfer capability of
5 1,000 megawatts. To make this determination, staff
6 asked the New York ISO to perform a very high level
7 screening analysis, five portfolios of projects.
8 Note, this list is not exhaustive, but just a sample.
9 The five portfolios that we analyzed were the New York
10 Transco projects, the Next Era AC projects. A
11 portfolio suggested by North America Transmission,
12 which is a combination of their suggested project and
13 a select group of the Transco projects. The last two
14 portfolios consist of the boundless AC proposals, one
15 reaching from western New York, and one running
16 north/south through the Hudson Valley. The results
17 identified that the southern tier proposal, while very
18 creative, does not significantly increase transfer
19 capability at the UPNY-SENY transmission interface.
20 This leaves the focus on the two corridors emanating
21 from the Utica area, one to the south, and one through
22 the Hudson Valley. At this point, I'd also like to
23 take a moment to thank the New York ISO for their
24 analysis. They stood ready to help us in any way that
25 we requested, and came through for us. The key

1 takeaway is that there are options on how to increase
2 transfer capability between upstate and downstate, and
3 Liz Grisaru will now go through the process staff is
4 suggesting to use for the remainder of this
5 proceeding.

6 MS. ELIZABETH GRISARU: Thank you very much,
7 Diane. Good morning, Commissioners. I'd like to,
8 before I start, just thank the staff. Chairman, you
9 mentioned that you had--you were very interested in
10 the last item you discussed as something new and
11 novel, and I think that we have--what staff has come
12 up with here probably ranks about the same level of
13 novelty and staff worked very hard on putting together
14 this proposal. So as Diane said, we appear to have a
15 variety of potential solutions to increase the
16 transfer capability, these interfaces. We have also
17 something new, that is we have both incumbent and non-
18 incumbent potential developers advocating for those
19 projects. And so the question that--the bottom line
20 question staff was faced with was can we use our
21 existing Article VII statutory tool, and can we
22 structure that in some way that will allow you, the
23 Commission, to do a comparative review of the
24 competing proposals, and thereby get the best solution
25 for rate payers in the long run. So looking at that

1 question, we decided that the answer is yes, we can
2 use our--next slide please--we can use our Article VII
3 toolkit to look at both the effectiveness, the system
4 effectiveness, and the costs of the different
5 proposals that have been presented so far. What we
6 need to do is create the forum for allowing you to
7 make those comparisons among projects, and we came up
8 with a modified Article VII process that would start
9 on October 1, 2013, with a common deadline for initial
10 application materials, and those materials are parts
11 of the existing requirements in the regulations and
12 they are set forth in Appendix A to the proposed
13 order. All interested AC developers would come in on
14 that deadline with those materials. We would also
15 have those developers providing the notices required
16 under the statute to interested communities, and we
17 would also require intervener funding at that same
18 deadline, in order to facilitate the participation of
19 those other parties. The process would then take a
20 leave from the new Article X statute, and we would
21 engage in a scoping exercise with all the project
22 developers, interested communities and other parties.
23 We would look at the initial application materials and
24 at the work that remained to be done in order to
25 complete all of those applications. And once we had

1 finalized the scoping, we would then ask an
2 administrative law judge to establish an overall
3 schedule and deadlines for the submission of remaining
4 materials, so that all the applications can get to the
5 completeness state on the same schedule. The ALJ will
6 also be tasked with looking at all the issues that
7 will be in play, and to make some evaluations about
8 which sorts of issues can be evaluated commonly on a
9 combined or joint record, and which issues are really
10 unique to the individual projects. For example, the
11 ALJ might recommend that we have a common record on
12 issues such as how well do these projects--how well do
13 these portfolios, how well do these portfolios meet
14 the various objectives of the proceedings, such as the
15 congestion relief. In order to carry out the process
16 that we're suggesting, we expect to need some
17 modifications to the existing regulations. We have a
18 staff working group that is tasked with coming up with
19 a proposal for those changes, and we will pursue that
20 through a notice and comment process, and ultimately
21 present this Commission with a recommendation on any
22 changes to the Article VII rules. We also recommend
23 that we hold--the staff sponsor at least one multi-
24 agency technical conference. Because this is a new
25 way of doing things, we expect people--developers as

1 well as communities and other agencies may have a lot
2 of questions about how we intend to--how we're going
3 to manage this. So we think that there should be at
4 least one technical conference, and there may be a
5 need for more and we recommend that you leave that
6 open, but there should be at least one. And there are
7 some further additional steps which Raj will touch on,
8 but the ultimate goal here is to come up with--to
9 build a record that will allow us to identify the
10 projects that qualify under Article VII, using the
11 existing Article VII statutory criteria, but also find
12 a portfolio that maximizes the benefits that we are
13 looking--you are looking for in this proceeding, at
14 the least cost and at the least risk to rate payers.
15 The way we get there is to provide the funding for
16 those projects that meet that standard, in accordance
17 with cost recovery and cost allocation methodologies
18 that we will need to establish. That is the second--
19 that's the second step that we recognize we will need
20 to take in order to complete the package, and I think
21 Raj is going to address that issue

22 CHAIRMAN BROWN: Liz, before you leave, I
23 think it's important to kind of examine why are we
24 inventing this new process, when we have--what the
25 alternative is. My understanding of the alternative

1 would be to conduct a separate Article VII for each
2 one of these lines, which inevitably would require in
3 that examination to examine alternatives to that line,
4 which would result then in all the other lines getting
5 involved in every one of the other alternative sevens
6 because they're the alternatives, and we would have
7 seven different Article VII proceedings going on, all
8 with markedly the same parties and many of the same
9 issues.

10 MS. ELIZABETH GRISARU: Yes, that's true.
11 And the other concern, Chairman, is that we have some
12 pretty tight deadlines in this proceeding as well as
13 we do in Indian Point proceeding. The energy
14 blueprint calls for these facilities to be under
15 construction in 2014 and through 2018. In order to
16 meet that sort of deadline, we have to have some
17 discipline in this process, and therefore we want to
18 bring everybody in and establish a schedule and keep
19 people moving on it. And the ordinary Article VII
20 process is more flexible than that, and developers
21 have more room to take the time and set their own
22 schedules, we think we're going to need an overall
23 process schedule to make those blueprint deadlines.

24 COMMISSIONER BROWN: Raj?

25 MR. RAJ ADDEPALLI: Yeah, just to focus on

1 the cost recovery and the allocation. This could be
2 somewhat different from the one we just talked about
3 in Indian Point. There it was more focused on
4 reliability based cost allocation. The beneficiaries
5 there are more getting the reliability benefits. Here
6 the beneficiaries, again, as the principal
7 beneficiaries should pay, but who are the
8 beneficiaries here could be different from those in
9 the Indian Point context. So we need to define who
10 the beneficiaries are, once again, perhaps in a
11 different fashion here. And, similarly, how would
12 costs be recovered? Do we use the state tariff
13 process or do we use the ISO process? The ISO tariff
14 process is not yet, perhaps, available to be used, but
15 perhaps maybe down the road it could be. In the
16 interim, to start with, at least there should be some
17 mechanism for the State tariff process to be available
18 to recover the cost. Yet another novel issue,
19 somewhat new issue that comes up here is that unlike
20 traditional utilities billing in the Article 7s that
21 we know, transmission projects here, here we have new
22 developers who want to come into the state from out of
23 state. They don't have customers to charge, so we
24 need to find a way. But if they have the best
25 projects, then we need to find a way to reimburse them

1 for those projects. So it raises yet another
2 dimension of how do you do the cost recovery and pay
3 these developers who may not have customers behind
4 them. This is perhaps a new issue for us. And
5 finally, because these are transmission projects, some
6 of these costs up front on not necessarily binding
7 cost estimates, and we want to minimize rate payer
8 costs and we want to minimize the risks that rate
9 payers have to incur. So how do you develop risk
10 allocation mechanism between these new developers and
11 customers when they come about? So staff is working
12 on all three aspects; what's a cost recovery
13 mechanism, what's a cost allocation mechanism, and how
14 do we do the risk allocation between new developers
15 and customers. It doesn't have the new developers,
16 even incumbent utilities, if they are in this mix,
17 they're simply subject to the same risk allocation
18 mechanism, potentially. So we're developing a straw
19 proposal, and we'd like to issue that soon, and get
20 comments on those three elements and bring some
21 recommendations back to you this summer. That
22 concludes our collective presentation, and if you have
23 any questions, I'd be happy to answer.

24 CHAIRMAN BROWN: Commissioner Sayre?

25 COMMISSIONER GREGG SAYRE: I thought this is

1 a fascinating and wonderful way for this Commission to
2 proceed, something that--a river we haven't charted
3 yet, and I'm looking forward very much to this, and I
4 commend the staff for all the work that you've put in
5 setting up this structure. But I do have a question
6 about the interplay between Indian Point and the AC
7 transmission cases. Assuming that we come to a
8 decision point in either one or the other proceedings
9 late this year or early next year, and we have to go
10 ahead with one or the other, but we've got a couple of
11 projects that are common to both proceedings, which
12 we're evaluating differently because they have
13 different benefits. Have you started working on how
14 you can basically merge the considerations in those
15 proceedings if, for example, in the Indian Point
16 proceeding, the common projects happen to be selected
17 for going forward?

18 MR. RAJ ADDEPALLI: If those two projects
19 that you mentioned are selected ultimately in this
20 September timeframe that's the Indian Point decision-
21 making timeframe that you're contemplating, then they
22 would move forward on their on merits in that
23 proceeding to meet that need and they will be taken as
24 a given in this proceeding in terms of modeling or
25 impact analysis. That's one way to handle it.

1 CHAIRPMAN BROWN: Raj, what would concern me
2 is the flip side of that coin. If they are not chosen
3 in September, but they are chosen as part of this
4 project, you could end up duplicating to some degree,
5 because you must have chosen something else to meet
6 your needs for the Con Ed--for the Indian Point case,
7 which you're moving forward with, and then you're
8 going to move forward with an alternative that would -
9 - the need for that to happen potentially.

10 MR. RAJ ADDEPALLI: Yeah, and the Indian
11 Point, again, timeframes are different.

12 CHAIRMAN BROWN: I understand.

13 MR. RAJ ADDEPALLI: Those projects that we
14 are selecting on Indian Point have to be the summer
15 2016, and those projects that ultimately get selected
16 ultimately have to pass through some screen, they have
17 the most reliable, meet the reliability efficiency
18 need, are the most cost-effective projects, and then
19 bring the benefits. In the AC proceeding, they're
20 looking at not just reliability, but for relief of
21 congestion and moving upstate generation downstate,
22 there are multiple other benefits. So if that impasse
23 is created in the first instance in the IP, maybe
24 there are other benefits to the table that they could
25 be evaluated here, perhaps. So there can be different

1 considerations. We'll sort this out as you move
2 forward.

3 CHAIRMAN BROWN: Commissioner Sayre, if
4 you're got more?

5 COMMISSIONER SAYRE: No.

6 CHAIRMAN BROWN: Okay. Any other comments
7 or questions on this one? Once again, thank you all
8 for moving forward and trying to be creative in
9 tackling a new and unique problem. So we have
10 recommendations to adopt the order as described by
11 Diane, Liz, and Raj. All those in favor, please say
12 aye?

13 ALL COMMISSIONERS: Aye.

14 CHAIRMAN BROWN: Opposed? Hearing none.
15 The recommendations are adopted. Thank you. At
16 11:55, we move to the fifth item for discussion.
17 We'll just have a little one before lunch here. Item
18 304, application of Champlain Hudson Power Express,
19 presented by Michelle Phillips and Kevin Casutto
20 Administrative Law Judges Office of Hearing and
21 Alternative Dispute Resolution. Also available on
22 this one will be Mark Reeder, Director of Regulatory
23 Economics. Raj Addepalli who never gets to leave,
24 Tina Palmero who never gets asked any questions.
25 That's good. I'm just killing time here while

1 Michelle and Kevin get ready. Get your nametags
2 correct. There we go. Very good. I'll give you a
3 second to get your bearings. Good morning, Michele,
4 and Kevin.

5 MS. MICHELLE PHILLIPS: Good morning
6 Chairman Brown and Commissioners. Can you hear me
7 okay?

8 CHAIRMAN BROWN: Yes, we can; thank you.

9 MS. Michelle PHILLIPS: Okay. You have
10 before you an item recommending that you grant an
11 Article VII certificate to applicants Champlain Hudson
12 Power Express, Incorporated, and CHPE Properties,
13 Incorporated, authorizing the construction and
14 operation of a transmission line from the state border
15 with Canada to a converter station in New York City.
16 The certificate would be subject to conditions that
17 were proposed in a joint proposal as notified in the
18 stipulations that were executed after that joint
19 proposal was filed, and is further modified in our
20 recommended decision which was issued in December of
21 2012. The joint proposal is supported in whole and in
22 part by a very diverse set of parties who represent
23 varied interests. The positions of the parties,
24 particularly the criticisms that were raised on
25 exceptions are discussed and addressed in the proposed

1 order. As explained in greater detail in that order,
2 the benefits that would result if this project is
3 granted a certificate far outweigh any associated
4 harm. These benefits provide sufficient bases to
5 support the Commission's required statutory findings.
6 Briefly, some of the primary benefits include that the
7 facility will offer additional transmission capacity
8 into the New York City load pocket, it will provide a
9 link to abundant hydropower resources, and thereby
10 significantly reduce harmful emissions and enhance
11 fuel diversity. Due to these and other
12 characteristics, it will also help achieve numerous
13 public policy objectives that are expressed in the
14 2009 State Energy Plan, and in New York City's Plan
15 NYC and other documents. Before we elaborate further
16 on the project benefits, we would like to summarize
17 just briefly the process that was filed, discuss the
18 JP [phonetic] and Judge Casutto will talk a little bit
19 about the project and the route and provide
20 descriptions of both of those. With respect to the
21 process, as you know, this started three years and
22 about 18 days ago, not that I'm counting. It was a
23 substantial filing. There were numerous updates and
24 additions and supplements until it became compliant in
25 August of 2010. The 16 months were spent negotiating

1 the joint proposal that was filed. Numerous parties
2 participated in that effort. The resulting joint
3 proposal is comprehensive. It includes proposed
4 certificate conditions, environmental management and
5 construction plan guidelines, proposed best management
6 practices, all of the basis that the proponents feel
7 would allow us to meet the statutory findings and
8 determinations that need to be made. There were
9 numerous public statement hearings that were held both
10 before and after the joint proposal came in. Public
11 has been offered the opportunity to provide comments
12 throughout this proceeding. We held three days of
13 evidentiary hearings in July of 2012, and we have had
14 statements filed by parties, we've had briefs after
15 the hearings. As we mentioned before, the RD that was
16 issued in December and thereafter we had additional
17 briefs on exceptions and opposing exceptions leading
18 to the draft order that is before you and presented
19 for your approval. I think at this point you wanted
20 to discuss the-Judge Casutto will discuss the route in
21 the project.

22 MR. KEVIN CASUTTO: Yes, hi. The project is
23 a 1,000 megawatt high-voltage direct current cable,
24 approximately 333 miles long from Canada to New York
25 City. The facilities will be located primarily in

1 Lake Champlain and the Hudson River and on land
2 sections will be located underground on land. A
3 converter station would be located at Con Ed's Astoria
4 annex. And from the Astoria annex, AC cables will
5 connect ultimately to the Rainey Substation in
6 Astoria. There would be an approximately three mile
7 AC line through the streets of New York City
8 underground. So beginning at the Canadian border, the
9 line would interconnect with the Canada facilities in
10 Clinton County, approximately 195 miles of the route
11 will be subaquatic in water bodies, and those water
12 bodies include Lake Champlain, the Hudson River,
13 Harlem, and East Rivers. Approximately 138 miles of
14 the route would be on land, underground. The route
15 segments on land are primarily located within railroad
16 or state road rights of way, and again, will be
17 underground. The longest land-based segment is
18 approximately 127 miles, and would be located in the
19 counties of Washington, Saratoga, Schenectady and
20 Albany. This segment is land-based to avoid the GE
21 PCB remediation dredging project that is ongoing in
22 the river. It also avoids environmental sensitive
23 areas of the Hudson River south of Albany. The land-
24 based segment in Rockland County is approximately
25 eight miles, and avoids Haverstraw Bay, another

1 environmentally sensitive Hudson River segment. The
2 final land-based segment is approximately one mile
3 across the Southern Bronx. From there, the cables
4 will travel under the East River to the terminus as
5 Con Edison's Astoria annex side of the converter
6 station. That concludes a description of the route.
7 Judge Phillips?

8 MS. MICHELLE PHILLIPS: Again, the statutory
9 findings that you'll need to make concern need, the
10 nature and whether environmental impacts have been
11 avoided or minimized. The portion of the project that
12 should be underground meets compliance with local laws
13 and state laws in consistency with long-range
14 planning, and whether it will serve the public
15 interest convenience and necessity. We're not going
16 to necessarily going to go through each of those. I
17 think the order addresses them in a lot of detail;
18 however, we did want to highlight some of the major
19 benefits that we think support both the need and the
20 public interest on findings. Specifically those are
21 that it will offer additional transmission capacity
22 equal to 1,000 megawatts into a load pocket in New
23 York City. The hydropower resources that it will
24 provide are substantial. It's over 7,6000 gigawatt
25 hours per year of energy that is anticipated. This

1 will reduce dependence on natural gas as a fuel source
2 from a current percentage of about 85% down to 78%.
3 That will also mean providing about 10% or more of the
4 supplies in New York City. We think an influx of this
5 magnitude and these supplies will enhance
6 competitiveness in the New York City markets. One of
7 the major things, too, that is important is that all
8 of this will be accomplished without relying on cost-
9 based rates. There's a provision that has been worked
10 on consistently by the parties, with several
11 revisions, actually, to get certificate condition 15
12 which among other things ensures that the developers
13 will not impose these costs on captive rate payers,
14 and instead will shoulder the majority of the cost
15 that will be associated with the construction and
16 operation of this project. With respect to the
17 environmental impacts, again, I'm going to turn to
18 Judge Casudo to quickly talk about those.

19 MR. KEVIN CASUTTO: Yes. It's significant
20 that this project is subaquatic, and on not land,
21 underground. This virtually eliminates adverse visual
22 impacts from the project. In addition, as we
23 mentioned already, the project would provide
24 significant air pollution and emissions reductions.
25 The detailed provisions of the joint proposal provide

1 protection for the state's valuable natural resources
2 by ensuring that habitat in Lake Champlain and in the
3 other water bodies are not lost and that other
4 potential adverse environmental impacts are minimized.
5 The facility segments and water bodies have been
6 routed to avoid areas that are environmentally
7 sensitive, and land-based underground segments
8 primarily are located in railroad and state road
9 rights of way, previously disturbed areas. In
10 addition, the applicants' use of the horizontal
11 direction drilling for selective land-based
12 underground segments, and for the land-water
13 transitions to minimize adverse impacts in those
14 construction processes. In concluding, we'd like to
15 recommend one revision to the order that is before
16 you. On page 52, under the caption Emission
17 Reductions, the second sentence in the first
18 paragraph, we recommend that that sentence be revised
19 to clarify that the reductions described in that
20 sentence are applicant's estimates for New York City.

21 MS. MICHELLE PHILLIPS: Okay. Again, I
22 think we just want to stress that in terms of
23 evaluating this project, the benefits are significant
24 and substantial, and will allow access to significant
25 amounts of hydropower, increase the competition in the

1 New York City market, additional transmission capacity
2 into a known load pocket, and when weighted against
3 the very minimal environmental impacts, we recommend
4 that a certificate should be granted. This concludes
5 our presentation, and we are available for questions.

6 CHAIRMAN BROWN: Let me just start out with
7 a couple of comments. I think there's some-first of
8 all, I think there's a couple of things that make this
9 project unique, and is why I'm going to support the
10 granting of the certificate. The first one is you
11 started out with a very diverse set of parties. They
12 brought a lot of very desperate-disparate-not
13 desperate-disparate parties together and they worked
14 really well in developing the plan that had a very
15 broad range of support, not unanimous, nothing ever
16 does, but a broad range of support, and there's a
17 lesson to be learned from developers to try to--it
18 makes approving the project much easier when you get a
19 lot of support from a lot of different aspects.
20 Secondly, what makes me comfortable is condition
21 certificate-or certificate condition number 15, which
22 results in them not being able to try to get cost
23 recovery through rate payer channels or FERC or
24 anywhere else. That shifts an awful lot of risk of
25 cost-overruns, et cetera, to a private developer and

1 away from the rate payer. And so for us to approve a
2 project of this magnitude, with the impacts that this
3 project has, I think it's really important that this
4 be a project that's not going to--that we don't have a
5 fear that if the cost overruns of the project exceed
6 the original estimates, that somehow it will be
7 falling on the back of the ratepayer. So those two
8 elements of this I think are just extremely important
9 in moving forward with this. With that, I'm sure
10 there's some other comments or questions on this.
11 I'll start with Commissioner Acampora.

12 COMMISSIONER PATRICIA ACAMPORA: Okay. I'd
13 like to get a sense of the pie in New York State with
14 regard to electric, gas, steam and water, how this
15 would increase that capacity to diversify in the
16 state. Can you give me number?

17 CHAIRMAN BROWN: Are you talking about
18 within the electric, how much is currently natural
19 gas, how much is currently hydro, how much is
20 currently coal?

21 COMMISSIONER PATRICIA ACAMPORA: Yes. How
22 would it increase the hydro component in the pie?

23 MR. RAJ ADDEPALLI: I think we're--I don't
24 have the precise numbers, Commissioner, but we have
25 1,000 megawatts of hydro energy with this project,

1 coming into the state, into the city in particular, so
2 existing hydro resources are probably four to five
3 thousand megawatts, so this will be an increase of a
4 significant amount. And in terms of energy mix, in
5 New York City right now, it's mostly oil and gas
6 generation. Now you're bringing in a huge amount, I
7 think Michelle quoted over ten percent of the New York
8 City energy now could be satisfied with this
9 particular project.

10 COMMISSIONER PATRICIA ACAMPORA: I know we
11 haven't seen Michelle for over three years while she's
12 been on this. And I have to say I know it's been a
13 long time coming, but I can remember when downstate
14 elected officials were waiting with bated breath 30
15 years ago to get some of that hydropower from Canada
16 to help ease the problems 30 years ago, so I think
17 that this project will go a long way in, again, the
18 diversity and actually helping consumers too.

19 CHAIRMAN BROWN: Commissioner Harris?

20 COMMISSIONER MAUREEN HARRIS: Yes, we've had
21 a lot of discussion, you, Mark Reeder, myself, several
22 others on the condition 15, and the allegations by
23 IPNE] and Entergy that in fact this is a pure merchant
24 line because we are not putting a condition that there
25 is any indirect subsidy that could be involved in this

1 line, presumably it would be HQ to a buyer in New York
2 such as NYPA or a utility like Con Ed and that they
3 would pay above market prices. Can you speak to this
4 issue for me please?

5 MR. RAJ ADDEPALLI: Okay, let me start and
6 Mark can jump in as needed on this. The allegation,
7 one of the concerns raised is whether any of the major
8 buyers in the city--there are two major buys in New
9 York City, Con Edison and New York Power Authority--is
10 there an opportunity for them to exercise so-called
11 buyer market power? The way it would happen--could
12 happen--is not necessarily through Champlain-Hudson
13 transmission line owner who has agreed to this
14 condition not to seek support from rate payers in New
15 York State, either through the state or the FERC
16 tariffs, but through a third-party. There is an
17 illustration, for example, hydro - - power through
18 this line into the city. Could they enter into a
19 contract with the buyers? When the buyers have a
20 motivation to somehow pay more than an appropriate
21 amount, which could help support construction of this
22 project and as a result of this project coming through
23 could reduce the overall prices in the city, both in
24 the energy market and perhaps in the capacity market,
25 and that would - - to the benefit of the customers,

1 but perhaps to the detriment of some of the incumbent
2 resources in the city. That's the construct. With
3 that construct, so what should the construct be? With
4 Con Edison as a major buyer, if they should exercise
5 buyer market power, they are subject to your oversight
6 and your regulation. If they are buying power out of
7 market prices, then you can question them, and they're
8 subject to prudent review. My understanding is Con Ed
9 is not fond of signing long-term power agreements to
10 begin with without any Commission blessing up front.
11 So the likelihood of this happening is perhaps very
12 low, and in any event, the Commission has jurisdiction
13 on Con Edison. The second entity is the New York
14 Power Authority which also buys power for its
15 customer's needs, then you would have to look into
16 what would be the motivation for them to purchase of a
17 higher price than necessary. The only way you would
18 benefit is if the over payments that you make are more
19 than compensated by the price reductions on the
20 remaining purchases that you make in the market. So
21 you need to be long in the spot market to purchase and
22 benefit from those price reductions. But if your
23 supply is locked up in long-term contracts to begin
24 with a substantial amount, then the price reduction
25 benefits may or may not inure to as the power

1 authority. So one could look at their numbers, these
2 are public numbers, they buy X megawatts, they have an
3 obligation to satisfy X megawatts in the city, and
4 they have two resources that are locked up long-term,
5 and - - and they also have long-term contracts - -
6 energy too. And in essence they also have ownership
7 of about 500 megawatts of GTs that were put in, in
8 2001 or 2002 timeframe, which act more as merchants as
9 I understand it. So given those resources in place,
10 do they have enough in the spot market to exercise or
11 engage in this construct, and the likelihood appears
12 to be low. And in terms of overpayment, we need to be
13 clear as to what over payment means. One could pay
14 more than a spot price in the energy market because
15 they could put a premium on their noble aspect of this
16 power so that may be perfectly appropriate. I would
17 not consider that as an unreasonable purchase
18 practice, paying something more than the spot price if
19 it provides an additional benefit in terms of credits.
20 So this construct of buyer market power is minimal if
21 any, but you have oversight on Con Edison and the New
22 York Power Authority, which we don't necessarily
23 regulate, the economic construct doesn't seem to hold
24 but I'll let Mark amplify this or add to this.

25 COMMISSIONER MAUREEN HARRIS: Thank you.

1 I'll interject a question and let Mark address this as
2 well. So if the-the Con Ed scenario is addressed
3 because we regulate Con Ed and we have authority over
4 their investments and their spending. However, with
5 NYPA, you said the likelihood is low, so why not
6 include a condition preventing what they're calling
7 indirect subsidies to prevent sort of an above-market
8 payment? If the likelihood is low, where's the harm?

9 MR. MARK REEDER: Well, there could be a
10 harm to the competitive markets. This gets to the
11 tradeoff between the importance to competitive markets
12 of ease of entry of new suppliers. This is a siting
13 case, siting cases can be real entry barriers to new
14 entrants, and entry barriers be it low is a really
15 good thing for economics and for competitive markets.
16 So in this case, I recommend the Commission focus on
17 what these cases focus on, which is environmental
18 harm, how much is it, and if it's minimal, and you've
19 got these other benefits, I think the Commissioner
20 should just grant the certificate and get out of the
21 way, and let the market investors decide what to do.
22 In terms of NYPA, it's a low probability. One other
23 part that is in the order that Raj didn't include is
24 NYPA has already been subject to the hurt of FERC
25 mitigation measures. If someone does a market power-

1 buyer market power maneuver and FERC declares it such,
2 they're not allowed to count the capacity they bought,
3 and that's a very severe penalty that's not only just
4 a penalty after the fact, but it's a real deterrent.
5 And so we have this situation where it would be unwise
6 to try to condition this order into something that
7 makes the entry harder to try to prevent this thing
8 down the road, which looks to be pretty unlikely, and
9 already has this measure in it from the FERC to try to
10 stop. More harm than good is the concern here.

11 COMMISSIONER MAUREEN HARRIS: When you speak
12 about the FERC mitigation measures, that's because
13 FERC found that NYPA paid above-market prices
14 previously, but you're saying they have paid the
15 consequences for that?

16 MR. MARK REEDER: Yes.

17 COMMISSIONER MAUREEN HARRIS: Okay.

18 MR. MARK REEDER: And those measures weren't
19 in place at the time, FERC--that NYPA did these prior
20 ones. Those were still being debated. Now it's clear
21 they've been proven FERC is using--it's a pretty clear
22 deterrent.

23 COMMISSIONER MAUREEN HARRIS: Okay. I want
24 to jump back over to a separate issue too which is--

25 CHAIRMAN BROWN: Before you go to that

1 issue, may I just interject quickly? One fear that
2 I'd have of putting down such a condition is what may
3 be out of market a long-term-this potentially could be
4 a long-term hedge for somebody. When you set the way-
5 back machine to the 30s and 40s when the original
6 hydro allocations were offered to the munis, they were
7 above-market. Then Tucson Power was not necessarily a
8 good deal. It's turned out to be a heck of a deal for
9 the municipalities that signed up for that Tucson
10 Power. But at the time, there had been a market
11 monitor, they might have declared that out of market
12 if they had had such a condition. So I think it's
13 because this is such a long-term benefit to the state,
14 I assume this thing will be running 40 and 50 years
15 from now, and who knows what the value of carbon-less
16 hydro power might be at that point, that if there's a
17 small premium paid at some point that that might not
18 prove to be a tremendous value. So we just need to be
19 careful if we wanted to impose such a condition.

20 MR. RAJ ADDEPALLI: I cannot emphasize more
21 what you just said. The ability to hedge for energy
22 prices is a big value, unlike gas plants that are
23 running in the city. You can't get long-term
24 certainty with the gas plants that are not indexed to
25 gas prices. With this kind of resource, where the

1 input costs are fairly known, well known and low,
2 there's an opportunity for the seller to engage in
3 long-term hedges, and for the buyer to benefit from
4 the long-term hedges. So that's an opportunity for
5 the buyers that should be preserved as much as
6 possible without exercising undue market power.

7 COMMISSIONER MAUREEN HARRIS: So if we can
8 extrapolate, just going back to the Con Ed example, so
9 if Con Ed enters into a long-term power purchase
10 agreement for these renewables, and right now we would
11 say well it's above market, but it's actually at a
12 lower premium than what they might be paying through
13 an RPS, through the collection of an RPS, and spending
14 on an RPS. So there would actually be a prudent
15 savings, potentially, for their customers if they no
16 longer-if they didn't collect on the RPS, but they
17 actually spent this piece for the customer's for their
18 renewables. I mean that's a potential scenario.

19 MR. MARK REEDER: Yeah, that is. The hydro
20 up there doesn't currently count for the official RPS
21 rules, but in the big picture of things, a future
22 commission or this commission may decide getting this
23 huge shot of hydro, let's say at a five dollar premium
24 is a better plan than going for the RPS, wind and
25 others, that's costing substantially more than that.

1 COMMISSIONER MAUREEN HARRIS: Right, five
2 dollars as opposed to twenty-five dollars seems like
3 it would be a prudent move. But I go back to the RPS
4 review for this renewables, I mean we're talking about
5 this is renewable, but currently under the RPS
6 definition, we are not allowed; we are prohibited from
7 counting this large hydro towards our renewable goals.
8 So we place the value on it--maybe Tina, since you've
9 escaped any questions today, you can talk about this,
10 but I know we are expected to do comprehensive review
11 of the RPS in the near term, and we talk about this
12 with all the renewable attributes, but yet we're
13 prohibited right now from attributing this towards our
14 goals. Can you just address this?

15 MS. TINA PALMERO: It's just that right now
16 the current rules of the RPS program limit hydro
17 eligibility to 30 megawatts or less, you know, low-
18 impact run of river hydro, and complicating matters,
19 we have a petition from NYSERDA before the Commission
20 about limiting eligibility to in-state resources. So
21 that further complicates the issue. But right now, as
22 the rule stands, anything that is 30 megawatts and
23 below low-impact hydro is eligible for the program.

24 COMMISSIONER MAUREEN HARRIS: We don't just
25 have an in-state problem; we have an in-country

1 problem in addition to the size of the hydro. I just
2 think it's something that--I'm trying to put my arms
3 around the benefits of a long-term purchase agreement
4 and the downside of it, but most importantly, shifting
5 the burden away from the rate payers, but also the tax
6 payers. To this extent, it raises these issues with
7 NYPA, and I'm just trying to get my arms around some
8 of these with the gas prices and everything else. If
9 I can just take a step back though and talk about one
10 other scenarios that we've talked about in the recent
11 week, and then we can try to piece it all together
12 here, which is another significant generator who could
13 potentially purchase a large piece of this capacity
14 coming from Quebec. Give an example of NRG. So NRG
15 is a bidder, potential bidder, or I think they are a
16 bidder for the Indian Point Contingency Plan.

17 MR. RAJ ADDEPALLI: That could be one. We
18 don't know yet.

19 COMMISSIONER MAUREEN HARRIS: They could be.
20 It could be, I don't know. I'm assuming. But they
21 also have a significant amount of generation down in
22 the City. So what happens under this scenario if NRG
23 enters into a contract for this?

24 MR. MARK REEDER: I mean in that situation
25 that wouldn't be--it would be similar if NRG is

1 entered in a contract to buy all of the U.S. Power
2 Gen's power in New York City. And I guess I'm not
3 familiar with the legal rules on how that would be
4 handled, that would probably be FIRC that would get
5 into that. It's not really purchasing an asset, which
6 we tend to cover, it's purchasing the power. And we
7 don't really have rules that--to try to address people
8 buying up the whole market and then trying to sell it.
9 I mean we haven't had it before this case; we don't
10 have it today. So I didn't read the legal rules on
11 that kind of thing.

12 MR. RAJ ADDEPALLI: Mark, it may be useful
13 to raise the dispute that was had in 2006 timeframe
14 when one generator essentially - - generator through a
15 third party and tried to exercise market power. And
16 that was a dispute in front of FERC that decided the
17 case since then with Department of Justice weighed in
18 and penalized the other generator. So there are other
19 entities the FERC and the DOJ that have taken action
20 when improper exercise of market power has taken place
21 by purchasing the ownership or essentially the asset
22 value through a third party in exercising market
23 power.

24 COMMISSIONER MAUREEN HARRIS: And the last
25 issue I just want to talk a bit about is the AC

1 Transmission case that just came before us with Diane
2 and Liz presenting. We talked about the benefit of
3 jobs and incorporating the upstate generators and
4 potentially the wind generation being able to come
5 online. What does this do for upstate generation? I
6 mean I'm just trying to--well we talked Indian Point,
7 we're talking about the AC Transmission and then we're
8 talking about this and we're all trying to put it all
9 together and there are different timelines, but I'm
10 just--in the RD there has been a change with respect
11 to the jobs analysis. If you can just try to put all
12 this together for me?

13 MR. RAJ ADDEPPALI: Before you go to jobs, I
14 think the addition of any resource affects prices.
15 Either upstate or downstate, there could be
16 beneficiaries upstate or downstate consumers or
17 generators. Anytime you move one element there will
18 be impacts. This addition of 1,000 megawatts is
19 coming into the city, so there will be benefits to us,
20 as Michelle talked about it before, and AC
21 Transmission project brings its own benefits. Is it
22 either/or? I'm not sure it's either/or. There's room
23 for everybody. And there's room for beneficial
24 projects, but this one and additional projects that
25 may come through the AC transmission projects as well.

1 In the scheme of things, you have a 40,000 megawatt
2 system here, so there's room for additional projects
3 to provide benefits to consumers and generators.

4 COMMISSIONER MAUREEN HARRIS: But what does
5 this--does this particular project have any impact on
6 upstate jobs or upstate generators or communities?

7 MR. RAJ ADDEPPALI: - - Mark.

8 MR. MARK REEDER: What's on the record is
9 that this project will lower prices in New York City
10 and everywhere else in New York State. So the extent
11 is--upstate would be a smaller effect. So - -
12 slightly lower electric price upstate that would have
13 effect on jobs to the extent there's fewer generators
14 built. It will be affecting jobs to the extent
15 consumers have more money in their pockets and go out
16 and buy more goods and services and it's on both
17 sides. And there's no analysis on the record at all
18 of which part of the jobs is a bigger piece of the
19 jobs.

20 CHAIRMAN BROWN: Now it's important to note
21 this is a giant extension program - - as the AC
22 Project and what it does, it means there's a 1,000
23 more megawatts of generation in New York City, but it
24 does nothing to affect the AC system and the
25 congestion that currently exists. It doesn't

1 alleviate it, it doesn't worsen it, it just means that
2 there's now another alternative thousand megawatts
3 available for generation in New York City. So when
4 we're constraining; it's going to remain constrained.
5 This will more likely offset some other New York City
6 projects much of the time or something in the Lower
7 Hudson Valley most of the time. It will not really
8 have that much effect because it's the nature of the
9 DC line, if I'm correct. Maybe I'm wrong.

10 MR. MARK REEDER: Yeah, let me elaborate on
11 it. The main part you're correct. There's a second
12 part and that is what this is really going to do in
13 the long run is replace a generator that otherwise
14 would have had to have been built in New York City.
15 And so this price reduction I mention throughout the
16 state, it's a very temporary thing until you get to
17 the point where you otherwise would have added a
18 different thousand megawatt generator in New York
19 City. And so you get back to a long running
20 equilibrium in terms of prices, but temporarily the
21 prices are a little bit lower everywhere. But in
22 terms of the congestion, it will relieve congestion to
23 some extent on the lines, because it reduces the
24 amount that New York City is trying to pull from
25 upstate by a thousand. So there will a little bit

1 less constraint, a little bit less congestion. But
2 the real way to analyze it is just looking at the
3 prices and the price will be a little bit lower
4 upstate. I guess I just point out you can't have
5 every line that comes in or every generator solve all
6 of your problems at once. This one really isn't
7 trying to solve the problem of can we make a better
8 path for upstate wind projects into New York City.
9 The AC Transmission case gets at that. The AC
10 Transmission case would cause upstate prices to go up
11 a little bit and downstate to go down. This case
12 causes them all to go down a little bit. So this one
13 isn't really a solution to the upstate needs more jobs
14 for hydropower. But it solves a lot of problems and
15 has a lot of other benefits.

16 CHAIRMAN BROWN: Anything else? Okay. So
17 what we have to do here, I guess we have a--just make
18 sure I'm not missing anything. So we have the
19 recommendations, the recommended decision before us
20 and an order. So what we'll be doing today, all those
21 in favor of moving forward please say aye.

22 ALL COMMISSIONERERS: Aye.

23 CHAIRMAN BROWN: Anybody opposed? No
24 opposition; the recommendations are adopted. Given
25 that we've got a whole series of items left before us,

1 I would suggest we take a break until 1:00. So let's
2 please get back here and promptly start again at 1:00.
3 Thank you.

4 [OFF THE RECORD]

5 [ON THE RECORD]

6 CHAIRMAN BROWN: So I would like to
7 reconvene the session so that we're on the record on
8 this.

9 MR. PETER MCGOWAN: Yeah, so this is just to
10 clarify that when the Commission voted on the item
11 earlier 301, just to clarify that includes both the
12 order and the associated noticed of significance under
13 SEQURA . So it's both those documents are together
14 the action that the Commission was voting on.

15 CHAIRMAN BROWN: Okay.

16 MR. PETER MCGOWAN: So you have two items --
17 two documents actually will be issued, they were both
18 in the Commission's briefing materials.

19 CHAIRMAN BROWN: So for the record our vote
20 was an approval of both of those actions, unless
21 anybody has any objections. Just one other bit of
22 housekeeping I'd just like to take care of,
23 Commissioner Harris and thanking some people on one of
24 the consentage items this morning, we forgot to
25 mention Brandon Goodrich and she wanted me to be sure

1 that--that he did a fantastic job on that item and she
2 wanted to be sure that he was properly mentioned and
3 not ignored. So I will take care of that as well.

4 Let's go to the sixth item for discussion, Item 305a,
5 13-E-0062, Investigation of Liberty Power Corporation,
6 presented by Doug Elfner, Director of Office of
7 Consumer Policy. Good afternoon, Doug.

8 MR. DOUG ELFNER: Good afternoon, Chairman
9 Brown and Commissioners. Both this item and the next
10 item reflect the Commission's continuing commitment to
11 ensuring that energy services companies operating in
12 New York State follow the rules and practices that the
13 Commission has established. For retail energy markets
14 to work as intended the consumers must have confidence
15 that ESCO marketing practices will be fair and will
16 not be deceptive or misleading.

17 The first item concerns Liberty Power
18 Corporation. Last month we explained that staff had
19 observed a large number of consumer complaints
20 regarding the marketing practices of Liberty Power.
21 And staff had advised senior company officials in the
22 late summer of 2012 about our concerns and that staff
23 had received assurances from the company that it would
24 fix those problems. We also explained that several
25 months after Liberty made that commitment, staff

1 identified a pattern of significant and continuing
2 apparent violations of the Commission's marketing
3 rules. As a result, last month the Commission issued
4 an order, which directed Liberty Power to make two
5 filings. The first to explain why it should not be
6 precluded from enrolling new customers while the
7 Commission considers the consequences that should be
8 imposed on Liberty because of its failure of its
9 marketing practices. And the second, under the UVP
10 [phonetic] and in light of the marketing factions to
11 show cause why it's eligibility to participate and
12 serve customers in the New York retail market should
13 not be revoked or alternatively why some other
14 consequences set forth in the Commissioner's rules
15 should not be imposed.

16 Staff has reviewed both filings. With
17 respect to the first of these filings, Liberty did not
18 contest any of the apparent violations that are
19 identified in the show cause order. Liberty listed in
20 a filing that is largely redacted the steps it has
21 taken in an attempt to reduce complaints about its
22 deceptive marketing practices. Liberty states that
23 due to the reforms that it has put in place, no basis
24 exists for the Commission to suspend the enrollment of
25 new customers in New York State.

1 Staff's review has concluded that the
2 violations that were identified in the Commission's
3 order last month appear to be attributable to
4 Liberty's door-to-door marketing efforts. We
5 recommend that the Commission suspend Liberty Power's
6 authority to conduct door-to-door marketing until
7 further action by the Commission. We also recommend
8 that the Commission direct the company to continue
9 those steps that it has taken on its own, which were
10 detailed in its first filing. Again, those steps
11 should continue until ordered otherwise by the
12 Commission.

13 In the meantime, the Department will
14 continue its oversight of Liberty Power Corporation.
15 We will report back to you with recommendations for
16 further action. These recommendations will include
17 our view as to whether Liberty should be excluded from
18 all or some portion of the retail market in New York
19 and the identification of any other consequences that
20 are not--or that are appropriate in this case.

21 We will also recommend whether Liberty
22 should provide any remedies for customers who have
23 been harmed as a result of Liberty's inappropriate
24 business practices. That concludes my remarks.

25 CHAIRMAN BROWN: Commissioner Larocca.

1 COMMISSIONER JAMES LAROCCA: Doug, we are
2 ordering then to discontinue a certain practice.
3 What are the penalties if they do not discontinue?

4 MR. DOUG ELFNER: The Commission has a wide
5 range of options, which include denying them the
6 ability to participate in retail markets in New York
7 State altogether.

8 COMMISSIONER JAMES LAROCCA: Uh-huh. Are
9 they subject to--maybe this is for counsel, are they
10 subject to financial penalties?

11 MR. PETER MCGOWAN: One of the reasons I
12 think we are doing this order today is to make--is to
13 give the suspension the backing of the Commission's
14 order. So if they do not follow this order, then
15 they would be clearly subject to a Section 25 penalty
16 or other enforcement activity.

17 COMMISSIONER JAMES LAROCCA: What are the
18 dimensions of Section 25?

19 MR. PETER MCGOWAN: Well that would be --
20 you mean what are the penalties? I would have to say
21 it's probably \$100,000.00 a day.

22 COMMISSIONER JAMES LAROCCA: Per household?

23 MR. PETER MCGOWAN: Per violation.

24 [Laughter]

25 COMMISSIONER JAMES LAROCCA: I think it's

1 important -- I'm not sure of how the language
2 reflects this but one thing needs to be seen, this is
3 a very serious order that reflects the frustration
4 that we have had in trying to get some compliance
5 here. And that to the extent we have an inventory of
6 serious corrective penalties that we could impose let
7 the order make clear that--maybe it's implicit that
8 we can do that and we are prepared to do it if there
9 is a compliance issue.

10 MR. PETER MCGOWAN: Yeah, I would argue that
11 it's clearly implicit.

12 COMMISSIONER JAMES LAROCCA: It's already in
13 the law.

14 MR. PETER MCGOWAN: Strongly in the law,
15 yes.

16 COMMISSIONER JAMES LAROCCA: Okay.

17 CHAIRMAN BROWN: Thank you. Commissioner
18 Acampora.

19 COMMISSIONER PATRICIA ACAMPORA: Doug, we're
20 talking about the door-to-door marketing. What other
21 kind of forms of marketing do companies do?

22 MR. DOUG ELFNER: For residential customers,
23 direct mail, outgoing phone calls, marketing at
24 public events such as malls or fairs, things of that
25 nature. There's lots of internet-based marketing.

1 There's lot of creative ways to provide information
2 to customers about their products.

3 COMMISSIONER PATRICIA ACAMPORA: So have we
4 received any complaints other than the door-to-door
5 residential problems?

6 MR. DOUG ELFNER: For Liberty in particular?

7 COMMISSIONER PATRICIA ACAMPORA: Uh-huh.

8 MR. DOUG ELFNER: All 12 that we cited in
9 the order last month are door-to-door. We can't rule
10 out that there might be other, you know, complaints
11 in the works or other potential concerns. But, yes,
12 for Liberty in particular and its quite common
13 actually in the industry, we see a lot of problems
14 with door-to-door marketing.

15 COMMISSIONER PATRICIA ACAMPORA: Okay. Now
16 mentioned last month and I concur with the remarks of
17 Commissioner Larocca. This is a really serious
18 problem. And we stand as those we protect, the
19 consumer, from unscrupulous business practices. So I
20 think that moving ahead with this is really important
21 and I really feel that other companies and I know
22 we're going to have another case should take stock of
23 what we're doing. We've worked very--the staff
24 worked long and hard on reforming our uniform
25 business practices and these companies, some of them

1 don't seem to be abiding.

2 And, again, I want to mention that there are
3 many companies who do a wonderful job and who are the
4 good players and they're looking to make sure that
5 the bad players are also addressed and taken care of.
6 So we just wanted to make sure that New York
7 consumers are protected from the bad actors, so thank
8 you.

9 CHAIRMAN BROWN: Any other comments or
10 questions? Commissioner Sayre.

11 COMMISSIONER GREGG SAYRE: Just to pile on
12 to Commissioner Larocca's remarks, if I'm not
13 mistaken I think Section 25 provides for personal
14 liability of an officer or agent of a utility that
15 knowingly violates a Commission order.

16 MR. PETER MCGOWAN: That is correct, yes.

17 CHAIRMAN BROWN: Okay. So we have
18 recommendations that Doug has presented to us and - -
19 we'll issue an order here, so all those in favor of
20 the recommendations please say aye.

21 ALL COMMISSIONERS: Aye.

22 CHAIRMAN BROWN: Opposed? Hearing none, the
23 recommendations are adopted. To meet Commissioner
24 Acampora's wish that we extend this to others, Item
25 305b, 13-M-0139, investigation of Family Energy Inc.

1 presented by Doug Elfner, Director of Office of
2 Consumer Policy.

3 MR. DOUG ELFNER: Yes, thank you. In the
4 case of Family Energy, staff is concerned about the
5 high number of customer complaints received in mid-
6 2012. Complainants allege violations of the
7 Commission's uniform business practices, particularly
8 that Family Energy had engaged in misleading
9 marketing practices and that Family Energy sales
10 representatives misrepresented their identity. In
11 October 2012, staff sent a formal notice of
12 investigation to Family Energy identifying our
13 concerns and putting the company on notice that if
14 the problems continued, staff would proceed with
15 remedies provided in the UBP.

16 Family Energy responded later that month
17 with a list of actions it intended to undertake to
18 address these concerns. Despite these promised
19 changes, the Department continues to receive
20 complaints that reflect a significant pattern of
21 apparent violations of the Commission's UBP.

22 The draft order before you details 12
23 apparent violations of the same nature that Family
24 had previously committed to address. The most common
25 apparent violation is marketers acting on behalf of

1 Family, representing themselves as being from the
2 utility, which depending on the area of the state
3 include Con Edison, RG&E, National Grid or NISC
4 [phonetic]. In at least one case, the marketer
5 allegedly represented herself as being from the
6 Public Service Commission. The UBP, however,
7 specifically requires that agents soliciting
8 customers in person "explain that he or she does not
9 represent the distribution utility and explain the
10 purpose of the solicitation." Therefore, we've
11 recommended the Commission direct Family Energy to
12 respond to the allegations, facts and findings
13 included in the draft order, and to explain within
14 seven days of the date of the order why it should not
15 be precluded from enrolling new customers while the
16 Commission considers the consequences under the UBP -
17 - . Further, we recommend that Family Energy within
18 14 days of the order be required to show cause why
19 its eligibility to act as an - - in New York should
20 not be revoked or other consequences imposed. We
21 expect to return to the next session with an analysis
22 of Family Energy's response and, if warranted,
23 recommendations for action.

24 CHAIRMANN BROWN: I have to know, did the
25 person make the sale that pretended they were from

1 the BSE?

2 [Laughter]

3 CHAIRMAN BROWN: He's shaking his head
4 affirmatively. Okay. Any comments or questions
5 about Family Energy?

6 COMMISSIONER PATRICIA ACAMPORA: I do. I
7 would be remiss -- I mean here we go again. So I
8 think we're looking down the road at a long-term
9 resolve to these companies who don't want to play by
10 the rules. And I think that this Commission should
11 use every tool in our toolbox to make sure that not
12 only are they prohibited from doing these outlandish
13 practices, but also suffer consequences by not
14 playing by the proper rules and abiding by the
15 uniform business practices. They're there for a
16 reason.

17 CHAIRPERSON BROWN: Go ahead.

18 COMMISSIONER MAUREEN HARRIS: Let me get
19 this straight. So a customer was led to believe
20 these representatives were either from the utility or
21 from the Department and they entered into a contract
22 and that contract is still binding right now.

23 MR. DOUG ELFNER: I'll stop you there. My
24 understanding is on all of these instances, the
25 customer complained to the company and the company--

1 accepted the company--the customer's perspective and
2 there are no continuing contracts in these 12
3 instances.

4 COMMISSIONER MAUREEN HARRIS: Okay. Because
5 my immediate concern is that if a customer entered
6 into a contract and it was binding and they wished to
7 get out and they were refused any sort of exit from
8 the contract that would be a major problem.

9 MR. DOUG ELFNER: Now we still have a
10 concern and that's part of the continuing work that
11 we're going to be doing. Did other customers who did
12 not complain--

13 COMMISSIONER MAUREEN HARRIS: Right.

14 MR. DOUG ELFNER: --enter into contracts on
15 the belief that it was the utility that they were
16 dealing with. We just want to explore that as part
17 of the complete investigation of our concerns.

18 COMMISSIONER MAUREEN HARRIS: Well how would
19 you find that out? I mean without doing a survey of
20 all the customers.

21 CHAIRMAN BROWN: That's the problem.

22 MR. DOUG ELFNER: Yeah, well it's--our work
23 with the company; it's part of our investigative work
24 with the company but you're absolutely right. It
25 would--we would have to be very careful about how we

1 approach that.

2 COMMISSIONER MAUREEN HARRIS: Right, because
3 you would have to ask them whether or not they
4 believe they are--and then whether or not they wish--
5 because then there's creating an ability for
6 customers to say, well, yeah, I thought they were
7 from the utility and I want to get out of this
8 contract.

9 MR. DOUG ELFNER: Right.

10 COMMISSIONER MAUREEN HARRIS: You know it's
11 going to be a tough thing to prove at that point, if
12 there wasn't a complaint. I'm just saying I think
13 we're opening up--I don't disagree that it's a
14 concern. But I would--I think it would be a very
15 difficult undertaking simply.

16 MR. DOUG ELFNER: We appreciate the
17 sensitivity as well.

18 COMMISSIONER MAUREEN HARRIS: Right.

19 CHAIRMAN BROWN: Doug's actually going to
20 activate his CSI - - unit to do undercover work.

21 [Laughter]

22 CHAIRMAN BROWN: I'll just--I find it a
23 little ironic that sometimes utilities are not the
24 most popular business in town yet it seems home
25 energy service companies, ESCOs all want to invoke

1 the name of the utility to make themselves look more
2 credible than their own names. It's just rather
3 ironic.

4 COMMISSIONER MAUREEN HARRIS: But in
5 fairness, some of these home energy service companies
6 enter into a contract with the utilities for the use
7 of that name as opposed to these ESCOs who have no
8 authority and no contract.

9 CHAIRMAN BROWN: That's correct.

10 COMMISSIONER MAUREEN HARRIS: Okay.

11 CHAIRMAN BROWN: It's different--I just mean
12 the use of the name somehow--

13 COMMISSIONER MAUREEN HARRIS: Uh-huh.

14 CHAIRMAN BROWN: --is seen as an advantage
15 when you think it might be seen as a disadvantage.
16 But I think, again, we're doing the right thing here
17 and we need to move forward. I think we need to send
18 strong signals and hopefully this company will
19 respond as well as the last one did trying to
20 internally take care of their own problems rather
21 than trying to fight the issue.

22 MR. DOUG ELFNER: And Chairman, just very
23 quickly, I just want to recognize as I sit here at
24 this table or my staff do, but I wanted recognize or
25 acknowledge that in enforcement activities, counsel's

1 office has been incredibly helpful. Diane,
2 especially and Ben Miles are very helpful in moving
3 this along.

4 CHAIRMAN BROWN: Any other comments or
5 questions? Commissioner Sayre.

6 COMMISSIONER GREGG SAYRE: Just one of the
7 things that I note that we do have in our toolbox and
8 that's in a particularly egregious violation even if
9 we don't want to get into the business of the
10 surveying an ESCO's customers, we could require them
11 to send all of their customers a specific written
12 notice that we would craft to address this situation.

13 CHAIRMAN BROWN: So we have a recommendation
14 to move forward with this, investigation of Family
15 Energy. All those in favor of the recommendation as
16 described by Doug please say aye.

17 ALL COMMISSIONERS: Aye.

18 CHAIRMAN BROWN: Opposed? Hearing no
19 opposition, the recommendations are adapted. Thank
20 you and good work on the ESCO front.

21 Eighth item for discussion today, item 302,
22 13-E-0140, Utility Emergency Performance Metrics and
23 that will be presented today by Mike Warden,
24 department--Emergency Manager. Mike.

25 MR. MIKE WORDEN: Good afternoon, Chairman

1 Brown, Commissioners. I realize it's been a long
2 day, so I'll try to be brief in my comments here so
3 we can move along. A recently enacted legislation
4 amended the Public Service Law to provide for
5 strengthened provisions for the Commission to levy
6 administrative penalties against the utilities it
7 regulates. The legislation also adds additional
8 language to enhance oversight by the Commission for
9 electric utility emergency plans, including the
10 requirement that the Commission approve utility filed
11 emergency plans.

12 The Department's staff is still working on
13 developing the protocols and procedures that it will
14 use to help the Commission implement this
15 legislation. I just want to give you a brief update
16 on the electric emergency plans before I get into the
17 scorecard itself. The plans by the electric
18 utilities were filed by April 1st as required by 16
19 NYCRR Part 105. We've started a review process
20 that's going to take some time and it's probably
21 going to be more involved and in more depth than what
22 we've done previously, being frank with you. We're
23 also going to be issuing those plans for public
24 comment.

25 So after we get public comment on the plans

1 and after a staff team has reviewed the plans, we
2 will review them and we will be coming back to you
3 with recommendations for approval of the plans.

4 I think this is going to be a - - process.
5 We've filed these plans now, April 1st, they reflected
6 some of the utilities' findings from Super Storm
7 Sandy and they've already reflected stuff from Irene
8 and Lee, but I expect there's going to be further
9 changes. Any good emergency plan is something that's
10 a living document. We know the - - Commission is
11 still investigating the utility performance and we
12 expect them to issue a report which may not be
13 reflected in this first round of emergency plans that
14 come before you.

15 The changes to the law require that the
16 utilities file their plans by December 15th. So it's
17 going to be, as I said, an - - process. Now I'd like
18 to--in terms of the scorecard, you know, as part of
19 our effort in talking about emergency plans, talking
20 about administrative penalties, we've recognized that
21 it's desirable to have a better means of assessing
22 utility performance following these major emergency
23 events. Now we've actually recognized this long
24 before Super Storm Sandy. We've been working for
25 many years trying to come up with some objective

1 measures in order to help us determine whether the
2 utility's performance was good or bad.

3 I can tell you there's not a lot out there
4 in terms of good objective measures. There are some
5 more subjective measures that we've seen, but there's
6 not really any good objective measures that we have
7 been able to capture and use to formulate what we're
8 talking about today.

9 So we've developed essentially a straw man
10 proposal based on our experience in trying to do this
11 over the past five, six, seven years. What you have
12 before you is three documents. You have a draft
13 notice soliciting comments. This document lays the
14 framework for the process that we're going to follow
15 and it poses certain questions that we would like
16 parties to address.

17 The scorecard itself, which is actually an
18 Excel spreadsheet, which has quite a number of
19 metrics that we're proposing. The scorecard is
20 intended to be a quantitative way to measure utility
21 response to storms, not just storms but natural
22 disasters and even other major catastrophic emergency
23 events.

24 And the third document that's in there is an
25 explanation, with some notes to the scorecard

1 essentially, an explanation of some of the terms that
2 are used in the scorecard. It details, for example,
3 how we define the protocols for utilities providing
4 estimated times of restoration. That's one of the
5 key areas.

6 Now the scorecard is broken up into three
7 different categories. The first is preparation, the
8 second is operations, the third is communication. As
9 I mentioned, the ETRs make up a large proportion of
10 the scorecard. It's actually it's 30% of the
11 scorecard is representing the ETRs. Other metrics
12 address things such as safety, response to downed
13 wires, coordination with other entities such as
14 communication utilities and municipalities, the
15 ability to obtain mutual assistance, contact with
16 life support customers and call center operations.

17 The scorecard would apply to all emergency
18 events where customers are out of service for three
19 days or more or other events as deemed necessary.
20 The three days ties in with our rule part 105, which
21 requires the utilities to file a report with the
22 Commission for any event that's over three days. The
23 utilities would provide information within 30 days of
24 restoration completion to allow staff to fill out the
25 scorecard on a per event basis. The part 105 reports

1 would still be required within 60 days.

2 Eventually, the scorecard will be part of
3 the vehicle for the Commission's implementing the new
4 administrative penalties for utility emergency
5 response. That's really a work in process and it's
6 going to take some time to work through. Now
7 comments on the scorecard are due back on June 10th.
8 After staff has reviewed those comments, we expect to
9 come back to you for further recommendations. That
10 completes my presentation. I would be happy to
11 answer any questions.

12 CHAIRMAN BROWN: Yeah, I just want to start
13 by emphasizing that this is a straw man proposal
14 that's out there. Please utilities, if you see this
15 don't jump to that we have finalized our thinking on
16 this area and that we think we got it right the first
17 time through. In fact, I think we probably know we
18 probably didn't. And the last thing we want to have
19 happen are utilities performing to the scorecard
20 rather than getting the lights on. So I would
21 especially be interested if you see any conflicts.
22 When you get the scorecard right, those two
23 objectives will completely aligned. But we need to
24 measure how well and how quickly they doing it and
25 how well and how quickly they're predicting and all

1 those sort of things. But I just really want to
2 emphasize we're putting this out there for comment,
3 because we're really looking for the input of those
4 that have to get the lights on, that have to do the
5 work, and to make sure that we got things lined up.
6 So I just wanted--I think this is an important
7 exercise and it sounds like a first in the nation
8 exercise as far as we can gather. So we want to get
9 it right and we want to do it correctly. That's what
10 this is about today. So with that I'll open it up to
11 comments or questions. Commissioner Larocca.

12 COMMISSIONER JAMES LAROCCA: Really just a
13 comment. The degree of difficulty that you face is
14 enormous and I think we appreciate that here. Just
15 thinking about more recent cycles, we are now in the
16 habit of referring to Sandy as a game changing event.
17 Sandy was in reality many different events and hit
18 the services territories of--the different
19 territories of the state, they were profoundly
20 different kinds of events, yet they had a lot of
21 common elements. Flooding which we've seen now in
22 proportions we haven't seen before including was it
23 Lee or Irene and there was an upstate flooding event
24 was not something we had measured in hurricane
25 terminology. So I think as you proceed there's a

1 real appreciation that, you know, we're trying to
2 provide some common form of analysis for very, very
3 different phenomena, including even differences
4 within the same event and I don't envy you your task.

5 MR. MIKE WORDEN: No, I think that's an
6 excellent observation and I think we need to be
7 flexible in how whatever we ultimately come up with,
8 assuming we're able to come up with something.

9 COMMISSIONER JAMES LAROCCA: Uh-huh.

10 MR. WARDEN: Because that was a struggle
11 that we've had for some time trying to do this. If
12 it was--if these events were all the same or similar
13 it would be pretty easy to come up with something or
14 much easier, but they're so different. Each one has
15 got unique aspects to it, so I think we have to keep
16 that in mind as we go forward.

17 COMMISSIONER JAMES LAROCCA: I guess one of
18 the things I saw, at least in my end of the state,
19 was a tendency to make comparisons that were really
20 not apt. Some restoration in Suffolk County, for
21 example, where the storm was orders of magnitude
22 smaller and less complicated than in Nassau County,
23 sometimes invited the wrong kind of conclusion from
24 that analysis. And restoration effort where you're
25 dealing with only a certain level of disturbance and

1 destruction can't always be compared to a neighboring
2 part of the territory where you also have a flood to
3 go with it. So reconciling the pieces I think
4 strikes me as just a huge problem.

5 MR. MIKE WORDEN: I think we'd agree.

6 [Laughter]

7 CHAIRMAN BROWN: Commissioner Harris.

8 COMMISSIONER MAUREEN HARRIS: Two questions.

9 And the first on the scorecard, in the preparation
10 for storms, is there--I didn't see it, but is it just
11 inherent in the actual scorecard that utilities have
12 incorporated lessons learned from previous storms as
13 part of either the preparation or in their operations
14 or communications that if in fact recommendations
15 were made and not--they were made by the Department
16 and staff and they weren't incorporated. Is there
17 sort of a recognition within the criteria and the
18 scorecard itself or do you think a separate line item
19 within these categories might be . . .

20 MR. MIKE WORDEN: Well I think that's going
21 to tie in with the approval of the emergency plans.
22 I mean I think there's going to be--you know, as part
23 of our approval process in the future, we're going to
24 make sure that they've implemented those things as
25 part of their emergency plans. So having an approved

1 and acceptable emergency plan is going to be
2 fundamental to carrying out the items that are
3 identified in the scorecard.

4 COMMISSIONER MAUREEN HARRIS: Okay. And a
5 failure of the utility then to incorporate it would
6 be a failure to--a failure of not adhering to the
7 emergency plan and, therefore, we would recognize it
8 as not complying with the emergency plan?

9 MR. MIKE WARDEN: Yeah, I don't think in any
10 way we're expecting the scorecard to replace the
11 emergency - - . We're going to continue when they--
12 when we have recommendations to direct them to put
13 them into their emergency plan. And we want to
14 submit those plans and they have not done that, we're
15 going to come to you and say, hey, they didn't do
16 this; we would like you to order them to do so. But
17 we expect them to incorporate it.

18 COMMISSIONER MAUREEN HARRIS: And one thing
19 I touch kind upon and I don't know if Commissioner
20 Sayre is also going to touch upon this, but in our
21 briefings we've discussed this numerous times since
22 Super Storm Sandy and it's very difficult for me to
23 say that with a lisp, so I'll just call it Sandy.
24 This intra-communication, the communications between
25 and among industries, the communications industry and

1 the electric utilities and the gas companies and the
2 water companies and that, establishing protocols and
3 processes where communications are as part of the
4 emergency plan. I just want to make sure that going
5 forward when the utilities are filing emergency plans
6 and developing emergency plans that a much better,
7 more comprehensive communication between and among
8 those industries are focused on. And including the
9 participation in those emergency plans of the
10 communication companies and the water companies.

11 MR. MIKE WORDEN: That's going to be an area
12 we're going to be looking at with the current
13 emergency plans to see if it's sufficient and if it's
14 not, we're going to, you know, probably in the first
15 instance, work with the utilities to get them to put
16 that in and if that doesn't work, then we're going to
17 come to you to get them to put that in.

18 COMMISSIONER MAUREEN HARRIS: Well I would
19 strongly encourage them to put that in at this point.

20 MR. MIKE WARDEN: You know, I expect they're
21 going to do that.

22 COMMISSIONER MAUREEN HARRIS: With the
23 consultation or collaboration of these other
24 industries.

25 MR. MIKE WORDEN: That's going to be part of

1 the review process that we have for these emergency
2 plans.

3 COMMISSIONER MAUREEN HARRIS: Okay.

4 CHAIRMAN BROWN: Commissioner Sayre.

5 COMMISSIONER GREGG SAYRE: I'm thinking even
6 beyond the review process, we may need a
7 collaboration that brings all these disparate
8 utilities and industries together so that they can
9 talk about what kind of data would help them from
10 other utilities and the information gathered is kind
11 of what is it reasonable and not too expensive to
12 provide, what protections are necessary for personal
13 privacy and security reasons.

14 MR. MIKE WORDEN: Yes, and we actually
15 expect to have a couple of technical conferences
16 regarding the emergency plans and the review process
17 to kind of fill people in that aren't normally
18 involved in this process as to what these plans
19 represent and what the process is for our review and
20 we've also discussed and we expect we're going to
21 have a technical conference, a separate one, that's
22 dedicated to utility stuff that we've discussed.

23 COMMISSIONER PATRICIA ACAMPORA: Mike, in
24 order for this scorecard I think to be successful, I
25 think that as has been mentioned, we have to have a

1 comprehensive plan and scorecard across the whole
2 state that encompasses all the utilities. Because if
3 you're going to just do it for electric because of,
4 as Maureen said, the communication factor. We know
5 with Tropical Storm Lee, we had our water companies
6 suffered tremendous damage and they did a very good
7 job. But nonetheless, we need a comprehensive kind
8 of scorecard and how do you separate the scorecard
9 from just regular operating procedures during any
10 kind of event. I mean, suppose we have an event come
11 about but we find out that a lot of the damage
12 occurred was due to the fact that a utility was not
13 doing their tree trimming and vegetation management.
14 How do you do that?

15 MR. MIKE WORDEN: I don't think you can
16 separate all those things out entirely. It's just
17 too difficult. I mean, you know, focusing on the
18 electric utilities, if a utility is not doing certain
19 capital work that leads to problems during emergency
20 response, it's going to be reflected in their
21 performance. We do look at those programs on an
22 ongoing basis, but it's hard to tie those programs
23 into the scorecard. The scorecard is focused mostly
24 on the response effort but we have to be confident in
25 the day-to-day work that we're doing in overseeing

1 capital programs and operation maintenance programs.
2 You know, as far as trying to do this across
3 industries, I think we have more experience frankly
4 in terms of trying to do this on electric because we
5 have been trying to do it, so I think, you know, this
6 is a first step. The law requires stuff for electric
7 utilities in terms of emergency plans, so it seemed
8 to us this was a natural first step as opposed to
9 trying to do a scorecard across the board for all
10 utilities. You know, eventually if we get to the
11 point where we've developed something that is a
12 useful tool to you, then I think we would have
13 discussions internally about should we now expand
14 this to the other industries.

15 COMMISSIONER PATRICIA ACAMPORA: Now because
16 right now you're talking--we're talking about severe
17 storms. Are we or we're not?

18 MR. MIKE WORDEN: We're talking about severe
19 outage events.

20 COMMISSIONER PATRICIA ACAMPORA: Outage
21 events caused by storms.

22 MR. MIKE WORDEN: No.

23 COMMISSIONER PATRICIA ACAMPORA: No?

24 MR. MIKE WORDEN: No, not necessarily. Long
25 Island City would fit into this.

1 COMMISSIONER PATRICIA ACAMPORA: Okay.

2 MR. MIKE WORDEN: Washington Heights.

3 COMMISSIONER PATRICIA ACAMPORA: Okay.

4 MR. MIKE WORDEN: I'll mention, you know,
5 you could do this for less than a three-day event.
6 Washington Heights was back in the late 90s. That
7 was a one-day event, but that's an event where we
8 would probably expect to request the utilities to
9 file data to support this. But it's major emergency
10 events, because frankly the utilities evoke different
11 operations during those things , so it's not the day-
12 to-day operations.

13 COMMISSIONER PATRICIA ACAMPORA: Well let's
14 look at New York City where we have a lot of
15 underground utilities are all together. So if there
16 is a major event, all right we have a scorecard for
17 the electric utility, but what happens to the gas and
18 the water and the phones? How do we you know, do we-
19 -

20 MR. MIKE WORDEN: [Interposing] In this
21 short-term we not proposing the scorecard for them.
22 I think again, as I said, if we are able to develop
23 the scorecard then I think the next thing we would
24 want to consider is whether we should extend that
25 into gas or communications and even steam. But I

1 don't think we have as much experience in those
2 areas, it's going to take more time.

3 COMMISSIONER PATRICIA ACAMPORA: Well I
4 think that's why this effort is going to be--

5 MR. MIKE WORDEN: [Interposing] Interesting.

6 COMMISSIONER PATRICIA ACAMPORA: Interesting
7 and very difficult to do, because there's a lot
8 hedging on what comes up from this.

9 MR. MIKE WORDEN: And we don't have it a
10 preconceived notion of what we think we're going to
11 bring to you, we really don't. This is a straw man,
12 we're hoping to, you know, not only get input from
13 the utilities but maybe others in the industry who
14 are out there that have a stake in this that may have
15 good ideas.

16 COMMISSIONER PATRICIA ACAMPORA: Yeah.

17 CHAIRMAN BROWN: And also more precisely how
18 we use it is--we're about to go--our next item is a
19 scorecard that we do use in a certain way that we're
20 going to be talking about in service quality. But
21 there's no preconceived notions here. We think it's
22 a valuable tool to develop and how well we develop
23 the tool, how useful we think the tool is, and what
24 we do with the tool still needs to be worked on. Any
25 other comments or questions? So what I believe we

1 are issuing today is a notice soliciting comments, so
2 as described by Mike, issues that Mike described, so
3 all those in favor of the recommendation of the
4 notice, please say aye.

5 ALL COMMISSIONERS: Aye.

6 CHAIRMAN BROWN: Opposed. Hearing none, the
7 recommendations are adopted. So I set you up, Chad.
8 The ninth item for discussion is item 501, Verizon,
9 waiver of certain fourth quarter 2012 results
10 presented by Chad Hume, Director of Office of
11 Telecommunications. Good afternoon, Chad.

12 MR. CHAD HUME: Good afternoon Chairman
13 Brown, Commissioners, item 501 does address the
14 petition of Verizon, New York, Inc requesting that the
15 Commission forego a penalty action for the company's
16 failure to comply with the out of service troubles
17 lasting greater than 24 hours. Parametric pursuant to
18 the company's revised service quality improvement
19 plan, otherwise known as the Sqip [phonetic] for its
20 core customers in November and December of 2012.
21 Verizon requests that the Commission determine that
22 the company is not subject to a penalty action for
23 missed performance thresholds applicable to core
24 customers during the last quarter. Imposing a penalty
25 action would expose the company to a potential

1 \$500,000 penalty for service misses in New York City,
2 Long Island, and the mid-state regions in November,
3 and for New York City and Long Island in December. In
4 its petition, the company argues the devastating
5 damage and destruction resulting from Super Storm
6 Sandy prohibited its compliance with the metric. And
7 under Commission rules, the service standards
8 including the out-of-service grid - - repair metric
9 are suspended during severe storms and that the
10 criteria for penalty action according to Public
11 Service Law Section 25 did not occur. That is a non-
12 failure in the - - obligations. The item recommends
13 the Commission grant the company's request due to the
14 unusual circumstances resulting from super storm
15 Sandy, in light of the company's significant steady
16 clearance of trouble reports through December 2012 in
17 the augmentation of its workforce, through emergency
18 overtime worked by its technicians. Super storm Sandy
19 made landfall in the New York area on October 29,
20 2012. As a result, out-of-service trouble reports for
21 core customers for November 2012 is about 175% higher
22 compared to the monthly average of core customer out-
23 of-service troubles during the preceding months of
24 2012. Further, the trouble load for all customers
25 increased to about four times normal within several

1 days of Hurricane Sandy, or Super Storm Sandy.
2 Verizon increased its repair work force by 2/3 within
3 several days of Super Storm Sandy. During the period
4 in which the company substantially worked down the
5 trouble report load its repair work force had more
6 than doubled. As it responded to the severe damage to
7 its network, the company repaired troubles where it
8 could and replaced significant portions of its network
9 where it was warranted. To address longer term
10 outages, the company offered interim remedies to
11 customers which included free provisioning of wireless
12 home phone and internet service, access to mobile
13 hotspots and wireless jet packs for data services, and
14 call forwarding to working landline or cellular
15 numbers. The staff believes that the severity of
16 Super Storm Sandy and the enormity of the destruction
17 caused to Verizon's facilities would have prevented
18 them from achieving the required repair thresholds and
19 are a reasonable basis for suspension of the metric
20 for Verizon's core customers. Given the company's
21 significant efforts to restore service in an effective
22 manner, and the need to work through a significant
23 number of trouble reports in November and December
24 2012, it is recommended that the Commission approve
25 Verizon's petition to not impose a penalty action for

1 failure to comply with the out-of-service grade of 24
2 repair metric during the extreme conditions following
3 Super Storm Sandy. That concludes my presentation on
4 501 and I'll be glad to take any questions.

5 CHAIRMAN BROWN: Comments or questions? I'd
6 like to add I guess this is an example of if we
7 develop metrics as Mike was describing that we have to
8 be flexible in their use. There are sometimes
9 circumstances that, you know, you just can't be black
10 and white at all times and I think the unprecedented
11 nature of this is certainly one of those things. So I
12 believe what we have here is an order that would
13 exempt from compliance from the standards for November
14 2012, December 2012 for New York City and Long Island.
15 Isn't that what the letter says?

16 MR. CHAD HUME: Also mid-state for November.

17 CHAIRMAN BROWN: Okay. Thank you. So all
18 those in favor as described by Chad please say aye?

19 ALL COMMISSIONERS: Aye.

20 CHAIRMAN BROWN: Opposed? Hearing none, the
21 recommendations are adopted. The last item for
22 discussion today is a status report on Verizon's long-
23 term standing restoration in lower Manhattan, Far
24 Rockaway, Queens and Fire Island presented by Chad.
25 Chad?

1 MR. CHAD HUME: As indicated on the previous
2 item, Department staff has been actively monitoring
3 Verizon's restoration efforts following Super Storm
4 Sandy, including the resolution of long-term out-of-
5 service conditions due to severely damaged and
6 destroyed plant in much of the New York City region,
7 with particular attention to conditions in Lower
8 Manhattan, certain areas of Queens, and Fire Island.
9 In Lower Manhattan, long-term network repairs have
10 progressed steadily and the company is nearing
11 business as usual operations. Service to most all of
12 the nearly 400 buildings identified by Verizon were
13 impacted by severe copper network damage and
14 destruction as well as significant physical damage to
15 the buildings themselves has been restored to repair
16 and nearly complete network reconstruction by fiber
17 facilities including FiOS. Approximately two dozen of
18 the remaining buildings are on schedule for restoral
19 in the next couple of weeks, and about three dozen are
20 behind schedule mainly due to building access issues
21 and some with remaining issues with the buildings
22 themselves. The company is working to resolve the
23 remaining building outages on an individual basis. In
24 Queens, including the remaining areas in Far Rockaway,
25 Verizon has restored its network to nearly pre-storm

1 business as usual levels through the repair the
2 existing facilities and increase deployment of FiOS to
3 replace severely damaged and destroyed copper
4 facilities. Presently, the company continues to
5 restore services at individual locations in the
6 Rockaways via FiOS as customers rebuild and reoccupy
7 homes and buildings that were damaged from the storm.
8 Overall, less than 10,000 access lines remain out of
9 service in the metro New York City region. Verizon
10 has maintained a large stable work force in the storm
11 affected areas since early November and the today - -
12 trouble load has returned to near normal levels as
13 repairs and provisioning continues. The company
14 estimates network operations to be business as usual
15 in all New York City areas by the end of April. Now
16 turning to Fire Island, there are approximately 500
17 year-round residents in Fire Island and the population
18 swells to over 10,000 during the summer months.
19 Verizon is the island's only wire line provider of
20 telephone and data services. There is no competing
21 wire line cable network. Wireless, voice, and data
22 services are available through various providers and
23 residents also use satellite services for voice and
24 data communications. The storm's impact was greatest
25 on the western end of the island where copper

1 facilities were severely damaged and destroyed. These
2 areas include the villages of Ocean Beach, Saltaire,
3 and Kismet. Eastern Fire Island hamlets are served by
4 fiber facilities out of the Ocean Beach switching
5 office and those facilities were not as severely
6 impacted by the storm. After conducting an assessment
7 of its network damage and considering the continued
8 migration of the customer base from landline to
9 wireless service over recent years, Verizon determined
10 that a hybrid wireless/wire line alternative called
11 Voice Link would provide a more reliable and resilient
12 telephone service on the western portion of the island
13 versus rebuilding the pre-existing copper network that
14 was damaged beyond repair by the storm. Verizon
15 believes such a network redesign to be less
16 susceptible on future storm paths to which the island
17 may now be even more vulnerable following Sandy's
18 destruction of pre-existing sand dunes. Where copper
19 facilities survive, Verizon will continue to provide
20 voice and DSL service as long as the copper facility
21 remains operational. At the request of municipal
22 officials on Fire Island, Verizon has committed to
23 maintaining some wire line service to specific
24 locations for public safety forces and other
25 governmental functions and facilities. The Voice Link

1 service to be deployed on Fire Island is a new
2 product. It is similar to Verizon Wireless Home Phone
3 Connect service, but it is designed to remain
4 stationary at the customer's premise, and is enhanced
5 to provide 911 locational information to emergency
6 responders. The Voice Link device, about the size of
7 a small router or modem, will be installed by a
8 Verizon New York technician at a location in the
9 customer's home where signal strength is greatest to
10 provide the best service quality and functionality.
11 It has battery backup in case of commercial power
12 loss. It uses regular, store-bought AA batteries.
13 Its antenna has a greater ability to receive available
14 wireless signals than regular hand-held wireless
15 devices. The device service will be offered by
16 Verizon New York, the regulated Verizon entity. Voice
17 Link will be a voice only service. It cannot
18 accommodate DSL, fax, or alarm services. However,
19 Verizon indicates that it does support relay for TTY
20 or tele typewriter services which are designed for
21 persons with hearing or speech disabilities. We
22 expect the voice telephone service on Fire Island,
23 including Voice Link, will continue to be provided
24 under the oversight of the PSC and will be subject to
25 requirements for 911, service quality, rates, outage

1 reporting, and other aspects of our regulations.
2 Staff is in the process of working through conditions
3 necessary to ensure the Voice Link service and its
4 users are provided appropriate protections equivalent
5 to basic regulated service. Verizon appears to agree
6 in concept, but has not yet codified necessary tariff
7 modifications. We expect those modifications soon.
8 Verizon New York has worked with Verizon Wireless to
9 ensure that wireless voice and data network coverage
10 throughout Fire Island is adequate to accommodate
11 Voice Link and forecasted increase in demand for other
12 wireless services, which are currently provided by two
13 tower locations on Fire Island, and from the mainland
14 Long Island facilities. To augment existing 4G
15 service capacity, Verizon is nearing completion of
16 distributive antenna system comprised of 13 pole
17 mounted antenna arrays in the Kismet and Saltaire
18 areas. This distributive antenna system network will
19 enhance one amp [phonetic] signal strength which voice
20 communications are carried on as well as 4G data
21 capacity. Presently, all necessary poles and cabling
22 have installed with electric service and antenna
23 placement pending. The company plans to have all
24 required network construction completed by the end of
25 April. Through engineering efforts, Verizon's

1 maximized signal strength in their existing facilities
2 to accommodate increased wireless communications use.
3 We expect that through these efforts supplemented with
4 contingency plans to respond to potential commercial
5 power loss and network congestion problems, the
6 company will be able to provide adequate service. And
7 in particular properly manage the communications needs
8 at Fire Island during the peak season including those
9 residents relying solely on wireless services to reach
10 911 and emergency services. Presently, Verizon has
11 sent out a combination of direct mailings and email
12 notifications totaling over 3,000 correspondences to
13 the Fire Island customers advising them their
14 telephone service will be restored via Voice Link.
15 The notices provide customers with an 800 number to
16 schedule Voice Link installations. In addition,
17 Verizon has set up an information booth near the Fire
18 Island ferry dock to alert customers of Voice Link and
19 answer any questions about the service and its
20 restoration efforts in general. We have received a
21 number of customer complaints, elected official
22 inquiries, and a complaint from the Village of
23 Saltaire regarding aspects of service quality and
24 network restoration. Several comments concern the
25 loss of copper based DSL and other non-voice services

1 such as alarm monitoring, which I would note the PSC
2 does not regulate, which were previously supported on
3 the wire line network. As mentioned, Voice Link is a
4 voice only product and does not support DSL type
5 services. Some Fire Island residents and businesses
6 may have to purchase a wireless broadband alternatives
7 for those types of applications. We are aware that
8 there are other wireless and satellite based solutions
9 available for data, alarm services, and business
10 support services such as point of sale transactions
11 and ATMs. Verizon has met with Fire Island officials
12 and the Fire Island Business Association to provide
13 information on its network restoration, the Voice Link
14 product, and other service options available to
15 address their business and data needs. Staff will
16 continue to monitor the restoration on Fire Island to
17 ensure that reliable voice service and access to
18 emergency service is maintained without interruption.
19 This concludes my presentation on the status of
20 Verizon's long-term restoration efforts, and I'll be
21 glad to take any questions.

22 CHAIRMAN BROWN: This is an interesting step
23 in our walk down the telecommunications change trail.

24 MR. CHAD HUME: It's a little curve.

25 CHAIRMAN BROWN: And I think what we're

1 trying to do here is we will consider nontraditional
2 basic service offerings, but we have some expectations
3 from the company when they tried to provide these
4 offerings in terms of that there will be tariffs that
5 people can rely on, that the basic services, the 911s,
6 the life lines, the things that are common with basic
7 service are all part of the package. It sounds like
8 there are be some challenges in this process as we
9 work through it.

10 MR. CHAD HUME: Yes, we're still working
11 through it with the company.

12 CHAIRMAN BROWN: So I wanted a presentation
13 to the Commission today 'cause it's a big step in a
14 sense. We're saying you don't have to rebuild copper.
15 They are suggesting it wouldn't be cost-effective for
16 us to try to rebuild that system, especially in light
17 of the location, the flooding potential there, and
18 that this is an alternative that can potentially work.
19 So I guess I'll just open it up to any other comments
20 or questions at this point. Commissioner Larocca?

21 COMMISSIONER JAMES LAROCCA: Thank you,
22 Chad, for a good report. These beach towns offer a
23 lot of challenging questions it seems to me. If you
24 look at the barrier beaches, starting in Rockaway,
25 which is part of this discussion, where you have the

1 virtually urbanized barrier islands and the
2 coincidence of that characteristic and where the storm
3 hit and the way it hit made for a very devastating
4 picture on that peninsula. As you go east into Fire
5 Island, the worst damage not just to built environment
6 but to the remaining dune environment was to the west.
7 And further east where and including--where there is
8 no population, actually you accredited sand and dunes
9 and came out of the storm, as often happens with
10 tropical storms, a net increase to the size and health
11 of the beach, at least in that section. Contradicted
12 perhaps by some breaches that weren't there before,
13 but we know historically come and go. This is nature
14 working its course. In the years, the recent years,
15 as these communities have grown from their initial
16 size, year round Fire Island 25 years ago was probably
17 100 people, now it's 500 people. Add the summer
18 population, which is in the thousands, seem to be
19 bringing with them an expectation of mainland level
20 services. Now that gets us past a lot of our purview
21 as regulators, particularly if we're getting into
22 voice territory and all of that. But I think there's
23 a real question about the level of services that can
24 and should be expected in a remote, minimal piece of
25 geography. When we accept the notion that mainland

1 level services is an expectation to be met, in a place
2 where density doesn't support it really, there is an
3 inevitable subsidy on other communities, other rate
4 payers that is supporting per capita a level of
5 service there that is much more expensive to provide,
6 because of its location and the lack of population.
7 So, I think as you continue to venture along, and this
8 has triggered a lot of these questions particularly
9 because they have to evolve from copper to wire, is to
10 keep that question someone in the mix, what is an
11 appropriate level of services that we would support in
12 a regulatory way that results in an imposition of
13 costs that can be passed through to a wider community
14 base, customer base. I have no answer to any of those
15 questions. But it's growing. And when you--your
16 additional matters like people are perhaps developing
17 an expectation that a security or surveillance system
18 is an expectation to be met by companies that
19 increasingly are seen to be utilities, whether they
20 are defined or not, is that really a policy that we as
21 a regulatory body see as necessary in the public
22 interest. Remote barrier beach that now expects to
23 have electronic surveillance on a 12 month basis. The
24 cost recovery now for most of the services provided is
25 annualized but the population that pays the bills is

1 basically over there in the suburb. So they're not
2 paying the full costs on any kind of a community basis
3 for these services. So when--I know Commissioner
4 Acampora as well heard from certain legislators. The
5 expectation is this is - - or Queens Village or
6 something and it's really a unique series of
7 communities that part of the regulatory answer may
8 have to reflect the unique character of the place and
9 not impose a fully urban set of requirements on a
10 wider group of customers.

11 MR. CHAD HUME: Yeah, you know, I think that
12 all goes into the--that all comes into the calculus as
13 we move forward, not only on our part as regulators
14 but also on the part of the companies. And I think
15 it also goes to some of the same discussions you had
16 with Mike. - - these kind of events and what we can
17 come to expect in the coming years.

18 CHAIRMAN BROWN: And I would just assume
19 too, to build on your--you've got the same tariff
20 rates as the easier to access communities.

21 MR. CHAD HUME: Yeah, how do--

22 CHAIRMAN BROWN: The basic service charge on
23 Fire Island would be the same as the basic service
24 charge anywhere else on Long Island.

25 MR. CHAD HUME; Yeah, and those costs are

1 going to have to be socialized on the rest of Long
2 Island or wherever Verizon provides service.

3 CHAIRMAN BROWN: Did you speak out and - -?

4 COMMISSIONER GREGG SAYRE: I tend to
5 disagree with some of the industry pundits who say
6 that copper is on its way out almost immediately. I
7 think it's going to be around for quite a long time.
8 But in a situation like this one where it's been
9 washed over or washed out and corroded by the sea
10 water, that really doesn't make sense to put copper
11 back in. But once you've got to that point you're
12 looking at either wireless or fiber. And it's pretty
13 difficult from where I sit to require a company in a
14 seasonal community to put in fiber that isn't
15 necessarily going to have enough of an uptake to make
16 it economical. I am also comforted by the fact that
17 looking at all of the services that are traditionally
18 provided over copper, there are alternatives in the
19 Rockaways and Fire Island, although some of them are
20 more expensive. We can't get unlimited, flat-rate DSL
21 which we don't regulate, as Commissioner Larocca
22 pointed out, over wireless but you can get satellite
23 and you can get 4G from the cellular companies. So
24 under these circumstances, I think Verizon is doing
25 the reasonable thing.

1 CHAIRPERSON BROWN: Commissioner Harris?

2 COMMISSIONER MAUREEN HARRIS: I'm just
3 trying to understand, is part of the challenge here
4 going forward getting a tariff on a wireless service,
5 because that's obviously something we've never done
6 before, because this is a core customer base? Or
7 this--the challenge just generally having a tariff
8 applied to this particular service generally is going
9 to be new and challenging. But is the reason we're
10 looking to get a tariff because these individuals have
11 no choice in their voice provider?

12 MR. PETER MCGOWAN: I think what's really
13 happening is the company is making a good case for the
14 need for an alternative service, and we view that, or
15 we think that that should be subject to oversight. So
16 they're going to have to provide that--they're going
17 to provide that service subject to conditions in a
18 tariff.

19 COMMISSIONER MAUREEN HARRIS: Right, but the
20 reason--go ahead, jump in.

21 COMMISSIONER GREGG SAYRE: Well, I would
22 take the position that it's not a wireless service.
23 Wireless is used in the loop as it gets to the
24 customer, but from where I sit, the company is
25 providing with this Voice Link service, plain old

1 telephone service. They're getting voice grade and
2 plug in their phones to a regular phone jack. They
3 get dial tone, 911 works exactly the same way as a
4 wired phone. But there's wireless in the loop and I
5 don't see that as really a lot more different than
6 what telephone companies have been doing for decades
7 which is using microwaves between central offices.
8 It's just a part of the network.

9 MR. CHAD HUME: Yeah, it's just services
10 being driven by different technology, but it's still
11 the same service.

12 COMMISSIONER MAUREEN HARRIS: But would we
13 have this tariff provision though if there was an
14 alternative provider available for voice?

15 MR. PETER MCGOWAN: I think the answer is
16 yes.

17 CHAIRMAN BROWN: The way I'd look at it--

18 MR. PETER MCGOWAN: [Interposing] But it
19 does so happen that this particular area is a core
20 area where there are no alternatives. But whether
21 this will be--whether this alternative would be made
22 available more broadly is a question that I am sure
23 you will face in the future.

24 COMMISSIONER MAUREEN HARRIS: Mm-hmm,
25 undoubtedly.

1 CHAIRMAN BROWN: I'd look at it that what
2 we're still saying is that every New Yorker is
3 entitled to a basic phone service. What we're doing
4 is being a little bit more versatile in how you
5 provide this basic phone service. Maybe at some point
6 we'll be willing to say there's enough out there that
7 we can do without in certain areas basic phone
8 service, but I don't think we've to come to that
9 determination yet. So if you're going to have basic
10 phone service, in my mind, you have to have to have a
11 tariff to protect the customer in terms of what the
12 price is and what the conditions are. And what we're
13 doing I think is being highly flexible and saying
14 we'll consider different ways of getting basic phone
15 service to you. But we're still going to want that
16 tariff protection in place. Now, maybe a few years
17 down the road we'll be able to move away from that
18 basic finding that we have to have basic phone service
19 for everybody. But we certainly can't do it in a non-
20 core area--or in the core at this point. But I don't
21 think we've ever made that determination we need to do
22 it in a non-core area at this point.

23 COMMISSIONER MAUREEN HARRIS: Right. That's
24 what I'm trying to get to. I think there seems to be
25 more of necessity driven by the fact that these are

1 all core customers, not--I mean it raises a whole
2 different issue if they were non-core.

3 CHAIRMAN BROWN: Maybe.

4 COMMISSIONER PATRICIA ACAMPORA: I have
5 something.

6 CHAIRMAN BROWN: Commissioner Acampora?

7 COMMISSIONER PATRICIA ACAMPORA: Taking into
8 consideration that this is a unique situation, my
9 concern is that will consumers know that they still
10 can call the PSC when they feel their service is not
11 adequate and something is wrong with it? How are they
12 going to be notified now that they are in a different
13 type of a system? Is the company going to let them
14 know? Are we going to let them know? How are they
15 going to know who can they call?

16 MR. CHAD HUME: We would expect that these
17 customers, once we get the details worked out with
18 Verizon, be treated like any other Verizon basic
19 telephone customer in they're provided with the
20 appropriate disclaimers, or however you want to refer
21 to it, with respect to what their rights are as a
22 telephone customer and contact the PSC if they
23 complaints, problems, difficulties, et cetera, et
24 cetera. So my expectation is that these customers
25 will be treated the same as any other Verizon wire

1 line customer in that regard.

2 COMMISSIONER PATRICIA ACAMPORA: Well, you
3 had said that there are going to be Verizon personnel
4 at the ferries to set up some type of a booth or
5 something. Would we also have maybe some of our
6 outreach people there to let customers know that they
7 are still part of a service and that they still have
8 the ability to call the PSC?

9 MR. CHAD HUME: Yeah, we can consider that.
10 I'm not--

11 MR. DOUG ELFNER: Yeah, that's an option. I
12 guess my preferred option would be to make sure that,
13 as a starting point, would be sure that Verizon is
14 providing that information to the customers. And
15 again, my preferred option would be it. If that's not
16 the case, then we would work with the company first of
17 all to try to fix that and it wouldn't take as much
18 resources.

19 COMMISSIONER PATRICIA ACAMPORA: Well, I
20 just think it's really important that we have a plan
21 just in case the company does not want to go forward
22 and do that, so we need to be ready and prepared to
23 make sure that the consumers know that they do have a
24 place to call when they need help.

25 CHAIRMAN BROWN: Are you suggesting a PSC

1 group house for the summer?

2 [Crosstalk]

3 COMMISSIONER MAUREEN HARRIS: I do want to
4 mention one thing that I do think the positive upside
5 here for all of those customers that are not the Voice
6 Link customers that their wireless enhancement,
7 although it's thousands of people coming off the ferry
8 now have better, stronger wireless service. I mean,
9 that is--that might be their primary mode of
10 communication out there and I think that's a strong
11 positive step, too.

12 MR. CHAD HUME: Yeah, I'm sure even without
13 Super Storm Sandy that Verizon is going to dealing
14 with much more usage of that wireless network out
15 there. I mean, that's just what people do.

16 CHAIRMAN BROWN: Any other comments or
17 questions? So Chad will continue to monitor this,
18 report on this, we're waiting to find--and I think the
19 next big step is perhaps a tariff filing?

20 MR. CHAD HUME: Correct.

21 CHAIRMAN BROWN: Thank you. I just want to
22 do one last item of business today. This will be the
23 last session for our Director of the Office of Energy
24 Efficiency and Environment, Floyd Barwig. And I'd
25 like to read a resolution for the Commission to

1 consider today. Whereas Floyd Barwig has served the
2 citizens of the State of New York as Director of
3 Office of Energy Efficiency and Environment and the
4 Department of Public Service since April 2008, and in
5 different positions as a member of the former New York
6 State Energy Office when we were much younger man,
7 Floyd. Whereas he has served the citizens of this
8 State for over 17 years, whereas in his capacity as
9 Director of the Office of Energy Efficiency and
10 Environment he oversaw over 100 energy efficiency
11 programs, probably the reason he's retiring today.
12 Whereas, he holds a Master's of Architecture degree
13 from the University of California at Berkley and a
14 Bachelors of Architecture in Science from Rensselaer
15 Polytechnic Institute, whereas he's a registered
16 architect in the State of New York. Whereas he's
17 worked in a variety of different positions handling
18 energy programs in the States of Washington and Iowa,
19 and whereas he enjoys everything related to railroads,
20 and sailing. Whereas he's very much at home in the
21 Adirondacks and he's going to make it his home this
22 summer. Now therefore, be it resolved that the New
23 York State Public Service Commission expresses its
24 appreciation to Floyd Barwig for his faithful service
25 and extends its best wishes to Floyd and his wife,

1 Sue, their children, David and Christine, and at least
2 in Floyd's eyes, their absolutely amazing
3 granddaughter, Leah. So, Floyd, as a colleague and a
4 friend for many, many years, thank you for your years
5 of service and you've well-earned your summer in the
6 Adirondacks and what happens in your future from
7 there. Thank you very much. Oh, and we've got to
8 vote. We've got to vote. So I resolve this, but I
9 forgot to vote on it. So all those in favor of the
10 resolutions, please say aye.

11 ALL COMMISSIONERS: Aye.

12 CHAIRMAN BROWN: Opposed? Any other
13 comments?

14 [Crosstalk]

15 COMMISSIONER JAMES LAROCCA: Mr. Chairman?

16 CHAIRMAN BROWN: Yes.

17 COMMISSIONER JAMES LAROCCA: What bothers me
18 about Floyd, as having been there when he first came
19 into state service, he was not changed.

20 CHAIRMAN BROWN: No.

21 COMMISSIONER JAMES LAROCCA: He is the same
22 calm, avuncular, unflappable fellow that he was then.
23 His hair isn't even slightly gray. I mean I don't
24 know if that was something you picked up out in Iowa.
25 - - out there, but anyway, it's been a pleasure to be

1 associated with you in two different phases of our
2 careers. I wish you all the best and I'm very happy
3 that you're staying in New York.

4 COMMISSIONER MAUREEN HARRIS: Floyd, I've
5 only had the privilege of working with you during one
6 phase of my career. It just feels like 20 with EEPS.
7 But I hope in your retirement you never hear those
8 letters ever again. And it's been a pleasure and a
9 privilege, and I wish you all the best in retirement
10 with your grandchildren.

11 CHAIRMAN BROWN: The only EEPS that he hears
12 is when Susie a mouse in the cottage, right?

13 COMMISSIONER PATRICIA ACAMPORA: I think
14 Floyd is starting to look younger already. Oh,
15 really, Floyd, thank you so much for your service and
16 for all the work and diligence you put into EEPS. It
17 really is appreciated. You have served the State of
18 New York well. And I didn't say it when Jackie
19 retired because I thought people got tired of me
20 saying it, but I guess they're not because they urge
21 me to continue saying "collect a lot of checks." And
22 obviously with your background that the Chairman read,
23 you are certainly qualified to complete the honey-do
24 list as you start your retirement.

25 COMMISSIONER GREGG SAYRE: Floyd, it's been

1 great working with you just for the last nine months
2 that I've been here. It's a huge task that you have
3 overseen and you've done a fine job at it. Thank you.

4 CHAIRMAN BROWN: Thank you, Floyd. And I
5 just want to mention that I've named, appointed
6 Colleen Gerwitz [phonetic] in the back. She will be
7 the new acting Director of the Office of oEEE. So
8 best of luck to Colleen, and thank you. So thank you
9 once again. Madam Assistant Secretary, is there
10 anything else to come before us today?

11 MADAM ASSISTANT SECRETARY LYNCH: No, Mr.
12 Chairman that completes today's agenda. The next
13 regularly scheduled session will be held on May 16th,
14 here in Albany beginning at 10:30 a.m.

15 CHAIRMAN BROWN: I hate to end all this fun,
16 but the meeting is adjourned.

17 [END OF HEARING]

C E R T I F I C A T E

I, Julie Davids, certify that the foregoing transcript of proceedings in the New York State Department of Public Service Public Service Commission Meeting 4/18/13, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Signature: Julie Davids

Date: April 22, 2013

C E R T I F I C A T E

I, Lisa C. Cerverizzo, certify that the foregoing transcript of proceedings in the New York State Department of Public Service, Public Service Commission Meeting, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Signature:



Date: 4/22/13

C E R T I F I C A T E

I, Rita Dillingham certify that the foregoing transcript of proceedings in the Public Service Commission was prepared using the required transcription equipment and is a true and accurate record of the proceedings.



Signature:

Date: April 22, 2013

C E R T I F I C A T E

I, Whitney Stier, certify that the foregoing transcript of proceedings in the New York Public Service Commission of National Grid Affiliates' Rates or Earnings was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

A handwritten signature in cursive script, reading "Whitney Stier", is written over a horizontal line.

Signature:

Date: April 22, 2013