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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION
REGULAR MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, April 24, 2014
10:28 a.m.
19th Floor Board Room
Three Empire State Plaza
Albany, New York 12223-1350

COMMISSIONERS:

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

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2 CHAIR ZIBELMAN: Good morning,
3 everyone. I'd like to call this session of the
4 Public Service Commission to order and before I begin
5 I wanted to let you know that there are going to
6 be -- there are three things we're celebrating this
7 week.

8 There's -- and it's not birthdays.
9 We're not that much -- but it's Earth Day. It's also
10 Shakespeare's birthday today. And it's also Gas
11 Safety Month.

12 So we will actually going to have a
13 item for that at the end of the session.

14 But I did challenge staff to put
15 everything into iambic pentameter and we'll see how
16 well they can do.

17 COMMISSIONER BROWN: Callith --
18 callith before you digith.

19 CHAIR ZIBELMAN: And he's wearing
20 green.

21 MR. STEGEMOELLER: The best I could
22 come up with, started there once was a chairman named
23 Audrey -- go in that direction.

24 CHAIR ZIBELMAN: Secretary Burgess,
25 is there any changes or additions to the agenda?

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2 SECRETARY BURGESS: Good morning.

3 There are three changes to the agenda this morning.

4 First, added to the agenda is Case
5 12-E-0201, Petition of Niagara Mohawk Power Company
6 d.b.a. National Grid for approval of certain customer
7 assistance programs on emergency basis. This has
8 been added to the agenda as Number -- Number 366.

9 Moved to the regular agenda is Item
10 261, Case 12-M-0476, proceeding to assess certain
11 aspects of the residential and small nonresidential
12 retail energy markets in New York State a petition
13 for rehearing. This is being moved to the regular
14 agenda and is renumbered Item 202.

15 And finally a clarification, Items
16 201 A and 201 B. The correct title is In the Matter
17 of Reforming the Energy Vision.

18 CHAIR ZIBELMAN: That's for the
19 next five minutes. So, with that we're going to
20 begin slightly out of order. We're going to begin
21 with Items 201 A and 2 -- 201 B, and then we're going
22 to move to 301 A and 301 B and then finally this --
23 this last item, is that correct, 202?

24 So with that, beginning with Item
25 201 A and 201 B, which is the Reforming the Energy

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2 Vision, Rudy Stegemoeller will be leading and then
3 Raj and -- Addepalli, Doris Stout and Michael Corso
4 will be commenting on this, is that correct?

5 So, Rudy, do you want to lead us
6 off?

7 MR. STEGEMOELLER: Yes. Good
8 morning.

9 CHAIR ZIBELMAN: Good morning.

10 MR. STEGEMOELLER: You have before
11 you a draft order which, to be precise about what
12 you're voting on, is -- is an order -- is a draft
13 that you were given yesterday.

14 It's a red-lined draft dated April
15 23rd, eleven a.m., just to be clear. You also have a
16 staff report and proposal that will be attached to
17 the order and a resolution authorizing an
18 environmental impact statement.

19 At the end of the discussion,
20 you'll be asked to take two votes. One, on
21 authorizing the E.I.S. and the second to initiate the
22 proceeding. You will not be voting to adopt the
23 terms of the report, the staff report per se.

24 This effort originated or it's --
25 the staff effort is a response to the Commission's

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2 December 2013 order in the East case as well as the
3 draft state energy plan which asked staff to examine
4 our regulatory paradigms and propose an initiative to
5 make distributed resources and customer participation
6 in agreeal to the way the electric system works.

7 Staff effort, with the leadership
8 of the Chair, has been pretty intensive over the last
9 few months. A lot of research has been done, excuse
10 me -- dozens and dozens of meetings and focus groups.

11 Staff has developed a -- a broad
12 knowledge base that I would say extends far beyond
13 what you actually see in this report. We probably
14 could have written a five-hundred page report and I'm
15 sure you're glad that we didn't.

16 We also had help from NYSERDA and
17 we've received assistance from Regulatory Assistance
18 Project and the Rocky Mountain Institute which we
19 expect will continue as the case moves on.

20 Before we go into the details, I
21 think it's helpful to look at some of the trends that
22 have developed just in the last few years that have
23 come together to bring us to this point.

24 The first is cost pressure which is
25 largely a matter of aging infrastructure. But, it's

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2 also a matter of increased concerns with reliability
3 and resilience which puts pressure on -- on the
4 system.

5 Second, are advances in distributed
6 resources and their cost and efficiency, storage,
7 building management systems, solar, just examples of
8 things that are becoming mainstream and -- and
9 competitive to varying extent.

10 Third, is the science of climate
11 change which just keeps getting more ominous all the
12 time. And that supports carbon reduction measures,
13 but it also adds pressure on reliability and
14 resilience.

15 Fuel diversity is -- is growing.
16 As concerns, we become more and more dependent on gas
17 for electric generation. And then maybe most
18 significant for our purposes is information
19 technology and the incredible advances in information
20 technology that they make -- they take the -- the
21 distributed grid which has been a theoretical
22 attraction for sometime. It's -- and, you know, it
23 is now very practically feasible. And because of
24 what can be done with I.T.

25 At the same time, information

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2 technology has -- has changed the way people live and
3 the way businesses work and -- and is once again
4 increased reliability and resilience concerns.

5 So the convergence of all those
6 disruptive trends, positive and negative, presents a
7 challenge and this initiative is the Commission's
8 response to that challenge. And with that I will
9 pass it on.

10 MR. ADDEPALLI: Thank you, Rudy.

11 Good morning Chair and
12 Commissioners.

13 I'll just put a little bit more
14 color on what Rudy said and then move on to a little
15 bit more detail. The topics we'll cover are what
16 would happen if we continued with business as usual
17 and what did the Commissioners articulate as the
18 policy goals last December, and how do we want to
19 accomplish this initiative and the two tracks that we
20 are going to discuss?

21 The next slide please.

22 So as Rudy said, if we continued
23 with business as usual, just looking at what we know
24 now, over the next decade we expect the utilities
25 would have to spend at least over twenty-plus billion

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2 dollars in building infrastructure and there would
3 have to be new central generation adds, some merchant
4 and some other, maybe about ten billion. And that
5 adds up to over thirty billion dollars in
6 infrastructure and then clean energy programs of over
7 ten billion. And this may be a conservative
8 estimate. It could be higher.

9 And why do we need to spend this
10 money? Again to -- for aging infrastructure and load
11 growth and increased need for storm resiliency and --
12 and hardening. And what this does, as Rudy said, is
13 going to put increased pressure on customer bills.

14 And without necessarily increasing
15 a lot of usage, these costs are going to go up and so
16 the per unit rates are expected to go up
17 significantly, if we left things without a change.

18 And as Rudy also mentioned, we have
19 significant concerns with fuel diversity. We have a
20 decent fuel diversity mix in the state right now.
21 About forty percent is gas. Remaining being nuclear
22 and hydro and others. And all the new resources
23 predominantly are going to be gas and maybe some
24 renewables.

25 And, again, if we don't change

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2 anything, that's going to be the future.

3 So, do we want to leave it that way
4 or do we have a better way of dealing with providing
5 energy services to customers at a lower cost in the
6 long term and in a cleaner fashion?

7 So that's a challenge in front of
8 us, and to address this challenge - the next slide
9 please - so the Commission articulated in the
10 December the policy goals that we want improved
11 system reliability and resiliency, and we want
12 improved system-wide efficiency.

13 How can we utilize our existing
14 assets better, how can the utilities utilize the
15 existing assets better? Asset utilization
16 improvement would resolve in improved efficiency and
17 lower cost to customers. And, how can we enable
18 consumers to have the tools that are needed to better
19 manage their energy bills?

20 And how can we facilitate third
21 parties to come in and innovate in the market and
22 provide improved products and better services to
23 customers at a lower cost and a higher value?

24 And how do we improve, maintain and
25 or improve our fuel resource mix? With those as the

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2 goals - the next slide please - so, this initiative
3 is going to be undertaken in what we call two tracks.

4 The first track is the distributed
5 system platform provider related issues and customer
6 engagement related issues. And track two would deal
7 with how to accomplish track one through regulatory
8 reforms.

9 Next slide please.

10 So - next slide - what are the
11 opportunities for improvement looking at the
12 distribution utilities as a major interface with the
13 customers? As we have been talking about, they need
14 to focus on improving overall utility system
15 efficiency. And that's going to be a key element of
16 this initiative to focus on improved system
17 efficiency to reduce long-term cost to customers and
18 to be more customer-centric, and address the
19 reliability needs.

20 As we have seen from Sandy, they're
21 increased needs, reliability needs for consumers
22 under different circumstances. And, also, we are
23 seeing a lot more sophisticated large businesses come
24 into the state, looking for improved reliability and
25 improved service from utilities.

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2 And, finally, how do we facilitate
3 more of the distributed energy resources? That's an
4 umbrella term to include energy efficiency, demand
5 response, demand reduction and distributed generation
6 including combined heat and power. We need to
7 challenge some of the conventional wisdoms that are
8 out there, that the customer load is passive, the
9 customer load is inelastic and it cannot participate
10 in the demand side, and they're just price takers.

11 And we also need to challenge the
12 conventional wisdom that the only way to manage peak
13 loads is just to build more central generation
14 facilities. And the challenge in those conventional
15 wisdoms, as you'll see on the next slide, this is an
16 interesting slide that some of you are familiar with
17 and I love this slide, and many people do. This is
18 courtesy New York I.S.O. market monitor report.

19 And you'll see on the X axis the
20 number of hours in a year eighty-seven sixty and the
21 Y axis is the peak load or the load on the system.

22 And this shows for a three-year
23 period, 2010, '11 and '12 what the peak load has been
24 on the system for the New York control area. And
25 what the average load has been.

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2 And then the number of hours when
3 the load exceeded either thirty-two thousand
4 megawatts or thirty thousand megawatts or
5 twenty-eight thousand megawatts.

6 The interesting element, if you
7 look at the middle thirty thousand megawatts roughly,
8 that's sixty-nine hours or sixty-eight or fifty-four.
9 That's less than one percent of the hours in a year.
10 One percent is roughly eighty-seven hours, so in only
11 one percent -- under one percent of the hours we see
12 the load going about thirty thousand megawatts.

13 Our peak is thirty-four thousand
14 roughly, and average is nineteen thousand. So for
15 less than hundred hours, less than one percent of the
16 hours of the year, we are having to have resources
17 over four thousand megawatts sitting there just to
18 meet that narrow amount of time. So what is a way to
19 reduce that peak load, reduce the need for that
20 incremental capacity? Not just the four thousand
21 megawatts but the install reserve margin that is
22 associated with it and increased capacity costs
23 associated with meeting the peak load in those few
24 hours in a year.

25 So that's the challenge in front of

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2 us. How can we modify the load duration curve,
3 flatten the peak loads and reduce the overall cost to
4 consumers in the long term and save resources for the
5 society?

6 So on the next page, the thinking
7 is focused on distributor system platform provider.
8 We are calling it D.S.P.P. or DSPP. Unfortunately,
9 that's not the best acronym. REV is the better
10 acronym. Looks like that's a Madison Avenue product
11 and DSPP sounds like an engineering creation here.

12 So the DSPP -- what do we expect
13 the DSPP to do? The DSPP is the distributor system
14 operator platform provider. We expect them to be
15 more focused on doing an integrated portfolio
16 approach to meet the needs of consumers, including
17 distributor energy resources. As I mentioned, it
18 includes efficiency, demand reduction and the
19 distributor generation in both its planning and
20 operations.

21 As opposed to looking at them in
22 silo approach, the utility planners focused on
23 expanding distribution systems and energy efficiency
24 demand reduction happen on this site in different
25 silos is there a way to pull them together in a more

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2 integrated approach to meet the needs, reliability
3 needs of consumers at a lower -- lower overall cost.

4 The second, in order to accomplish
5 that and to accommodate that, we need third party
6 providers who would provide these D.E.R. resources,
7 whether it's the utilities, whether it's the existing
8 incumbent energy service companies or incumbent
9 generators or some other new players, innovative
10 players who want to provide new products and
11 services. How can they do that?

12 And the utility distribution
13 management systems need to be upgraded in their
14 hardware and software to accommodate for these
15 resources to play in the market and provide new
16 products and services.

17 And to do that, we need transparent
18 pricing mechanisms. What products are these DSPPs
19 buying and what products are they selling, and how
20 would they be priced, whether it's tariff based or
21 competitive market based or some other valuation base
22 it needs to be transparent and -- and the marketplace
23 need to know so they can create those products and
24 services?

25 This is going to be the key, key

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2 element of this whole undertaking.

3 On the next slide, we need
4 consumers to engage in this and I'll turn to Michael
5 Corso to address this slide.

6 MR. CORSO: Thanks, Raj.

7 As Raj indicated, a key element of
8 the success of this new vision is going to be the
9 engagement of customers.

10 Historically, utilities and
11 generators produced energy, transmitted it and
12 distributed it to end users and customers wrote a
13 check. Now, the vision as being formulated, gives
14 the opportunity for customers to be real participants
15 in the market.

16 Technologies have advanced as we
17 know, more recently than ever, in bringing technology
18 and information closer to customers so they can
19 engage in being able to participate, to not only be
20 smarter consumers but to become 'prosumers'. That is
21 that a customer can produce energy and help system
22 efficiency.

23 The main response, solar energy,
24 are a couple of ways that provide opportunities for
25 customers to engage. And our interest and our

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2 commitment in the case as it unfolds, will be to
3 engage third-party vendors and utilities, ESCOs,
4 consumers groups and all of the parties and
5 participants to this case to find opportunities
6 whereby customers are going to engage, be part of it,
7 use technology and information to avail themselves to
8 build management systems, home energy management
9 systems and things like community aggregation.

10 Micro-grids are going to provide
11 different ways in which customers will benefit and be
12 participants in the market. That engagement yields
13 an opportunity for much more animation, much more
14 engagement and opportunity for the -- all the
15 providers to want to sell products.

16 Find values that are going to be
17 brought to bear, both on the system and to the end
18 users who pay for it. Thanks, Raj.

19 MR. ADDEPALLI: Okay. Thank you,
20 Michael.

21 The next slide, the staff report
22 lays out numerous issues that need to be addressed by
23 this Commission over the next number of months. Here
24 I highlight some of the key issues. This is not
25 necessarily exhaustive, but a good sample of the

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2 high-level issues that need to be addressed by staff
3 and the parties and provide your recommendations in
4 the coming months.

5 The first key issue is should --
6 who should be the D.S.P.P.? Should it be the
7 incumbent distribution utility or should it be a
8 neutral, independent third party? Some -- there are
9 competing arguments. There are some who would argue
10 it should be more like the I.S.O., an independent
11 system operator, that doesn't own the underlying
12 assets but is neutral and independent. Some would
13 argue the incumbent utility is best suited to perform
14 this function.

15 The second key issue is what
16 products and services will they buy and sell and to
17 whom and at what price. The third key element is if
18 the utility is -- should the utility be allowed to
19 own and/or operate these D.R. resources or should
20 they be just left to the third parties.

21 And if a utility -- incumbent
22 utility is allowed, should it be on a regulated basis
23 or on an unregulated basis? How do we define
24 benefits and costs? How do we measure them and how
25 do we evaluate them? What kind of metrics and

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2 methodologies should we use to come up with an
3 analytical framework to make judgments and make
4 decisions?

5 And how do we roll out this vision
6 in terms of deployment of infrastructure, hardware
7 and software to facilitate these platforms that would
8 allow third parties to provide these resources? And
9 how can we maximize customer engagement?

10 These are some of the key
11 questions, and on the next slide what we expect is
12 that each utility, given its different customer mix
13 and resource needs and system configuration, may have
14 its own solution to meet this challenge. May have a
15 different solution, so they may not be a one size
16 that fits all. There should be flexibility provided
17 to the utilities and but clearly they need to follow
18 certain standard methodologies, so that all third
19 parties are following similar methodologies when they
20 go from one company to another.

21 And we expect, at least tentatively
22 right now, that the utilities should be filing their
23 implementation plans, depending on what the
24 Commission decides this fall on a generic basis to
25 carry out those vision and those expectations. They

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2 would file their implementation plans next year,
3 ideally in the context of rate case filings.

4 That concludes track one discussion
5 and I'll turn to Doris Stout for track two
6 discussion.

7 MS. STOUT: Okay. In -- in track
8 two we are focused on the regulatory reforms,
9 including improvements to the rate-making model
10 incentives and rate design that are necessary to
11 support the vision of the D.S.P.P. described by Raj.

12 Track two will run parallel to but
13 slightly lags versus track one to design an effective
14 regulatory model we have to know what the structure
15 of the business is and what utility and customer
16 behavior we are trying to incent.

17 However, track two has to work very
18 closely with track one because utilities need to know
19 how they're going to recover costs, raise capital and
20 have opportunities to rev up their earnings.

21 Raj may actually have the easier
22 task of articulating the vision in track one, where
23 the rubber -- rubber will meet the road is how we
24 work through some significant issues in track two in
25 order to align utility interests with our policy

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2 objectives and make that vision happen.

3 New York's current general
4 regulatory framework contains a number of positive
5 elements that can be used as a starting point. But
6 these will -- will need to be refocused and improved.

7 We already have multi-year plans
8 and earning sharing mechanisms that provide
9 short-term, cost-cutting incentives within those
10 multi-year rate plans we provide various performance
11 mechanisms for safety, reliability and customer
12 service, and a multitude of other mechanisms to
13 address specific utility issues.

14 All of our utilities are already
15 subject to revenue decoupling mechanisms. These
16 R.D.M.'s were put in place to remove utility
17 disincentives toward energy efficiency. They also
18 operate to insulate utilities from lower revenues
19 generally, no matter what the cost.

20 In addition, we have a number of
21 mechanisms that reduce utility risk by providing for
22 future test years to recognize increasing
23 infrastructure needs, pass through of commodity costs
24 and reconciling of other unpredictable cost elements.

25 In order to realize the vision set

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2 forth in track one, improvements will have to be made
3 to our rate-making model. The staff report
4 recommends that the Commission consider adopting a
5 more outcome-based approach to rate-making designed
6 to encourage long-term planning that optimizes
7 investments and leads to lower customer bills.

8 Longer-term rate plans can be used
9 to provide the necessary time frame for better
10 utility planning and enhanced efficiency incentives.

11 This can provide the time and
12 opportunity for utilities to implement the innovative
13 fee changes we are calling for. The longer term will
14 enable utility management to focus less on rate
15 matters and more on performance and customer goals.

16 Rather than emphasize inputs to the
17 process where a utility is measured against its own
18 past performance, incentives can be added to focus on
19 overall system efficiency, customer engagement in the
20 process, lower customer bills and reduced carbon
21 emissions. As such, utilities success can be
22 measured against optimal performance.

23 Track two also tees up a large
24 number of issues for the parties to comment on and
25 examine collaboratively. The parties will have to

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2 examine all the elements of long-term rate plans.

3 What is optimal term of those rate plans? Right now

4 plans generally are about three years in length.

5 Would five or even eight years be used like under the

6 U.K. Riam model be advantageous?

7 How should initial rates in R.O.E.

8 be set in the context of the DSPP vision, given

9 longer-term plans with additional risks and

10 opportunities? How should costs and performance be

11 benchmarked? What economic and performance

12 conditions should be evaluated as checkpoints to

13 reopen the rate plans in that longer-term time frame?

14 What reporting requirements do we

15 need to monitor utility performance? We'll also look

16 at what revisions are necessary to the concurrent

17 performance mechanisms. Do we have the right balance

18 that accomplishes enterprise risk impacts? Are we

19 creating the right incentives and not causing over

20 focus one area to the detriment of another?

21 What additional incentives are

22 needed to encourage desired outcomes, like improved

23 system efficiency, better customer engagement and

24 reduced carbon?

25 New York's current incentives are

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2 generally structured as one-way negative revenue
3 adjustments. Should these be modified to provide
4 symmetrical positive incentives? If so, what should
5 be the starting point for rates and how much should
6 be included for expected levels of service versus
7 superior performance?

8 How do we encourage utilities to
9 pursue the most efficient investments? Whereas under
10 our current regulatory regime, utilities have the
11 incentive to lean toward large capital investments to
12 support those few peak hours of load that Raj
13 described earlier. How do we set the regulatory
14 regime to encourage investments that have the lowest
15 net present value when considering both operating and
16 capital expenditures over the long term?

17 Track two will also examine the
18 rate design for products and services to be purchased
19 and sold in this changed marketplace. It will have
20 to consider rate designs that are better suited for
21 this two-way transactive grid. For each product or
22 service, we will have to evaluate the best basis to
23 determine the price, whether it be the market, tariff
24 or contract.

25 We'll have to consider the impact

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2 on captive customers that can't take advantage of the
3 value-added services, whether they can't afford to do
4 so or don't have access because they live in
5 apartments or they don't have the technological
6 capabilities. The rate design efforts will have to
7 continue the Commission's responsibility to providing
8 utility service at just and reasonable rates and our
9 commitment to our affordable bills.

10 Finally, and very importantly, as
11 we consider all of these potential regulatory
12 reforms, we have to be cognizant of the impacts that
13 the regulatory model we choose will have on the
14 financial stability of the utilities, their bond
15 ratings and the ability to raise capital. Without
16 financially, healthy utilities, the large investments
17 required in New York will not be able to be completed
18 cost effectively.

19 I'll turn it back to Rudy to talk
20 about process and schedule.

21 MR. STEGEMOELLER: Well, there you
22 see the -- you know, the -- the division into two
23 tracks is partly substantive because they're a
24 rate-making function and the -- in track two, and
25 the -- some utility and market function in track one

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2 are delineated but they're also pretty closely
3 interrelated but for -- for just -- if only for
4 purposes of efficiently managing and proceeding we
5 have separated them into two tracks.

6 And track one will start
7 immediately and track two will follow several months
8 behind, but they'll follow parallel sorts of
9 processes.

10 We expect to be in front of you in
11 July on track one, with a what will probably be a --
12 a technical conference and again on -- in September
13 on track two, targeting policy decisions by the end
14 of this year on track one and first quarter in
15 track -- track two. And I would -- I would qualify
16 that word final there because I -- I, you know, I --
17 a policy -- this is -- this is a long haul. And I
18 think the policy decisions will be a final for this
19 first phase of this process.

20 There will be an A.L.J., Eleanor
21 Stein will preside, and just to show you that I am
22 capable of more than limericks I -- while Doris was
23 talking I wrote something in iambic pentameter and it
24 says the judge will run the case for all to see until
25 we vote on tracks one, two and three. The only

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2 problem is that we only have two tracks, but, so.

3 And with that, we're open for
4 discussion.

5 CHAIR ZIBELMAN: Thank you, very
6 much.

7 You'll be shocked to hear I have
8 some thoughts about this. So first thing I do want
9 to -- couple things is Raj on the distributed energy
10 resources. We -- the concept here is that -- because
11 I think sometimes peoples' minds flit to distributed
12 energy resources means supply. It's all types of
13 resources whether supply, demand or storage that
14 we're talking about.

15 MR. ADDEPALLI: That's correct.
16 Yes.

17 CHAIR ZIBELMAN: And then when you
18 love that slide, it's not that you love the results
19 but you love that it's a very easy way of describing
20 our problem.

21 You don't need to respond to that.
22 But one of the things that -- that I -- I think is
23 important is is that is before we begin, while staff
24 has raised the issue of whether or not the utilities
25 should be the D.S.P.P. and an -- sort of an honest

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2 approach towards looking at these issues and making
3 sure that we're not -- we -- we have an
4 intellectually, honest inquiry, you're going into
5 this with a recommendation that the utility should be
6 the D.S.P.P., that that seems the most sensible
7 approach at this point. Is that --?

8 MR. ADDEPALLI: That's our
9 preliminary thinking.

10 CHAIR ZIBELMAN: Okay. And the
11 other thing I would say that we might want to change
12 the name otherwise everyone's going to think that
13 everybody in the New York energy industry has
14 developed a lisp, so.

15 MR. ADDEPALLI: That will be our
16 first challenge.

17 CHAIR ZIBELMAN: I'm sure there
18 will be lots of comments on it. Let me -- let me
19 just start. I have a -- a few comments. One is, it
20 is, you know, as the Bard said, what is in a name.

21 So, you know, Romeo and Juliet
22 debated whether names are important, but as we all
23 know, we shouldn't live -- listen to fourteen year
24 olds anyway. So, they thought it wasn't, but I think
25 it is.

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2 And we started off on this
3 proceeding actually thinking about this issue as
4 utility 2.0. And we also talked about it as sort of
5 smart grid and grid modernization. But -- but,
6 frankly, as we continue to think about this approach
7 and really thinking about that, we're really talking
8 about evolving business models with a customer
9 centric focus that really what we're talking about is
10 fundamental change.

11 Not just in the -- in the whys and
12 the functionality of utilities, but -- but actually
13 in the industry itself. It's really moving it from
14 an industry as we talked about that essentially
15 dispatched and design with -- without and to one that
16 has much more of a distributed flavor. So not only
17 does this fundamentally affect the role and the
18 functionality of utilities going forward, but it also
19 affects the way the -- generators can or think -- can
20 or do think about their business and business growth
21 opportunities.

22 The retailers, how they can think
23 and grow their opportunities, other vendors. Most
24 importantly and -- and I'm glad staff has articulated
25 is customers, because one of the things that -- that

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2 we understand is that this whole effort won't work
3 unless we have customer-based demand. And while it's
4 easy to animate other parties to the industry
5 already, it's really animating customers that's going
6 to be one of our chief challenges and having a key
7 focus on that I think is going to be critical.

8 And lastly it's ourselves, and
9 I'm -- I'm very pleased by the fact that the staff
10 recognize that in many respects the articulation of
11 the vision of what this utility or this industry of
12 the future can look like is it's the easy thing. The
13 hardest thing is -- is actually the execution of that
14 vision. How do we execute. How do we do it well.
15 How do we get on the path and continue to evolve it.

16 So I was appreciative of, Doris,
17 your comments that in many respects the vision is the
18 easy part of this for us because we also have to
19 change. We, the Commission, we the -- the department
20 also have to think about how do we change regulation,
21 how do we look at rates. And really what kind of
22 risks and small bets we think that need to be made
23 to -- to drive towards success.

24 So, it's -- it's really going to
25 be, I think, an all-in effort. So, for that reason I

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2 think reforming the energy vision is great because it
3 is reforming how we think about energy. And it's
4 more about -- it's more about -- it's about
5 everything. It's not just about -- about the
6 utilities.

7 So I'm appreciative of that. I
8 also think that the other aspect of this that
9 resonates for me beyond the fact that it helps
10 Rudy -- helps Rudy explain what he does to his
11 parents, because now he can say he's part of the
12 reformation process.

13 So, good Lutheran son. Is that --
14 it also sets the amount of speed. I mean, this is
15 really a question for -- for me of us not only
16 changing regulation but, as Michael likes to talk
17 about is is that regulation moving at the speed of
18 business, is really thinking about how do we
19 accelerate change. And -- and so using REV as an
20 acronym really is about what we're trying to do in
21 New York.

22 Is it's not just doing a study and
23 then putting it on a -- on a shelf somewhere and
24 getting to it at some time, but really we are
25 committed to getting these things done and doing them

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2 in a -- in a time frame that really allows us to --
3 to effectuate and control the pace of change, rather
4 than have it happen to us.

5 The other thing I -- I wanted to
6 mention is I am hugely appreciative of -- of the work
7 that staff has done in a really a -- to start off
8 this REV process, really in a -- in a relatively
9 short amount of time.

10 I'm aware of the fact that there
11 were numerous meetings with third parties to really
12 get input, to really try to understand what's
13 happening out there. Where's the change happening?
14 Where should we focus, where are people on this
15 point?

16 Where are the Achilles heels, where
17 are the issues? And -- and the work that -- that the
18 staff has produced, not just the -- you know,
19 obviously the folks who are here today but -- but
20 there's a lot of people behind this is hugely
21 comprehensive. The amount of thoughtfulness, and
22 I -- I look forward to all of you in -- being able to
23 review this report, is incredible.

24 And it -- it really covers the
25 waterfront of -- of the issues that we're going to

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2 have to grapple with. So when we challenged staff
3 and said look we need to -- you need to help us
4 identify what changes do we need to make to -- in
5 this -- in this industry to support the use of
6 distributed energy resources to promote system
7 efficiency, and what change do we need to make in
8 regulation? And in doing so, we wanted you to think
9 about these key things.

10 We're trying to get customers, make
11 sure they're informed and the market is animated. We
12 want to make sure that we're driving a system-wide
13 efficiency, that we get rid of these small hours of
14 the year that drive so much cost in the -- in the
15 system.

16 But also all the time that we think
17 about reliability, we think about resiliency and we
18 think about emission reduction. And the staff
19 identified, even though we didn't articulate that,
20 emission reduction is an explicit goal.

21 It's certainly implicit in
22 everything else we said. And I think it's good to
23 make it an explicit goal. And the study that we have
24 today I think more than meets those expectations.

25 In my own mind it -- what staff has

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2 set forth is a -- is a terrific vision of where we're
3 going forward and an articulation of the issues that
4 we're going to have to grapple with.

5 And so I believe that -- that we've
6 well-framed this proceeding. We've put our -- we've
7 have a procedural posture that will allow us to get
8 the necessary and complete input that -- that we
9 want. And so I believe it's certainly essential that
10 we move this forward.

11 The other thing that I would
12 mention is I -- I frankly think that coming after
13 last winter and the experience I had yesterday at a
14 community risings event, we have no choice. I mean,
15 one of the things as -- as we all saw from this past
16 winter is the volatility in the prices and the
17 wholesale market had a huge effect.

18 Sandra provided us a report this
19 week of how many complaints and continuous complaints
20 that we continue to receive about high prices.

21 And this isn't just people whining
22 and saying, oh I'm really mad my prices were highest.
23 These are people who, you know, work hard and were
24 telling us that they can't pay their electric bills.
25 These are businesses who are telling us that they're

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2 very much worried about their businesses because they
3 can't pay their electric bills. And so we -- we have
4 no choice but to figure out how to make this work
5 better for New Yorkers.

6 So, in May we're having a technical
7 conference and we're going to be talking about what
8 changes can be made in the wholesale markets to
9 improve volatility, to get infrastructure, but what
10 do we need to make there. But the wholesale markets
11 are just one side of it. The other side are the
12 retail markets, and the retail markets are really
13 around managing demand better.

14 And to do that I think that we have
15 to give consumers the tools they need to be able to
16 help them manage their demand which will then help
17 the distribution utilities manage demand on the
18 system, which will then influence wholesale prices.

19 And it all starts then with the
20 consumer and getting that consumer focus and that
21 animation is important. But getting the markets
22 animated and the market tools, so that we can unleash
23 the same type of innovation in the electric industry
24 that is what's been -- that has been unleashed in the
25 telecom industry is really not only I think something

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2 that, you know, is a good thing to do but is really
3 our obligation to do.

4 We -- we have to get there, and
5 it's the time to do it. So I'm, you know, more and
6 more committed that this we -- shame on us, if we
7 don't take this challenge and -- and address it. The
8 other piece was just listening yesterday to these
9 consumers or communities who responded to the
10 governor's communities rise challenges. And the
11 amount of work and thinking that they're doing about
12 what they can do to keep the lights on when, when in
13 fact, there are storms that are inevitable and are
14 going to hit us.

15 So the fact is, this is happening,
16 and it could happen in a disruptive way where we have
17 problems. Or it can happen in a constructive way
18 where we show the leadership and develop the tools
19 and mechanisms so that -- not that it's just we don't
20 want communities engaged, when we actually want them
21 engaged. But we want them to be part of our system
22 that is driven towards making sure that customers
23 have reliable electricity, but it's safe at all
24 times, even in light of storms.

25 And, so, I think that this is a,

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2 you know, a very important element that -- that --
3 that we absolutely have to remember again on -- and
4 always. This is always about the consumers. So with
5 that, I just want to say I obviously support the
6 order opening this proceeding. I think the process
7 is one that will allow us as a Commission to make an
8 extremely informed decision.

9 I also want to note my appreciation
10 to our sister agency, NYSERDA, for the support
11 they've provided staff. Also for the Regulatory
12 Assistance Project which also came to us through the
13 Department of Energy and Rocky Mountain Institute
14 has -- who has also in -- they themselves have been
15 working on this issue.

16 I think that, again, I'll just --
17 I'll turn this over, but I am thoroughly overwhelmed
18 about how great I think and comprehensive this report
19 is. And -- and I think it puts us in a true
20 leadership role to do the right thing in New York.

21 So, thank you to the staff and I'll
22 turn this over to the rest of you. Garry, do you
23 have any comments?

24 COMMISSIONER BROWN: Sure, I'll
25 have a few. I want to start out with Michael Corso.

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2 I did pick up prosumers for consumers. Did you
3 invent that or did you steal it?

4 MR. CORSO: No, sir. I did not
5 invent it. It was -- it's in the report.

6 COMMISSIONER BROWN: Okay. I like
7 it anyway.

8 CHAIR ZIBELMAN: Isn't Al Gore?
9 He's the one who came --.

10 COMMISSIONER BROWN: Secondly, I'm
11 sure all the economic and rate consultants throughout
12 the northeast are excited about this process that
13 we're beginning today.

14 And, Audrey, you hit on something
15 that's been a -- a real interest of mine from the
16 beginning and Raj hit upon it. The -- the going
17 after the peak, the amount of money, time, effort we
18 spend for twenty and thirty hours a year is just
19 remarkable.

20 And this gives us an opportunity to
21 fundamentally take a look at the distribution
22 systems. Some actions we're going to take today in
23 terms of the clean power programs I think just
24 absolutely jibes with this, in terms of trying to
25 ensure that the monies that we spend there are

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2 included in the operations of the system, rather than
3 just a stand-alone something else that we count up
4 the kilowatt hours and see how well we do.

5 So, I'm excited about the process.
6 There's some really difficult answers to -- to get to
7 and it's not going to be a simple process, but I look
8 forward to the work and I, again, want to thank Rudy,
9 Raj, Doris and everybody else that worked on this
10 because it's a -- I think it's a great starting point
11 to begin the discussion.

12 So thank you.

13 CHAIR ZIBELMAN: Commissioner, go
14 ahead.

15 COMMISSIONER ACAMPORA: Well, I'll
16 just echo what the Chairwoman said about the
17 excitement and we are in the beginning of the 21st
18 Century so let's start doing 21st Century things.

19 And it has to be New York to kick
20 this thing off and to make it successful. So that
21 we, again, stand as a leader and are out there not
22 only helping our utilities and businesses but most
23 importantly helping our consumers.

24 Raj, I like, you know, that you
25 used the word flexibility. We know that we always

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2 have to be flexible in whatever that we do because we
3 may not get it exactly right the first time. So
4 we'll always go back and fix it. And Doris knows, I
5 am a pro track two. I think track two is really
6 monumentally important to bring track one through.
7 And, you know, I'm saying it here today. I don't
8 know where I'll be when this is finally done, but
9 that track two is really important.

10 And, you know, people think
11 regulators live in a closed circle. This order will
12 open up the circle that people think that we've had
13 and invite everyone in to participate. It's really
14 important.

15 I think our utilities are going to
16 dedicate some of their best thinkers. Certainly the
17 financial institutions that are out there I know have
18 ideas, and we're really asking everyone to come
19 forward and also our consumer advocates to have
20 everyone participate and everybody have a place at
21 the table so that when we finally do do this that we
22 do get it right, and no one can say they've been left
23 out.

24 So thank you all for your hard work
25 on this.

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2 CHAIR ZIBELMAN: Commissioner

3 Sayre.

4 COMMISSIONER SAYRE: In my view REV
5 is the biggest thing this Commission has undertaken
6 since the restructure of the energy industry to
7 separate generation from distribution and setting up
8 the I.S.O. to manage the bulk power system quite a
9 few years ago.

10 I believe it has tremendous
11 opportunities to save costs for the benefit of
12 customers of New York State, improve reliability,
13 promote clean energy. It's going to be a huge amount
14 of work to achieve these goals. It's going to take
15 work, data, creativity. It's going to take the
16 participation of everybody in the energy markets, and
17 every interest group that has any interest in it
18 should get in and understand what's going on and make
19 their contribution to push it the way they think it
20 should be pushed.

21 We have to look at all ideas and
22 all groups in order to make this work at all. I very
23 much look forward to the process.

24 CHAIR ZIBELMAN: Thank you.

25 Commissioner Burman.

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2 COMMISSIONER BURMAN: Thank you.

3 We are at a critical juncture in
4 New York and business as usual is no longer
5 acceptable. That also means how we at the Commission
6 operate.

7 You stated today, Chair, that this
8 is an all-in effort. The December 2013 session is
9 the first session where we first looked at the vision
10 for New York's utility of the future. And at that
11 time we talked about it being a starting point.

12 I was wrong in saying that it was a
13 starting point. It really is for us something that
14 was started before, but it's really now something
15 that we are in all-in working through. I did talk at
16 that time about the need also to be all-in and that I
17 was all in. Yesterday as I was preparing for session
18 and collecting my thoughts on this matter I was
19 struck with the words spoken ironically on April
20 23rd, 1910 by Teddy Roosevelt.

21 Roosevelt's speech sometimes has
22 been referred to as the man in the arena, and this is
23 the passage that to me made the speech famous and
24 resonates very much with what we're doing here.

25 "It's not the critic who counts,

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2 not the man who points out how the strong man
3 stumbles or the doer of deeds could have done them
4 better. The credit belongs to the man who is
5 actually in the arena, whose face is marred by dust
6 and sweat and blood, who strives valiantly, who errs,
7 who comes short again and again, because there is no
8 effort without error and shortcoming but who does
9 actually strive to do the deeds, who knows great
10 enthusiasms, the great devotions, who spends himself
11 in a worthy cause.

12 Who at the best knows in the end
13 the triumph of high achievement and who at the worst,
14 if he fails, at least fails while daring greatly. So
15 that his place shall never be with those cold and
16 timid souls who never know victory nor defeat."

17 Chair Zibelman, I fully support
18 your daring greatly and I salute you as the Chair in
19 the arena. And just to be clear, I'm still all-in
20 and we're ready to go.

21 CHAIR ZIBELMAN: Thank you. That's
22 one of my favorite poems. It's not a poem but it
23 should be.

24 So with that and we will take a
25 vote. Now we need two separate votes on this matter.

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2 The first is with respect to 201 A.

3 All those in favor of the
4 recommendation to adopt a resolution and to issue a
5 positive declaration in a part -- in accordance with
6 the State Environmental Quality Review at SEQR please
7 indicate so by saying aye.

8 COMMISSIONERS: Aye

9 CHAIR ZIBELMAN: Hearing no
10 opposition, they're being no opposition, the
11 recommendation is adopted.

12 The second is on 201 B, and before
13 I do so, I do want to thank my fellow commissioners
14 for the support you've provided me. I think that
15 this is a major endeavor and we couldn't take it if
16 we don't take it as a team. So I'm appreciative of
17 all of you for the efforts you've put in and the
18 amount of reading I know you've all done because
19 there have been lots and lots of information we --
20 that have -- have been put in that the staff has
21 shared and red-lined and et cetera.

22 So, all those in favor of the
23 recommendation to institute a proceeding on reforming
24 the energy vision, please indicate so by saying aye.

25 COMMISSIONERS: Aye.

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2 CHAIR ZIBELMAN: Hearing there
3 being no opposition and hearing no opposition, the
4 recommendation is adopted.

5 Thank you. Thank you. Thank you.

6 Congratulations to the team.

7 Second item for today is -- that
8 we're dealing with is item 301 and A and 301 B which
9 is the R.P.S. funding and implementation of the solar
10 voltaic megawatt block program.

11 And Christina Palmero of the office
12 of Energy Efficiency and Environment is going to be
13 presenting that, chief of the office.

14 Tina, please begin.

15 MS. PALMERO: Thank you, Chair.

16 CHAIR ZIBELMAN: Happy Earth Day to
17 you.

18 MS. PALMERO: Oh, thank you very
19 much.

20 CHAIR ZIBELMAN: Or Earth Week.

21 MS. PALMERO: Earth Week. Good
22 morning, Commissioners. You also have two items
23 before you on the -- in this proceeding, Item 301 A
24 and 301 B and you will be taking two separate votes
25 as well.

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2 These items before you respond to a
3 petition filed by NYSERDA in January, requesting a
4 long-term funding commitment to support the solar
5 P.V. programs that it administers under our renewable
6 portfolio standard program.

7 These solar programs are also part
8 of Governor Cuomo's New York's Sun Initiative
9 launched back in 2012. The solar P.V. programs are
10 currently funded through 2015, along with the rest of
11 the eligible technologies within the R.P.S.

12 However, back in December he issued
13 an order that authorized NYSERDA, at its request, to
14 transition its current solar programs into a
15 declining incentive megawatt block structure and he
16 directed NYSERDA to file, for your approval, the
17 design criteria for that program and a funding
18 strategy to support it beyond 2015.

19 In simple terms, the megawatt block
20 approach allocates megawatt targets to specific
21 regions of the state, breaks those regional megawatt
22 targets into blocks, to which incentives are
23 signed -- assigned, awards incentive to applications
24 based on the block in effect at the time of the
25 application submission. And, then, moves to the next

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2 incentive level when a block is fully subscribed.

3 Once all the blocks within a region
4 are fully encumbered, no incentive is offered. This
5 approach is designed to continue to grow the solar
6 P.V. markets, while steadily reducing and eliminating
7 cash incentives in a transparent and predictable
8 manner for all these sectors of the P.V. market.

9 In NYSERDA's petition it lays out
10 the design criteria which includes a statewide goal
11 of three thousand megawatts. This will be achieved
12 in three distinct regions of the state, that's
13 clearly defined in its petition. And, then, further
14 refined in the item before you. The refinement of
15 the criteria has been as a result of a lot of
16 stakeholder input.

17 NYSERDA has been a true champion in
18 getting the necessary feedback from different sectors
19 in the P.V. community.

20 They have kept staff apprised of
21 their efforts. The refinement, as I said, is
22 attached as part of Appendix A in that order.

23 To support the program, NYSERDA is
24 requesting that you authorize nine hundred and sixty
25 point five million dollars from 2016 through 2023

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2 which includes funding for the actual program
3 incentives, implementation, administration, consumer
4 education evaluation and some other program fees.

5 Staff is in support of this request
6 and recommends your approval of this funding along
7 with the design criteria that has been proposed and
8 further refined. At this time, there is no request
9 to increase collections for this program.

10 And I just want to give you a
11 little bit of background on the solar program. It
12 has been a technology that's been supported in the
13 R.P.S. since the customer-sided tier was implemented
14 in 2006.

15 It began with a funding level of
16 less than seven million a year with a dozen
17 installers in the residential market to one that has
18 grown with a current funding level of a hundred and
19 eight million per year, with hundreds of installers
20 and contracting companies involved in the program.

21 In the beginning, we were offering
22 incentives at five dollars a watt. That has dropped
23 tremendously. Right now in the residential sector
24 we're offering a dollar a watt. For the larger
25 commercial sector it's less than that. Thousands of

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2 installations have been installed throughout all
3 parts of New York State and the demand for the
4 program keeps growing.

5 Prices have -- of solar have
6 dropped. The hardware costs have dropped
7 significantly. All-in installed costs were nearly
8 nine dollars, when this program started. Now they're
9 below five in the residential sector. And, again,
10 cheaper for the larger commercial customers.

11 The megawatt block program is
12 really designed to bring this program to a state
13 where it can become self-sufficient. Because there
14 is such high demand for this program and such a --
15 it's been such a robust program throughout the whole
16 renewable portfolio standard, the current funding
17 request is reasonable when we look at what we have
18 been providing for solar in the last couple of years.
19 To extend that request for a certain time period
20 gives the market the message that New York State is
21 in it for the long haul, but these declining
22 incentives will enable the market to have a clear and
23 predictable program in front of it.

24 There were numerous comments in
25 support of NYSERDA's proposal. The vast majority

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2 believe the funding is reasonable, the installer
3 community customers, environmental groups believe
4 this is the right signal to send to -- to send to New
5 York and the community. The -- there were a few
6 comments questioning why the Commission would make a
7 decision now on the long-term funding of New York's
8 Sun when there are other technologies in the program
9 that need to be addressed.

10 Again, because the -- the program
11 has been so robust, you know, staff believes that
12 it's time to enable this megawatt block program to
13 start as soon as possible in order to keep that
14 momentum growing.

15 There were several comments
16 requesting that there be greater access to the
17 program by low and moderate income customers.
18 NYSERDA has started a working group looking into this
19 matter and has asked -- and staff believes that, you
20 know, they should be provided some flexibility for
21 additional funding for the low to moderate income
22 customers within the program bounds that we suggested
23 in the order.

24 In short, you know, this -- this is
25 a program that has been very successful and staff

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2 believes that with the initiation of this megawatt
3 block program that we can keep this momentum going.

4 In a companion memo to the session
5 item, staff recommends that you, as the lead agency
6 for the action, determine that the proposed actions
7 that you're going to be voting on here is an unlisted
8 action and that you find that there is no significant
9 adverse impact.

10 That concludes my presentation.

11 Thank you.

12 CHAIR ZIBELMAN: Thank you, Tina.

13 First of all, I -- I think that
14 the -- as we talked about in December in our order,
15 the concept here, the base concept, is that we need
16 to move to the megawatt block program because it does
17 provide us an opportunity to give the market enough
18 of a market signal and confidence so that we can
19 actually develop a commercially-based market.

20 And that really is -- if I would
21 say the theme of the day. Evening thinking about
22 their last item, when we talk about system
23 efficiency, the idea is to allow the -- is to allow
24 the D.S.P.P. or the utilities to embed energy
25 efficiency, so they could achieve system efficiency.

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2 And we start making this part of the provision of
3 base services and move away from S.B.C. charges and
4 other add-ons.

5 So the way to get there is to
6 create this bridge to commercial markets. And in my
7 mind, the megawatt block program with respect to
8 solar is designed to do just that. And so what we --
9 the goal is, of course, the trick is identifying
10 the -- the right dollar amount and -- and the right
11 glide path.

12 I can say from my own experience
13 in -- as trying to be an entrepreneur in this energy
14 industry, is that we can be piloted and demonstrated
15 to death.

16 It's very difficult to build a
17 business, when it's always been done in a -- a pilot
18 form and you never know whether or not the program's
19 going to survive. So -- so having that kind of
20 longitudinal view as well as a dollar amount is -- is
21 really critical for people to build commercial
22 businesses.

23 I also think that the solar
24 industry itself is on the path. There have been many
25 articles as to getting to grid parity and what it

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2 will take to get there. But it -- I think everyone
3 would agree that the reduction costs in panels has
4 been a -- a significant improvement, and now we need
5 to reduce the soft costs, both balance of plant, as
6 well as the install cost.

7 And to do that you need to get to
8 that scale. And that's -- that's why I think that
9 both the program and the size of the program become
10 critical. The other piece of it is, is of course is
11 that there are jobs. I mean, there's -- these are
12 local jobs that can get created. And if New York
13 doesn't get on with it what will happen is is that
14 our neighboring states, and we can't -- you know, we
15 have to recognize this, are looking at the same
16 things because everyone recognizes the importance of
17 maximizing the real solar potential you have, is that
18 that we'll fall behind.

19 And -- and I would like to do
20 everything we can do to on a cost-benefit basis make
21 sure that we're attracting those jobs, that economic
22 development, that excitement around these -- these
23 types of industries in -- into New York.

24 So I -- I think that to do that you
25 do need to send these signals. You have to make the

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2 economic commitment, and for that reason, I support
3 both the staff's size of the -- of the amount as well
4 as the idea that we would send enough of a -- a
5 signal, ten years in this case, so that people will
6 be able to plan on it.

7 And I -- I would note that like in
8 anything we do, our -- our intent here is to -- is to
9 signal the market. This is the program. This is how
10 much we have to spend and then we need you to become
11 commercial. If, in fact, that it does appear that
12 the industry becomes commercial before that,
13 certainly our -- our -- the -- we wouldn't need to
14 spend the money. We wouldn't want to.

15 But the point is is that from this
16 standpoint, since we all can't have a perfect crystal
17 ball, it's the right -- it's the right approach, the
18 right analysis. And I think the way we need to move
19 it forward. So I certainly support staff's
20 recommendations on this item. With that I'll turn it
21 over for further questions. Any further questions or
22 comments from my commissioners?

23 COMMISSIONER SAYRE: I'd like to
24 echo Chair Zibelman's statement that the program is
25 currently providing New York with a -- a good number

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2 of jobs, economic activity and clean energy.

3 I'm happy to see us provide
4 certainty in order to keep this industry growing, but
5 with fiscal responsibility, that recognizes that
6 technology will ultimately make subsidies
7 unnecessary.

8 As the Chair said, keeping the
9 program alive until then will preserve jobs in New
10 York. It will also ensure a big pot of
11 customer-generated clean power that we can use in the
12 REV process to shave off peak demand and reduce the
13 need for new generating stations and power lines
14 which will benefit everybody in the state.

15 So I also express my support of
16 this item.

17 COMMISSIONER BROWN: I just had one
18 quick comment. This will come as no surprise to you
19 that I can sit over in the corner and do my little
20 pet peeves.

21 I see that we're solar thermal
22 we're going to kind of consider in the context of the
23 clean energy, and as you well know, it may be the
24 most cost effective solar technology.

25 And so as we -- I just ask you to

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2 take that into consideration that we don't lose these
3 things because it doesn't fit neatly into one of the
4 squares. And that's how it's gotten lost in the
5 past. So thank you. Great effort. Just my one
6 little comment along the way. Thanks.

7 CHAIR ZIBELMAN: Sure. Yeah,
8 thanks. Good point. Thank you.

9 COMMISSIONER ACAMPORA: Tina, I
10 just wanted to mention so it's on the record that
11 LIPA will be looked at to be brought into this
12 program also, so that it's a statewide type of
13 program.

14 MS. PALMERO: That is correct.

15 NYSERDA is in discussions with LIPA
16 and P.S.C.G. to bring them into the program. It will
17 result, you know, if they come to an agreement about
18 that, it will result in a memorandum of understanding
19 with funds from the regional greenhouse gas
20 initiative going towards the -- the effort. But,
21 yes, you are correct.

22 LIPA will -- will hopefully if that
23 agreement happens, will hopefully be brought into the
24 program.

25 CHAIR ZIBELMAN: So -- so just --

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2 so it's the same approach but the funding would come
3 from a different source?

4 MS. PALMERO: Correct.

5 COMMISSIONER ACAMPORA: Thank you.

6 CHAIR ZIBELMAN: Commissioner

7 Burman?

8 COMMISSIONER BURMAN: Thank you.

9 As you know, I have concerns on
10 these item and I have not felt comfortable that the
11 record has been sufficiently developed to really show
12 that the jobs that would be created will be real and
13 lasting in New York, as well as not harmful to other
14 renewable energy technologies that are currently
15 under the R.P.S. program, and at least have a chance
16 from that process to compete fairly.

17 New York is a national leader in
18 renewable energy. We've already -- and we do -- we
19 make a very significant contribution to it. And we
20 do so with the understanding that we are responsible
21 for making sure that the ratepayer funds that are
22 collected are done so strategically and looked at
23 fairly and worked through, so that the millions and
24 billions of dollars that we collect are fairly
25 dispersed.

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2 And for me what I see is that
3 business as usual is being done because I don't
4 understand why this item is necessary at this time.
5 I think it's really important. I'm very supportive
6 of the New York Sun program. I think we could also
7 look to having manufacturing credits and other
8 exemptions that may be helpful to making sure that
9 there are real manufacturing jobs in New York.

10 But I look and I see the R.P.S.
11 program as being something that -- especially the
12 main tier solicitation, as being something that folks
13 feel can be very helpful. And, so, the renewal
14 energy portfolio that has things we should be looking
15 at, biomass, geothermal, fuel cells, all -- you know,
16 wind, many other things. And, so, what I'd like to
17 see for -- for me to have comfort, because I do
18 support renewable energy, including solar.

19 So it is not that I am against
20 spending money. It is that I want to make sure that
21 when we look at it, that what we're looking at is
22 real understanding of what has been collected through
23 the different clean energy programs including R.P.S.,
24 including S.P.C., including EEPS. And are we going
25 to be looking and doing a real economic analysis that

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2 really shows what the dollars that we're spending are
3 actually giving to us quantifiably?

4 And are they helping to make sure
5 that New York remains a strong leader and
6 economically continues to be viable. I think we can
7 really take a pause in looking at these issues. I
8 know that we're going to -- you're going to be coming
9 back with a report in July. To me I know that the
10 December 23rd, 2013 order was also recognizing that
11 there would be a comprehensive review of R.P.S.

12 I haven't seen that yet. So, for
13 me I think we still have more homework to do in other
14 areas. And that I'd like to be able to say, when I
15 feel that it's been -- the record has been fully
16 developed, that we can look at these issues and say,
17 yes, it is important to spend X amount of dollars on
18 solar versus something else. Or, you know what?
19 Maybe it's X amount of dollars on another renewable
20 or things outside of the box.

21 And because part of what we're
22 supposed to be doing is making sure that we're not
23 doing business as usual, I'm afraid that this is
24 premature. So I -- I know that I'm only one voice,
25 but for me it's important that we make sure that we

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2 really do have a sufficient record to show that we're
3 not doing harm. So I reluctantly can't vote yes for
4 this, but I am not voting no because I'm not no to
5 the goals and the vision of it.

6 I'm just uncomfortable and think
7 that this would be better if the drilling down that
8 has been something that we should be doing is really
9 making sure that we're sufficiently -- we've
10 sufficiently developed that record and that
11 statistical, economic analysis that's needed.

12 Especially because it's ratepayer
13 funds and we had an obligation to make sure that we
14 know what's coming in, where it's going and are there
15 real rewards being done.

16 Thank you.

17 CHAIR ZIBELMAN: Thank you. Thank
18 you for your comments, everybody.

19 I -- I think that when we -- when
20 we look at all these programs there's an element of
21 looking at the records, hearing what the market tells
22 us is required. And in this case the -- the
23 developers and the people that are in this market
24 have clearly indicated that in order for them to --
25 to get where we need to -- we want them to go, to

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2 create a commercial market, they needed enough of
3 a -- a glide path in terms of knowing what the
4 duration is of the program and how much we're willing
5 to spend, so they -- they have certainty and can plan
6 around it.

7 So I feel confident that the -- the
8 record is there to support both the amount of
9 dollars, which is as -- as Tina said, is consistent
10 with what we've been spending. It just provides a
11 longer window so people know so it's not dribbled out
12 and they can develop businesses around it. So I
13 believe it is -- is the right approach.

14 I appreciate your concerns, but --
15 but the fact is is that, we will be looking at the
16 main tier R.P.S. in the -- in the future. We're also
17 looking at other funding. And with the REV docket,
18 we're also looking at other elements that these
19 programs can be funded. As I indicated, if we're
20 hugely successful, which I hope we are, and in -- we
21 spend half of the money that we're committed to today
22 and find that this market is robust and commercial
23 and we don't have to do it anymore. I can tell you
24 I'll -- I'll be the first person to say, hey,
25 let's -- let's use this money elsewhere.

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2 But I do think the solar presents a
3 huge promise for New York. It's one of the best
4 technologies, particularly for homeowners in the
5 residential and small commercial use. I believe it's
6 critical we go forward. I'm also quite pleased about
7 the fact that we're going to be looking at low income
8 and trying to tackle that challenge as well. So with
9 that I appreciate your comments, but at least for me,
10 I think the records complete and -- and ready to move
11 forward.

12 So with that we, again, need two
13 separate votes on this to make our lives more
14 complicated. So all -- with respect to 301 A, all
15 those in favor of the recommendation to opt -- adopt
16 a resolution and issue a negative declaration
17 pursuant to the State Environment Quality Review Act,
18 SEQRA, please indicate by saying aye.

19 COMMISSIONERS: Aye

20 CHAIR ZIBELMAN: Opposed?

21 COMMISSIONER BURMAN: I abstain.

22 CHAIR ZIBELMAN: Have to figure out
23 how do you say this now. Hearing one abstention
24 and -- and four in -- in support, the recommendation
25 is adopted. W

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2 A vote taken for 301 B, all those
3 in favor of the recommendation to authorize NYSERDA
4 to allocate up to nine hundred and sixty thousand
5 five hundred and fifty-six thousand dollars to fund,
6 implement and administer the --.

7 COMMISSIONER BROWN: I've -- I've
8 got to correct you.

9 CHAIR ZIBELMAN: Is nine hundred
10 and sixty million.

11 COMMISSIONER BROWN: Million.

12 CHAIR ZIBELMAN: Million.

13 COMMISSIONER BROWN: Yeah.

14 CHAIR ZIBELMAN: I can't read that
15 many zeros. Nine hundred and sixty million, close to
16 a billion dollars, to fund, implement and administer
17 the continuation of our solar voltaic programs,
18 please indicate by saying aye.

19 COMMISSIONERS: Aye.

20 CHAIR ZIBELMAN: Opposed?

21 COMMISSIONER BURMAN: I abstain as
22 I think the record is not sufficiently developed.

23 CHAIR ZIBELMAN: Hearing four in
24 support and one abstention, the recommendation is
25 adopted. Thank you very much.

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2 The -- we're on to our third item,
3 and that's Item 202, which is the proceeding on
4 residential and small nonresidential retail energy
5 markets.

6 And this is going to be presented
7 by Kim Harriman, our general counsel, Luann Scherer
8 our chief of consumer policy.

9 Kim, please begin.

10 MS. HARRIMAN: Thank you, Chair.

11 Good morning, Commissioners.

12 In February 25 -- February 25th an
13 order was issued by the Commission that required
14 energy service companies and investor-owned utilities
15 to take certain actions designed to improve the
16 residential and small nonresidential retail access
17 markets.

18 Petitions for a hearing were filed
19 with respect to that order. Today I'm going to
20 address the draft order before you from a legal and
21 procedural background, and my colleague Luann Scherer
22 will address the substantive points of the petitions
23 for rehearing and the recommendations contained in
24 the draft item before you.

25 If adopted, the draft order before

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2 you would grant rehearing for the petitions and stay
3 certain provisions of the February order. A grant of
4 rehearing is not a determination on the merits of the
5 petitions for rehearing. It is a signal to the
6 petitioners that the Commission believes a further
7 record needs to be developed on the matters.

8 Pursuant to Public Service Law
9 Section 22, the Commission can grant rehearing if the
10 Commission determines there is sufficient reason to
11 do so. And for the reasons stated in the draft
12 order, we believe granting rehearing is a reasonable
13 and appropriate action.

14 A grant of rehearing, however, does
15 not excuse a party from having to comply with the
16 original order. Therefore, the draft order also
17 includes a stay of certain provisions of the February
18 order.

19 As indicated without a stay, the
20 granting of rehearing would not relieve the affected
21 parties of the obligation to comply with the February
22 order.

23 My colleague, Luann Scherer, will
24 provide a general overview of the petitions for
25 rehearing and describe the basis for recommending a

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2 stay of certain provisions of the February order.

3 MS. SCHERER: Good morning. The
4 petitions that have been filed since February 25
5 address concerns regarding some of the requirements
6 contained in the order. To provide time for full and
7 fair consideration of the petitions as well as the
8 comments we expect to receive from other parties who
9 are likely to oppose the hearing request, staff
10 recommends that several requirements of the order be
11 stayed.

12 These specific issues are
13 identified in the draft order before you and include
14 requirements related to independent third party
15 verification of customer enrollments, protections
16 from low-income customers, purchased of
17 receivables -- purchase of receivables and modified
18 termination notices.

19 We're also recommending that to the
20 extent the uniform business practices were changed to
21 address these requirements of the order, those
22 changes be stayed as well.

23 In contrast, many of the
24 requirements to the order are not disputed. We see
25 no reason at this time for the Commission to postpone

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2 or delay implementation of those requirements.

3 For example, the order requires
4 that ESCOs be required to honor rates posted on the
5 Power to Choose website by May 26th, 2014 and file
6 certain historic data by July 31st. No party
7 disputed these requirements for residential
8 customers.

9 It is critically important that
10 customers have accurate information about the
11 products and prices available to them, particularly
12 going into the summer cooling season when prices
13 generally increase. So, we are not recommending that
14 these requirements be postponed.

15 Similarly, the requirement that the
16 utilities make available to customers and historic
17 bill calculator for customers is also uncontested, as
18 is the requirement for an E.B.I. collaborative. It's
19 noteworthy to point out that since the order was
20 issued, two working groups have been formed to work
21 on the E.B.I. business requirements and technical
22 standards.

23 These working groups have had a
24 number of meetings and are making considerable
25 progress which we believe should continue.

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2 Similarly, the order establishes
3 several new requirements to address concerns about
4 inappropriate marketing by some ESCOs which have not
5 be contested, including that ESCOs maintain records
6 of where their agents are conducting door-to-door
7 marketing, that agents introduce themselves and state
8 who they represent at the beginning of the
9 solicitation and require that marketing agents
10 provide potential customers with information which
11 includes, among other things, the name of the sales
12 agent and a contact number of the ESCO that the
13 consumer can use for inquiries.

14 We are not recommending that those
15 requirements be stayed. There are also issues that
16 were contested for which we do not recommend
17 postponing the implementation date. Most notably,
18 the ESCO referral program. When the Commission
19 established that program in 2004, it stated that it
20 was an interim near-term strategy. We teed up in the
21 2012 notice in this case the potential to terminate
22 the ESCO referral program.

23 Based on extensive comments
24 recommending termination of that program, including
25 from at least one ESCO who likens the ESCO referral

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2 program to a bait-and-switch program, we recommended
3 the Commission direct that those programs be
4 terminated and utilities have since done so.

5 We ask that the Commission -- one
6 party asks that the Commission reconsider their
7 decision. We recommend that the Commission not stay
8 its decision to terminate those programs. When
9 terminating these programs, utilities are retaining
10 the underlying systems and infrastructure. In
11 considering the petition for rehearing on this issue,
12 if new facts and circumstances are identified, we
13 will come back and recommend reversing that
14 requirement.

15 Although I am not discussing each
16 requirement in the February order, the draft order
17 before you identifies each of the issues we believe
18 should be stayed and we're available to respond to
19 your questions.

20 CHAIR ZIBELMAN: Thank you, Kim
21 and -- and Luann.

22 I think what we ought to do is
23 reread the Roosevelt speech. So we threw ourselves
24 into this, we took some risk and I think, you know,
25 I -- with that we wanted to move things forward.

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2 And -- but at the same time with risk we have
3 accountability, and part of this accountability is
4 if -- is that if we didn't hit the mark it's time to
5 pause and make sure that we can reconsider it.

6 And one of the things that I
7 frequently like to tell my kids is that, you know,
8 you do need to take a certain amount of risk in life,
9 but with risk comes accountability. And if you're
10 not willing to take the accountability then don't
11 take the risk.

12 But -- but the -- both will make
13 you better off. And the other thing I often like to
14 tell them, it's always easier to criticize than
15 create.

16 Don't be the person in the meeting
17 that tells everyone else that the idea is a bad idea.
18 Try to come up with the idea and -- and take a little
19 bit of risk. And -- but with that you do need to
20 recognize that if there are changes that need to be
21 made. So I really appreciate the fact that what
22 staff's has identified and has worked with the
23 parties and has come to us with this recommendation
24 that said, hey, we may have to look at some things,
25 we may have missed some things and we really do need

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2 to reconsider.

3 So, I believe it is incumbent upon
4 us to do that. I also want to note that a number of
5 the ESCO providers who had spoken to me have said
6 to -- have -- have identified all along since I've
7 been here that they're just as concerned about the
8 bad actors as we are. They recognize that it has a
9 negative impact on their business as much as it has a
10 negative impact on the consumers.

11 And, I am pleased to note that in
12 the request for rehearings the fundamental concept of
13 addressing the issues that we saw with market
14 manipulation, price information, the need for
15 transparency, a number of the retailers came forward
16 and said your -- your goal is right. We -- we're
17 with you. We want to make this better ourselves.
18 Certainly with the REV docket it's really critical,
19 but you might have missed some issues here.

20 You may have thought about it the
21 wrong way and we'd like an opportunity to -- to help
22 you think it through. And I believe that the work is
23 going on already to help us get there. So with that
24 I -- I definitely support both the concepts of a
25 stay, and I understand that for staying the portions

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2 of the order which are from an attorney perspective
3 are just -- we shouldn't attend to and then we also
4 will have the opportunity rehear all of the various
5 elements including those that we may continue on with
6 will not have an adverse impact if we change our
7 minds once all the comments are in front of us.

8 Is that correct? Okay. I -- I
9 personally support moving forward and -- and granting
10 the request for rehearing and the stay. I'll take it
11 on any further comments? No.

12 Commissioner Sayre?

13 COMMISSIONER SAYRE: In an effort
14 to protect consumers and improve the retail markets,
15 it looks like we might have got a little bit ahead of
16 ourselves on a few of the items in the February
17 order.

18 Like Chair Zibelman, I'm a lot more
19 comfortable with taking decisive action and being
20 willing to relook at a few things, as opposed to
21 doing nothing and being subject to paralysis by
22 analysis.

23 This reconsideration order is a
24 good opportunity to work collaboratively with the
25 industry to get it right, so that we improve the

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2 retail markets rather than harm them.

3 I also support this item.

4 CHAIR ZIBELMAN: Commissioner

5 Burman?

6 COMMISSIONER BURMAN: Thank you.

7 First of all, I appreciate that you
8 moved it to the discussion item agenda. And I
9 appreciate that because you know that I had had some
10 concerns. Quite simply I'm confused by the process,
11 and what strikes me is that -- and -- and correct me,
12 Kim, if I'm wrong legally, what strikes me is that we
13 are not -- we're granting a petition for rehearing
14 not on the merits.

15 MS. HARRIMAN: So Public Service
16 Law 22 is written so wonderfully clear, that it seems
17 to imply almost a two-step process.

18 First, is that the Commission can
19 in fact grant rehearing. The grant of rehearing is
20 not a determination on the merits of the petition.
21 It's an acknowledgement that a record needs to be
22 developed with respect to the concerns raised in the
23 petition.

24 Oftentimes you will see before you
25 orders that address petitions for rehearing in one --

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2 only one time, and it's usually a denial of rehearing
3 or a clarification of the original order. So this is
4 definitely a unique action for the Commission. I do
5 not recall in my tenure as -- in counsel's office of
6 having an order granting rehearing and issuing a
7 stay.

8 But I think it is the best response
9 to the concerns raised by not only the stakeholders
10 in the retail access market sector but also the
11 stakeholders that are consumer advocates. And so it
12 enables us to, I believe, take the time to pause, to
13 pause especially on those elements that are most
14 impactful on the -- the retail -- retail access
15 market and also continues to provide some critical
16 consumer protection that should go forward.

17 And at the end of the day the
18 rehearing record will be developed, that the staff
19 will work with the parties to ensure everybody
20 understands the issues that have been stayed and
21 those that are opened for reconsideration, and we
22 have a more robust record in which we will return to
23 the Commission with a final recommendation with
24 respect to the petitions for rehearing.

25 At that juncture you would then

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2 vote on the stay items, whether or not you continue,
3 you modify, you abandon. And any other items not
4 stayed, petitioned for rehearing.

5 COMMISSIONER BURMAN: Okay. With
6 that and looking at the process, are there going --
7 is there going to be one SAPA, several SAPAs? Could
8 you expand upon that?

9 MS. HARRIMAN: Sure. There is
10 never a good time as a general counsel to tell
11 commissioners that we can't take an action because we
12 don't have a SAPA. I'm going to try to avoid that at
13 all costs during my tenure in this position. And to
14 that extent in this situation what we did is we took
15 a look at the issues raised on rehearing.

16 And as you acknowledged, the
17 February 25th order was a pretty broad,
18 all-encompassing approach to relooking at the retail
19 access market with respect to customer -- residential
20 customers and nonresidential small consumers. So
21 what ended up happening is in evaluating the issues
22 raised on rehearing, we determined that it would be
23 best to do multiple SAPAs.

24 And multiple SAPAs will enable the
25 Commission, should it choose, to be able to take

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2 action with respect to some issues on an earlier time
3 frame than others. So, if you take action on one
4 issue, we have not, quote, eaten up the SAPA.

5 There's another SAPA running and you will then be
6 able to take action on the other issues.

7 If the record determines to be
8 created in an expeditious manner and we believe all
9 information has been obtained, we may come back to
10 the Commission with a single order that addresses all
11 petitions for rehearing in which case we will
12 procedurally deal with the extra SAPAs. But we felt
13 that it was critical to provide this Commission with
14 as much flexibility as possible to address the
15 potential real concerns of the marketplace for
16 quicker action on some issues.

17 COMMISSIONER BURMAN: Okay. I
18 think what is confusing to me is that we're talking
19 about subsequent order and then we're also talking
20 about some other orders. So the -- the item in the
21 draft order that -- that I've been given looks at
22 addressing these issues in a subsequent order. And
23 then there's other parts that say, and we may take
24 this up in subsequent actions and subsequent orders.

25 So is there going to be one order

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2 or several orders. And how do we know what the
3 process is because there's all these different SAPAs?

4 So I'm just confused in terms of
5 how this is going to be sort of rolled-out in
6 addressing this and what's the time factor.

7 MS. HARRIMAN: Sure. So the --
8 the -- the first thing that we're going to do, staff
9 is going to meet with the parties affected by the
10 order next week and go through what this order is
11 accomplishing.

12 The second is that we're going to
13 build the record, and the records will be developed
14 pursuant to the SAPA notices and to the secretary's
15 notice soliciting comments pursuant to our Commission
16 rules for comments on petitions for rehearing.

17 What will happen at that juncture
18 is there will be a recommendation from staff to the
19 Commission as to either taking up all the petitions
20 for rehearing in one order or, for example, I could
21 see that the record has been developed on the ESCO
22 referral program but work still needs to be done on
23 the low-income price protection aspect of the
24 February order.

25 And in order to give market

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2 certainty right as to the ESCO referral program,
3 staff may come to the Commission with a
4 recommendation that you denied petition for rehearing
5 with respect to that element. While at the same
6 time, work continues on the record to address the
7 concerns raised by all sides of the issue with
8 respect to the low-income price protection.

9 Therefore, we may subsequently come
10 back to the Commission with an order that encompasses
11 the low-income price protection item, as well as
12 other items that have been raised on rehearing. Or,
13 again, singularly decide that element of the February
14 25th order in its petitions for rehearing and come
15 back with a third order.

16 The key was to provide as much
17 flexibility to the Commission as possible to be able
18 to respond to the market -- the market player's needs
19 for certainty and the timing for certainty, so their
20 business models can get up and running as we talked
21 about under the New York Sun initiative.

22 COMMISSIONER BURMAN: Thank you.

23 That was very helpful. For me when
24 I look at it, the order should speak for itself, and
25 I don't get the flavor of what you're saying in the

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2 draft order. So when I look at and we are saying,
3 yes, the petitions for rehearing granted and we're
4 going to stay certain other aspects, while we go
5 forward. The concern I have is that when staff spoke
6 on what were the reasons for staying certain aspects
7 versus others, it seemed to go towards a merit
8 argument.

9 Seemed to make a determination
10 that, you know, for example, in the ESCO referral
11 program that you -- you didn't agree with continuing
12 the ESCO referral program, right or wrong. So that
13 to me is a merit-based decision on why not to stay.

14 Now, if we were looking at staying
15 all aspects of the February order that were contested
16 and not staying those that were uncontested, I can
17 see that's not based on the merits of it but that's
18 based on the procedural process.

19 So the fact that -- that -- and --
20 and the fact that we have arguments on both sides for
21 what we got right and what we got wrong, it would
22 seem fair if we're going to be granting a petition
23 for hearing to stay all aspects of the order that are
24 contested regardless of -- of what it is, because
25 what I read it is it says given the breadth and

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2 complexity of the February order and the number of
3 concerns raised in the petitions, it's reasonable to
4 grant rehearing at this time and in future orders
5 address the merits of each of the claims set forth in
6 the petition.

7 And then we also, when I look at
8 it, would feel that when we're making those stay
9 determinations it's been on not a -- a -- you know,
10 merit-based decision, since we're saying that we need
11 to more fully develop the record. So how can we base
12 that decision to not stay something if we don't -- if
13 we hadn't fully developed the record and that's what
14 we're going to do.

15 So what I -- I'm in agreement on
16 the majority of the action being proposed. What I'm
17 in disagreement on is that I think that we should go
18 further and stay all aspects of the order that have
19 been contested. And also my understanding is is that
20 some parties were granted time to still submit
21 comments, is that correct?

22 MS. HARRIMAN: Yes. So that --
23 that -- let me -- I'll take your last point first and
24 then we'll go back to your other points.

25 One of the wonderful operations of

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2 law occurs between the time frame for filing comments
3 under our regs and the time frame for rendering a
4 decision under Public Service Law Section 22. And
5 the wonderful known State Administrative Procedure
6 Act which requires us to file and provide a -- a
7 published notice of an imminent action of the
8 Commission and afford stakeholders forty-five days to
9 comment.

10 So there is a contradiction between
11 the Public Service Law Section 22 and the State
12 Administrative Procedure Act with respect to the
13 forty-five day comment. So what you saw was our
14 attempt to cure the contradiction through a
15 secretary's notice.

16 What ended up happening is that
17 when -- when parties file petitions for rehearing,
18 they see in the rules that there's a fifteen day
19 comment period and everybody kind of freaks out that
20 they're not going to have enough time to file
21 comments.

22 At the same time, we're putting out
23 a SAPA notice which says you have forty-five days to
24 comment on the petitions. So what we do is we
25 initiate -- we institute -- we issue a secretary's

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2 notice that basically says you have more time. It's
3 not just the time provided under the Public Service
4 Law and the Commission's Rules and Regulations. You
5 have this broader period of time pursuant to SAPA to
6 provide your comments.

7 So what you saw was us trying to
8 address some very quickly filed requests for
9 extension of time under the Commission's rules to
10 provide comment on the petitions for rehearing. So
11 that's what the notice attempted to do. It's --
12 it's -- someday I'll -- I'll get there and we'll fix
13 the contradiction, but for now we have a band-aide
14 approach that I think works.

15 So parties understand that they
16 have more time to comment on that. And this order
17 also highlights that they have more time to comment
18 on that and by granting rehearing we're signaling
19 that we want to develop a record on these issues.

20 CHAIR ZIBELMAN: So, Kim, before --
21 before you move on, are you finished on that
22 procedural issue?

23 MS. HARRIMAN: Yes.

24 CHAIR ZIBELMAN: Okay. Let me --
25 let me just interject here. I think that there is

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2 a -- there is a difference with the meaning.

3 There are some aspects of the order
4 that were -- were really addressed to affect and make
5 certain that there was consumer protections in place.
6 And particularly as we're -- we're hitting in the
7 summer season was a concern that we not have people
8 sign up and be really bait and switched.

9 And, so, I think there is an
10 element of substantive where we felt that there is a
11 balance between of -- of having the -- the -- the
12 consumer protections in place. And also a
13 recognition that some elements of the order were
14 requiring people to spend money, change their
15 business models, and if in fact that we were going to
16 change things because we might not have gotten it
17 right.

18 It may -- it would be unfair to ask
19 people to spend money and create programs that
20 substantively would be changed. So I think that
21 the -- if you get down to it, there is a rationale on
22 saying let's stay the proceedings that really are
23 requiring people to make affirmative changes in what
24 they're doing and how they're -- and in programs or
25 in websites and things like that that can be done

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2 better.

3 And so that we don't have folks
4 spending money unnecessarily, if we're going to
5 modify or if we got it wrong or if we ultimately feel
6 that's the wrong direction to go so that market would
7 be moving back and forth.

8 And things such as the referral
9 program which have been problematic that largely
10 folks agreed with that wasn't costing any money and
11 could be reinstated if we subsequently changed our
12 mind without cost, makes sense to stay. So while I
13 realize that it's -- it's complicated, probably if we
14 didn't have such an ambitious order it would have
15 been easier to -- to -- to parse down.

16 But I -- I do think it -- it makes
17 sense to think about let's, you know, there were two
18 things we were trying to do here. One is to provide
19 market certainty.

20 Second is to afford appropriate
21 consumer protection, and we really want to continue
22 to -- to provide that balance. So I -- I am actually
23 comfortable that we'll be able to deal with it.

24 And I also agree that, you know,
25 having multiple SAPAs seems like an odd thing, but we

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2 do want to be in a position that if things are ripe
3 for decision and they are having a material impact,
4 we don't have to wait for everything to be resolved
5 to resolve the things that can be sensibly resolved
6 in a -- a certain time period.

7 So I -- it -- it is complicated. I
8 appreciate, Commissioner Burman, that it seems like
9 would have been easier to just stay everything, but I
10 think that to stay everything and create harms that
11 could have been avoided easily would -- would not be
12 a good outcome either. So I -- I do think we've hit
13 that balance.

14 COMMISSIONER BURMAN: Well, I -- I
15 appreciate your comments. I think that for me I
16 think that this order as written creates more
17 uncertainty in the market. And so when I look at it
18 I want to make sure -- and I agree. I think this is
19 great that we are revisiting these issues, that we're
20 going to actually develop the record, but I think
21 it's -- it's half a loaf. And that what I would look
22 to is expeditiously working with the parties on what
23 aspects folks think is fine to not stay and have
24 agreement on that and come back.

25 But until then, because this is in

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2 a vacuum right now, I think it's -- it's -- and what
3 I'm hearing is that the aspects that are being --
4 that are not being stayed, that are contested or
5 not -- are still contested or based on merit
6 decisions based on the staff when we still hadn't
7 developed the record.

8 So for me it's a chicken and egg
9 and I would, you know, feel more comfortable. So I
10 am in complete support of granting the petition for
11 rehearing. I'm in complete support of staying the
12 order and the aspects that you have. But I would go
13 further to stay all aspects of the order that have
14 been contested and to expeditiously address them so
15 that there's no longer uncertainty in the market and
16 no longer uncertainty with customer confusion on what
17 is and is not staying or not staying, so.

18 CHAIR ZIBELMAN: Yeah, I appreciate
19 that. I -- I think that we've -- we've probably have
20 gone around this enough. I -- I do think that staff
21 has spent a lot of time with the parties in the
22 technical conferences and that they -- there --
23 there's a -- there's I think a great deal of comfort
24 on what are the issues that were really policy
25 oriented.

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2 Which ones were, where we had -- I
3 would say we had the record but there's more
4 information that now we -- that we understand the
5 implications we want to revisit. But in all events,
6 everything that was in the order is subject to
7 reconsideration. So, I'm comfortable that we're not
8 going to be putting ourselves in a position that
9 we're going down a -- a wrong path.

10 It's -- it's an issue of are there
11 elements that seem more policy oriented that we
12 continue to believe are the -- are the correct
13 approach. So with that, are there any further
14 comments on this?

15 Commissioner Sayre?

16 COMMISSIONER SAYRE: One brief
17 thing to say. It's not clear at this point whether
18 we're going to end up wanting to break this into
19 multiple orders which is why we have multiple SAPAs
20 or a single order, but if it does appear to be
21 expeditious to break this into multiple orders, I'd
22 just like to state my personal preference that --
23 that pretty high in the priority should be the
24 low-income customer protections.

25 Maybe very low in the priority

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2 would be retargeting the way the purchase of
3 receivables works. And everything else like
4 third-party verification and the definition of small
5 business customers somewhere in between.

6 CHAIR ZIBELMAN: Thank you. Any
7 further comments?

8 COMMISSIONER ACAMPORA: Just one
9 comment. Flexibility; I like it. It's something
10 that we've always had to go back to and there again
11 it's an important tool in our toolbox to utilize, to
12 make sure we do get it right but to move forward with
13 some of the things that we know there are no problems
14 with.

15 So I have no problem with this.

16 CHAIR ZIBELMAN: Okay. Thank you.
17 So let me go forward and take a vote on this. So
18 with respect to then Item 30 -- where are we --
19 Three -- 202, proceeding on residential and not --
20 small nonresidential retail energy markets.

21 All those in favor of the
22 recommendation to grant request for rehearing and
23 stay certain aspects of the Commission's February 25,
24 2014 order, please indicate by saying aye.

25 COMMISSIONER BURMAN: Yes, in part.

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2 COMMISSIONERS: Aye

3 CHAIR ZIBELMAN: Opposed?

4 COMMISSIONER BURMAN: No, in part.

5 CHAIR ZIBELMAN: I don't -- we can

6 record that?

7 There being four ayes and one in

8 part no, the recommendation is adopted. Thank you.

9 Okay.

10 We're going to move to the consent
11 agenda and before we move, there is one notable item
12 that I wanted to mention. We have approval of item
13 161 which is a petition by the Village of Hamilton to
14 create and operate a cast distribution utility.

15 One of the things I want to do --
16 note is is that I know that -- that this was -- I
17 wouldn't say controversial matter. But it was a
18 matter that there were some issues associated with
19 construction.

20 I think staff did a great job in
21 making sure that this -- this could move forward from
22 the perspective of that this is totally aligned and
23 our -- our objective is looking at gas conversion and
24 gas expansion policies.

25 So I appreciate the -- the

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2 additional efforts that staff made to get this matter
3 in front of us and I'm very excited the fact that we
4 are seeing a -- a gas expansion in the Village of
5 Hamilton. So thank you for -- I know, Michael, you
6 were involved with this. Cindy, I'm not sure other
7 people on your team. So thank you very much for --
8 for getting this -- this done and getting it done
9 expeditiously.

10 And then just do any of the other
11 commissioners have any comments on any of the consent
12 agendas items?

13 Commissioner Burman?

14 COMMISSIONER BURMAN: On that same
15 item I -- I want to also note that this to me shows
16 the importance of ensuring we're properly and in a
17 timely fashion being responsive to petitions that are
18 filed with the secretary.

19 This item showed that the Village
20 of Hamilton is developing a municipally-owned natural
21 gas distribution utility to serve the community of
22 Hamilton, including Colgate University.

23 The petition did request expedited
24 treatment in order to commence construction
25 activities in a timely matter. While it was likely

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2 on track for decision in the near future, it became
3 very clear that with the arrival of spring it was
4 very important for the village to ensure construction
5 was started a.s.a.p. so as to have service to the
6 university as well as to a hospital and to a school
7 in place by the end of the summer.

8 In particular, I appreciate and
9 applaud Senator Velazquez' formal written advocacy on
10 behalf of his community to ensure that the Commission
11 was aware of the importance of this project and the
12 importance of acting in an expeditious fashion.

13 Staff did work tirelessly, and I
14 thank you for that, with the applicant to ensure that
15 this matter was ready for the Commission action at
16 the April 24th session.

17 And given the importance of this
18 project to the village in a consistency with our
19 general policy favoring gas expansion, this is an
20 item that I am very happy to vote yes on.

21 So thank you.

22 CHAIR ZIBELMAN: Any other further
23 comments on any of the consent item? Do any of the
24 commissioners wish to abstain from any of the consent
25 agenda items? No. Okay.

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2 So all those in favor of the
3 recommendations on the consent agenda, please
4 indicate by saying aye?

5 COMMISSIONERS: Aye.

6 CHAIR ZIBELMAN: Opposed?

7 Hearing no opposition, there being
8 no opposition, the recommendation is adopted.

9 So last item on the agenda we have
10 today is in light of the fact that this is gas safety
11 month, Mr. Speicher who's the chief of our gas safety
12 office has a small video that we'd like you to watch.
13 We have popcorn. Where's the popcorn? Michael?
14 Where's the popcorn?

15 Anyway, sorry guys.

16 MR. SPEICHER: Thank you, Chair.
17 Commissioners. It's nice to be up here talking --
18 talking about -- it's nice to up here talking about
19 good news for a change. Seems like the last couple
20 times I've been here it hasn't been on the best of
21 circumstances.

22 Recently staff and Commissioner
23 Burman went to the Dig Safely annual meeting. At
24 this meeting they showed a video that captured all of
25 the work that Dig Safely does and has done during

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2 2013. As part of their spring outreach effort they
3 provided training to over twenty-seven hundred
4 excavators.

5 In addition, they've provided
6 training to about ninety-five hundred excavators for
7 a total of over twelve thousand excavators trained
8 during 2013 on damage prevention. So working with
9 underground facilities.

10 As part of our -- as part of our
11 gas safety performance report that we will present in
12 June, we're showing that the collaboration between
13 companies and -- and stakeholders is having a very
14 good effect on reducing damage at least to gas
15 facilities. And we'd like to make sure that we
16 recognize the work that Dig Safely does in training
17 excavators.

18 And, we'd also like to show a video
19 that is one in a series of training videos that Dig
20 Safely puts on. They do have a website they are on
21 You Tube channel that if you want to look at the
22 other videos it's Dig Safely New York 811. Very good
23 videos, very good training available on there, so
24 turn it over to you.

25 CHAIR ZIBELMAN: Meanwhile, while

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2 this is loading, I'm going to actually note my
3 appreciation, to Commissioner Burman, for bringing
4 this to my attention to so that could use it today.

5 (Off the record)

6 CHAIR ZIBELMAN: Great. Great.

7 Well, thank you everybody. Enjoy the rest of your
8 day. Any other matters to come before us today?

9 SECRETARY BURGESS: There are no
10 other matters for today. The Commission will be
11 meeting again on May 8th and will be considering
12 primarily electric and gas matters and there's a
13 technical conference on May 15th that will deal with
14 winter energy supplies issues.

15 CHAIR ZIBELMAN: Thank you.

16 (Off the record)

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2 STATE OF NEW YORK

3 I, Kirsten Lemire, do hereby certify that the foregoing
4 was reported by me, in the cause, at the time and place,
5 as stated in the caption hereto, at Page 1 hereof; that
6 the foregoing typewritten transcription consisting of
7 pages 1 through 93, is a true record of all proceedings
8 had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 29th day of April, 2014.

11 _____
12 Kirsten Lemire, Reporter

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