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
Meeting - 4-24-14

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

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

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

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

COMMISSIONER BROWN: Callith -- callith before you digith.

CHAIR ZIBELMAN: And he's wearing green.

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

CHAIR ZIBELMAN: Secretary Burgess, is there any changes or additions to the agenda?
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SECRETARY BURGESS: Good morning.

There are three changes to the agenda this morning.

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

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

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

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

So with that, beginning with Item 201 A and 201 B, which is the Reforming the Energy
Vision, Rudy Stegemoeller will be leading and then Raj and -- Addepalli, Doris Stout and Michael Corso will be commenting on this, is that correct?

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

MR. STEGEMOELLER: Yes. Good morning.

CHAIR ZIBELMAN: Good morning.

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

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

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

This effort originated or it's -- the staff effort is a response to the Commission's
December 2013 order in the East case as well as the
draft state energy plan which asked staff to examine
our regulatory paradigms and propose an initiative to
make distributed resources and customer participation
in agreement to the way the electric system works.

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

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

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

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

The first is cost pressure which is largely a matter of aging infrastructure. But, it's
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also a matter of increased concerns with reliability and resilience which puts pressure on -- on the system.

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

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

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

At the same time, information
technology has -- has changed the way people live and the way businesses work and -- and is once again increased reliability and resilience concerns.

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

MR. ADDEPALLI: Thank you, Rudy.

Good morning Chair and Commissioners.

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

The next slide please.

So as Rudy said, if we continued with business as usual, just looking at what we know now, over the next decade we expect the utilities would have to spend at least over twenty-plus billion
dollars in building infrastructure and there would have to be new central generation adds, some merchant and some other, maybe about ten billion. And that adds up to over thirty billion dollars in infrastructure and then clean energy programs of over ten billion. And this may be a conservative estimate. It could be higher.

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

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

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

And, again, if we don't change
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anything, that's going to be the future.

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

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

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

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

And how do we improve, maintain and or improve our fuel resource mix? With those as the
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goals - the next slide please - so, this initiative
is going to be undertaken in what we call two tracks.

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

Next slide please.

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

As we have seen from Sandy, they're
increased needs, reliability needs for consumers
under different circumstances. And, also, we are
seeing a lot more sophisticated large businesses come
into the state, looking for improved reliability and
improved service from utilities.
And, finally, how do we facilitate more of the distributed energy resources? That's an umbrella term to include energy efficiency, demand response, demand reduction and distributed generation including combined heat and power. We need to challenge some of the conventional wisdoms that are out there, that the customer load is passive, the customer load is inelastic and it cannot participate in the demand side, and they're just price takers.

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

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

And this shows for a three-year period, 2010, '11 and '12 what the peak load has been on the system for the New York control area. And what the average load has been.
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And then the number of hours when the load exceeded either thirty-two thousand megawatts or thirty thousand megawatts or twenty-eight thousand megawatts.

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

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

So that's the challenge in front of
us. How can we modify the load duration curve, flatten the peak loads and reduce the overall cost to consumers in the long term and save resources for the society?

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

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

As opposed to looking at them in silo approach, the utility planners focused on expanding distribution systems and energy efficiency demand reduction happen on this site in different silos is there a way to pull them together in a more
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An integrated approach to meet the needs, reliability needs of consumers at a lower -- lower overall cost.

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

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

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

This is going to be the key, key
element of this whole undertaking.

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

MR. CORSO: Thanks, Raj.

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

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

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

The main response, solar energy, are a couple of ways that provide opportunities for customers to engage. And our interest and our
commitment in the case as it unfolds, will be to engage third-party vendors and utilities, ESCOs, consumers groups and all of the parties and participants to this case to find opportunities whereby customers are going to engage, be part of it, use technology and information to avail themselves to build management systems, home energy management systems and things like community aggregation.

Micro-grids are going to provide different ways in which customers will benefit and be participants in the market. That engagement yields an opportunity for much more animation, much more engagement and opportunity for the -- all the providers to want to sell products. Find values that are going to be brought to bear, both on the system and to the end users who pay for it. Thanks, Raj.

MR. ADDEPALLI: Okay. Thank you, Michael.

The next slide, the staff report lays out numerous issues that need to be addressed by this Commission over the next number of months. Here I highlight some of the key issues. This is not necessarily exhaustive, but a good sample of the
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high-level issues that need to be addressed by staff and the parties and provide your recommendations in the coming months.

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

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

And if a utility -- incumbent utility is allowed, should it be on a regulated basis or on an unregulated basis? How do we define benefits and costs? How do we measure them and how do we evaluate them? What kind of metrics and
methodologies should we use to come up with an analytical framework to make judgments and make decisions?

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

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

And we expect, at least tentatively right now, that the utilities should be filing their implementation plans, depending on what the Commission decides this fall on a generic basis to carry out those vision and those expectations. They
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would file their implementation plans next year,
ideally in the context of rate case filings.

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

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

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

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

Raj may actually have the easier
task of articulating the vision in track one, where
the rubber -- rubber will meet the road is how we
work through some significant issues in track two in
order to align utility interests with our policy
objectives and make that vision happen.

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

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

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

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

In order to realize the vision set
forth in track one, improvements will have to be made to our rate-making model. The staff report recommends that the Commission consider adopting a more outcome-based approach to rate-making designed to encourage long-term planning that optimizes investments and leads to lower customer bills.

Longer-term rate plans can be used to provide the necessary time frame for better utility planning and enhanced efficiency incentives. This can provide the time and opportunity for utilities to implement the innovative fee changes we are calling for. The longer term will enable utility management to focus less on rate matters and more on performance and customer goals.

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

Track two also tees up a large number of issues for the parties to comment on and examine collaboratively. The parties will have to
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examine all the elements of long-term rate plans. What is optimal term of those rate plans? Right now plans generally are about three years in length. Would five or even eight years be used like under the U.K. Riam model be advantageous? How should initial rates in R.O.E. be set in the context of the DSPP vision, given longer-term plans with additional risks and opportunities? How should costs and performance be benchmarked? What economic and performance conditions should be evaluated as checkpoints to reopen the rate plans in that longer-term time frame? What reporting requirements do we need to monitor utility performance? We'll also look at what revisions are necessary to the concurrent performance mechanisms. Do we have the right balance that accomplishes enterprise risk impacts? Are we creating the right incentives and not causing over focus one area to the detriment of another? What additional incentives are needed to encourage desired outcomes, like improved system efficiency, better customer engagement and reduced carbon? New York's current incentives are
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generally structured as one-way negative revenue adjustments. Should these be modified to provide symmetrical positive incentives? If so, what should be the starting point for rates and how much should be included for expected levels of service versus superior performance?

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

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

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

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

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

MR. STEGEMOELLER: Well, there you see the -- you know, the -- the division into two tracks is partly substantive because they're a rate-making function and the -- in track two, and the -- some utility and market function in track one.
are delineated but they're also pretty closely
interrelated but for -- for just -- if only for
purposes of efficiently managing and proceeding we
have separated them into two tracks.

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

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

There will be an A.L.J., Eleanor
Stein will preside, and just to show you that I am
capable of more than limericks I -- while Doris was
talking I wrote something in iambic pentameter and it
says the judge will run the case for all to see until
we vote on tracks one, two and three. The only
problem is that we only have two tracks, but, so.
And with that, we're open for discussion.
CHAIR ZIBELMAN: Thank you, very much.
You'll be shocked to hear I have some thoughts about this. So first thing I do want to -- couple things is Raj on the distributed energy resources. We -- the concept here is that -- because I think sometimes peoples' minds flit to distributed energy resources means supply. It's all types of resources whether supply, demand or storage that we're talking about.
MR. ADDEPALLI: That's correct.
Yes.
CHAIR ZIBELMAN: And then when you love that slide, it's not that you love the results but you love that it's a very easy way of describing our problem.
You don't need to respond to that.
But one of the things that -- that I -- I think is important is is that before we begin, while staff has raised the issue of whether or not the utilities should be the D.S.P.P. and an -- sort of an honest
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approach towards looking at these issues and making
sure that we're not -- we -- we have an
intellectually, honest inquiry, you're going into
this with a recommendation that the utility should be
the D.S.P.P., that that seems the most sensible
approach at this point. Is that --?

MR. ADDEPALLI: That's our
preliminary thinking.

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

MR. ADDEPALLI: That will be our
first challenge.

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

So, you know, Romeo and Juliet
debated whether names are important, but as we all
know, we shouldn't live -- listen to fourteen year
olds anyway. So, they thought it wasn't, but I think
it is.
And we started off on this proceeding actually thinking about this issue as utility 2.0. And we also talked about it as sort of smart grid and grid modernization. But -- but, frankly, as we continue to think about this approach and really thinking about that, we're really talking about evolving business models with a customer centric focus that really what we're talking about is fundamental change.

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

The retailers, how they can think and grow their opportunities, other vendors. Most importantly and -- and I'm glad staff has articulated is customers, because one of the things that -- that
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we understand is that this whole effort won't work unless we have customer-based demand. And while it's easy to animate other parties to the industry already, it's really animating customers that's going to be one of our chief challenges and having a key focus on that I think is going to be critical.  

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

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

So, it's -- it's really going to be, I think, an all-in effort. So, for that reason I
think reforming the energy vision is great because it
is reforming how we think about energy. And it's
more about -- it's more about -- it's about
everything. It's not just about -- about the
utilities.

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

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

Is it's not just doing a study and
then putting it on a -- on a shelf somewhere and
getting to it at some time, but really we are
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
6 The other thing I -- I wanted to
7 mention is I am hugely appreciative of -- of the work
8 that staff has done in a really a -- to start off
9 this REV process, really in a -- in a relatively
10 short amount of time.
11
12 I'm aware of the fact that there
13 were numerous meetings with third parties to really
14 get input, to really try to understand what's
15 happening out there. Where's the change happening?
16 Where should we focus, where are people on this
17 point?
18
19 Where are the Achilles heels, where
20 are the issues? And -- and the work that -- that the
21 staff has produced, not just the -- you know,
22 obviously the folks who are here today but -- but
23 there's a lot of people behind this is hugely
24 comprehensive. The amount of thoughtfulness, and
25 I -- I look forward to all of you in -- being able to
26 review this report, is incredible.
27
28 And it -- it really covers the
29 waterfront of -- of the issues that we're going to
have to grapple with. So when we challenged staff
and said look we need to -- you need to help us
identify what changes do we need to make to -- in
this -- in this industry to support the use of
distributed energy resources to promote system
efficiency, and what change do we need to make in
regulation? And in doing so, we wanted you to think
about these key things.

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

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

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

In my own mind it -- what staff has
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set forth is a -- is a terrific vision of where we're going forward and an articulation of the issues that we're going to have to grapple with.

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

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

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

And this isn't just people whining and saying, oh I'm really mad my prices were highest. These are people who, you know, work hard and were telling us that they can't pay their electric bills. These are businesses who are telling us that they're
very much worried about their businesses because they can't pay their electric bills. And so we -- we have no choice but to figure out how to make this work better for New Yorkers.

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

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

And it all starts then with the consumer and getting that consumer focus and that animation is important. But getting the markets animated and the market tools, so that we can unleash the same type of innovation in the electric industry that is what's been -- that has been unleashed in the telecom industry is really not only I think something
that, you know, is a good thing to do but is really our obligation to do.

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

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

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

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

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

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

COMMISSIONER BROWN: Sure, I'll have a few. I want to start out with Michael Corso.
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I did pick up prosumers for consumers. Did you invent that or did you steal it?

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

COMMISSIONER BROWN: Okay. I like it anyway.

CHAIR ZIBELMAN: Isn't Al Gore?

He's the one who came --.

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

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

And this gives us an opportunity to fundamentally take a look at the distribution systems. Some actions we're going to take today in terms of the clean power programs I think just absolutely jibes with this, in terms of trying to ensure that the monies that we spend there are
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included in the operations of the system, rather than
just a stand-alone something else that we count up
the kilowatt hours and see how well we do.

So, I'm excited about the process.

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

So thank you.

CHAIR ZIBELMAN: Commissioner, go
ahead.

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

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

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

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

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

So thank you all for your hard work
on this.
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CHAIR ZIBELMAN: Commissioner Sayre.

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

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

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

CHAIR ZIBELMAN: Thank you.

Commissioner Burman.
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COMMISSIONER BURMAN: Thank you.

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

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

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

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

"It's not the critic who counts,
not the man who points out how the strong man
stumbles or the doer of deeds could have done them
better. The credit belongs to the man who is
actually in the arena, whose face is marred by dust
and sweat and blood, who strives valiantly, who errs,
who comes short again and again, because there is no
effort without error and shortcoming but who does
actually strive to do the deeds, who knows great
enthusiasms, the great devotions, who spends himself
in a worthy cause.

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

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

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

So with that and we will take a
vote. Now we need two separate votes on this matter.
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The first is with respect to 201 A.

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

COMMISSIONERS: Aye

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

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

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

COMMISSIONERS: Aye.
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CHAIR ZIBELMAN: Hearing there being no opposition and hearing no opposition, the recommendation is adopted.

Thank you. Thank you. Thank you.

Congratulations to the team.

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

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

Tina, please begin.

MS. PALMERO: Thank you, Chair.

CHAIR ZIBELMAN: Happy Earth Day to you.

MS. PALMERO: Oh, thank you very much.

CHAIR ZIBELMAN: Or Earth Week.

MS. PALMERO: Earth Week. Good morning, Commissioners. You also have two items before you on the -- in this proceeding, Item 301 A and 301 B and you will be taking two separate votes as well.
These items before you respond to a petition filed by NYSERDA in January, requesting a long-term funding commitment to support the solar P.V. programs that it administers under our renewable portfolio standard program.

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

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

In simple terms, the megawatt block approach allocates megawatt targets to specific regions of the state, breaks those regional megawatt targets into blocks, to which incentives are signed -- assigned, awards incentive to applications based on the block in effect at the time of the application submission. And, then, moves to the next
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incentive level when a block is fully subscribed.

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

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

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

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

To support the program, NYSERDA is
requesting that you authorize nine hundred and sixty
point five million dollars from 2016 through 2023
which includes funding for the actual program incentives, implementation, administration, consumer education evaluation and some other program fees.

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

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

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

In the beginning, we were offering incentives at five dollars a watt. That has dropped tremendously. Right now in the residential sector we're offering a dollar a watt. For the larger commercial sector it's less than that. Thousands of
installations have been installed throughout all parts of New York State and the demand for the program keeps growing. Prices have -- of solar have dropped. The hardware costs have dropped significantly. All-in installed costs were nearly nine dollars, when this program started. Now they're below five in the residential sector. And, again, cheaper for the larger commercial customers. The megawatt block program is really designed to bring this program to a state where it can become self-sufficient. Because there is such high demand for this program and such a it's been such a robust program throughout the whole renewable portfolio standard, the current funding request is reasonable when we look at what we have been providing for solar in the last couple of years. To extend that request for a certain time period gives the market the message that New York State is in it for the long haul, but these declining incentives will enable the market to have a clear and predictable program in front of it. There were numerous comments in support of NYSERDA's proposal. The vast majority
believe the funding is reasonable, the installer community customers, environmental groups believe this is the right signal to send to -- to send to New York and the community. The -- there were a few comments questioning why the Commission would make a decision now on the long-term funding of New York's Sun when there are other technologies in the program that need to be addressed.

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

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

In short, you know, this -- this is a program that has been very successful and staff
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believes that with the initiation of this megawatt block program that we can keep this momentum going.

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

That concludes my presentation.

Thank you.

CHAIR ZIBELMAN: Thank you, Tina.

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

And that really is -- if I would say the theme of the day. Evening thinking about their last item, when we talk about system efficiency, the idea is to allow the -- is to allow the D.S.P.P. or the utilities to embed energy efficiency, so they could achieve system efficiency.
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And we start making this part of the provision of base services and move away from S.B.C. charges and other add-ons.

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

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

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

I also think that the solar industry itself is on the path. There have been many articles as to getting to grid parity and what it
will take to get there. But it -- I think everyone
would agree that the reduction costs in panels has
been a -- a significant improvement, and now we need
to reduce the soft costs, both balance of plant, as
well as the install cost.

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

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

So I -- I think that to do that you
do need to send these signals. You have to make the
economic commitment, and for that reason, I support both the staff's size of the -- of the amount as well as the idea that we would send enough of a -- a signal, ten years in this case, so that people will be able to plan on it.

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

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

COMMISSIONER SAYRE: I'd like to echo Chair Zibelman's statement that the program is currently providing New York with a -- a good number
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of jobs, economic activity and clean energy.

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

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

So I also express my support of
this item.

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

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

And so as we -- I just ask you to
take that into consideration that we don't lose these things because it doesn't fit neatly into one of the squares. And that's how it's gotten lost in the past. So thank you. Great effort. Just my one little comment along the way. Thanks.

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

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

MS. PALMERO: That is correct.

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

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

CHAIR ZIBELMAN: So -- so just --
so it's the same approach but the funding would come from a different source?

MS. PALMERO: Correct.

COMMISSIONER ACAMPORA: Thank you.

CHAIR ZIBELMAN: Commissioner Burman?

COMMISSIONER BURMAN: Thank you.

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

New York is a national leader in renewable energy. We've already -- and we do -- we make a very significant contribution to it. And we do so with the understanding that we are responsible for making sure that the ratepayer funds that are collected are done so strategically and looked at fairly and worked through, so that the millions and billions of dollars that we collect are fairly dispersed.
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And for me what I see is that business as usual is being done because I don't understand why this item is necessary at this time. I think it's really important. I'm very supportive of the New York Sun program. I think we could also look to having manufacturing credits and other exemptions that may be helpful to making sure that there are real manufacturing jobs in New York.

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

So it is not that I am against spending money. It is that I want to make sure that when we look at it, that what we're looking at is real understanding of what has been collected through the different clean energy programs including R.P.S., including S.P.C., including EEPS. And are we going to be looking and doing a real economic analysis that
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really shows what the dollars that we're spending are actually giving to us quantifiably?

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

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

And because part of what we're supposed to be doing is making sure that we're not doing business as usual, I'm afraid that this is premature. So I -- I know that I'm only one voice, but for me it's important that we make sure that we
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really do have a sufficient record to show that we're not doing harm. So I reluctantly can't vote yes for this, but I am not voting no because I'm not no to the goals and the vision of it.

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

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

Thank you.

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

I -- I think that when we -- when we look at all these programs there's an element of looking at the records, hearing what the market tells us is required. And in this case the -- the developers and the people that are in this market have clearly indicated that in order for them to -- to get where we need to -- we want them to go, to
create a commercial market, they needed enough of a -- a glide path in terms of knowing what the duration is of the program and how much we're willing to spend, so they -- they have certainty and can plan around it.

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

I appreciate your concerns, but -- but the fact is is that, we will be looking at the main tier R.P.S. in the -- in the future. We're also looking at other funding. And with the REV docket, we're also looking at other elements that these programs can be funded. As I indicated, if we're hugely successful, which I hope we are, and in -- we spend half of the money that we're committed to today and find that this market is robust and commercial and we don't have to do it anymore. I can tell you I'll -- I'll be the first person to say, hey, let's -- let's use this money elsewhere.
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But I do think the solar presents a huge promise for New York. It's one of the best technologies, particularly for homeowners in the residential and small commercial use. I believe it's critical we go forward. I'm also quite pleased about the fact that we're going to be looking at low income and trying to tackle that challenge as well. So with that I appreciate your comments, but at least for me, I think the records complete and -- and ready to move forward.

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

COMMISSIONERS: Aye
CHAIR ZIBELMAN: Opposed?
COMMISSIONER BURMAN: I abstain.
CHAIR ZIBELMAN: Have to figure out how do you say this now. Hearing one abstention and -- and four in -- in support, the recommendation is adopted.

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

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

CHAIR ZIBELMAN: Is nine hundred and sixty million.

COMMISSIONER BROWN: Million.

CHAIR ZIBELMAN: Million.

COMMISSIONER BROWN: Yeah.

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

COMMISSIONERS: Aye.

CHAIR ZIBELMAN: Opposed?

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

CHAIR ZIBELMAN: Hearing four in support and one abstention, the recommendation is adopted. Thank you very much.
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The -- we're on to our third item, and that's Item 202, which is the proceeding on residential and small nonresidential retail energy markets.

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

Kim, please begin.

MS. HARRIMAN: Thank you, Chair.

Good morning, Commissioners.

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

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

If adopted, the draft order before
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you would grant rehearing for the petitions and stay certain provisions of the February order. A grant of rehearing is not a determination on the merits of the petitions for rehearing. It is a signal to the petitioners that the Commission believes a further record needs to be developed on the matters.

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

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

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

My colleague, Luann Scherer, will provide a general overview of the petitions for rehearing and describe the basis for recommending a
stay of certain provisions of the February order.

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

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

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

In contrast, many of the requirements to the order are not disputed. We see no reason at this time for the Commission to postpone
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or delay implementation of those requirements.

For example, the order requires

that ESCOs be required to honor rates posted on the

Power to Choose website by May 26th, 2014 and file

certain historic data by July 31st. No party

disputed these requirements for residential

customers.

It is critically important that

customers have accurate information about the

products and prices available to them, particularly

going into the summer cooling season when prices

generally increase. So, we are not recommending that

these requirements be postponed.

Similarly, the requirement that the

utilities make available to customers and historic

bill calculator for customers is also uncontested, as

is the requirement for an E.B.I. collaborative. It's

noteworthy to point out that since the order was

issued, two working groups have been formed to work

on the E.B.I. business requirements and technical

standards.

These working groups have had a

number of meetings and are making considerable

progress which we believe should continue.
Similarly, the order establishes several new requirements to address concerns about inappropriate marketing by some ESCOs which have not be contested, including that ESCOs maintain records of where their agents are conducting door-to-door marketing, that agents introduce themselves and state who they represent at the beginning of the solicitation and require that marketing agents provide potential customers with information which includes, among other things, the name of the sales agent and a contact number of the ESCO that the consumer can use for inquiries.

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

Based on extensive comments recommending termination of that program, including from at least one ESCO who likens the ESCO referral
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program to a bait-and-switch program, we recommended
the Commission direct that those programs be
terminated and utilities have since done so.

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

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

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

I think what we ought to do is
reread the Roosevelt speech. So we threw ourselves
into this, we took some risk and I think, you know,
I -- with that we wanted to move things forward.
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And -- but at the same time with risk we have accountability, and part of this accountability is if -- is that if we didn't hit the mark it's time to pause and make sure that we can reconsider it.

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

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

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

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

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

You may have thought about it the wrong way and we'd like an opportunity to -- to help you think it through. And I believe that the work is going on already to help us get there. So with that I -- I definitely support both the concepts of a stay, and I understand that for staying the portions
of the order which are from an attorney perspective
are just -- we shouldn't attend to and then we also
will have the opportunity rehear all of the various
elements including those that we may continue on with
will not have an adverse impact if we change our
minds once all the comments are in front of us.

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

Commissioner Sayre?

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

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

This reconsideration order is a
good opportunity to work collaboratively with the
industry to get it right, so that we improve the
retail markets rather than harm them.

I also support this item.

CHAIR ZIBELMAN: Commissioner Burman?

COMMISSIONER BURMAN: Thank you.

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

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

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

Oftentimes you will see before you orders that address petitions for rehearing in one --
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only one time, and it's usually a denial of rehearing or a clarification of the original order. So this is definitely a unique action for the Commission. I do not recall in my tenure as -- in counsel's office of having an order granting rehearing and issuing a stay.

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

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

At that juncture you would then
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vote on the stay items, whether or not you continue, you modify, you abandon. And any other items not stayed, petitioned for rehearing.

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

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

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

And multiple SAPAs will enable the Commission, should it choose, to be able to take
action with respect to some issues on an earlier time frame than others. So, if you take action on one issue, we have not, quote, eaten up the SAPA. There's another SAPA running and you will then be able to take action on the other issues.

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

COMMISSIONER BURMAN: Okay. I think what is confusing to me is that we're talking about subsequent order and then we're also talking about some other orders. So the -- the item in the draft order that -- that I've been given looks at addressing these issues in a subsequent order. And then there's other parts that say, and we may take this up in subsequent actions and subsequent orders. So is there going to be one order
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or several orders. And how do we know what the
process is because there's all these different SAPAs?

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

MS. HARRIMAN: Sure. So the --

the -- the first thing that we're going to do, staff
is going to meet with the parties affected by the
order next week and go through what this order is
accomplishing.

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

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

And in order to give market
certainty right as to the ESCO referral program, staff may come to the Commission with a recommendation that you denied petition for rehearing with respect to that element. While at the same time, work continues on the record to address the concerns raised by all sides of the issue with respect to the low-income price protection.

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

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

COMMISSIONER BURMAN: Thank you.

That was very helpful. For me when I look at it, the order should speak for itself, and I don't get the flavor of what you're saying in the
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draft order. So when I look at and we are saying, yes, the petitions for rehearing granted and we're going to stay certain other aspects, while we go forward. The concern I have is that when staff spoke on what were the reasons for staying certain aspects versus others, it seemed to go towards a merit argument.

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

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

So the fact that -- that -- and -- and the fact that we have arguments on both sides for what we got right and what we got wrong, it would seem fair if we're going to be granting a petition for hearing to stay all aspects of the order that are contested regardless of -- of what it is, because what I read it is it says given the breadth and
complexity of the February order and the number of concerns raised in the petitions, it's reasonable to grant rehearing at this time and in future orders address the merits of each of the claims set forth in the petition.

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

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

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

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

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

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

At the same time, we're putting out
a SAPA notice which says you have forty-five days to
comment on the petitions. So what we do is we
initiate -- we institute -- we issue a secretary's
notice that basically says you have more time. It's not just the time provided under the Public Service Law and the Commission's Rules and Regulations. You have this broader period of time pursuant to SAPA to provide your comments.

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

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

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

MS. HARRIMAN: Yes.

CHAIR ZIBELMAN: Okay. Let me -- let me just interject here. I think that there is
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a -- there is a difference with the meaning.

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

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

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

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

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

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

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

And I also agree that, you know, having multiple SAPAs seems like an odd thing, but we
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do want to be in a position that if things are ripe
for decision and they are having a material impact,
we don't have to wait for everything to be resolved
to resolve the things that can be sensibly resolved
in a -- a certain time period.

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

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

But until then, because this is in
a vacuum right now, I think it's -- it's -- and what I'm hearing is that the aspects that are being -- that are not being stayed, that are contested or not -- are still contested or based on merit decisions based on the staff when we still hadn't developed the record.

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

CHAIR ZIBELMAN: Yeah, I appreciate that. I -- I think that we've -- we've probably have gone around this enough. I -- I do think that staff has spent a lot of time with the parties in the technical conferences and that they -- there -- there's a -- there's I think a great deal of comfort on what are the issues that were really policy oriented.
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Which ones were, where we had -- I would say we had the record but there's more information that now we -- that we understand the implications we want to revisit. But in all events, everything that was in the order is subject to reconsideration. So, I'm comfortable that we're not going to be putting ourselves in a position that we're going down a -- a wrong path.

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

Commissioner Sayre?

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

Maybe very low in the priority
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would be retargeting the way the purchase of
receivables works. And everything else like
third-party verification and the definition of small
business customers somewhere in between.

CHAIR ZIBELMAN: Thank you. Any

further comments?

COMMISSIONER ACAMPORA: Just one

comment. Flexibility; I like it. It's something
that we've always had to go back to and there again
it's an important tool in our toolbox to utilize, to
make sure we do get it right but to move forward with
some of the things that we know there are no problems
with.

So I have no problem with this.

CHAIR ZIBELMAN: Okay. Thank you.

So let me go forward and take a vote on this. So
with respect to then Item 30 -- where are we --
Three -- 202, proceeding on residential and not --
small nonresidential retail energy markets.

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

COMMISSIONER BURMAN: Yes, in part.
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COMMISSIONERS: Aye

CHAIR ZIBELMAN: Opposed?

COMMISSIONER BURMAN: No, in part.

CHAIR ZIBELMAN: I don't -- we can record that?

There being four ayes and one in part no, the recommendation is adopted. Thank you.

Okay.

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

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

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

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

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

Commissioner Burman?

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

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

The petition did request expedited treatment in order to commence construction activities in a timely matter. While it was likely
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on track for decision in the near future, it became very clear that with the arrival of spring it was very important for the village to ensure construction was started a.s.a.p. so as to have service to the university as well as to a hospital and to a school in place by the end of the summer.

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

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

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

So thank you.

CHAIR ZIBELMAN: Any other further comments on any of the consent item? Do any of the commissioners wish to abstain from any of the consent agenda items? No. Okay.
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So all those in favor of the recommendations on the consent agenda, please indicate by saying aye?

COMMISSIONERS: Aye.

CHAIR ZIBELMAN: Opposed?

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

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

Where's the popcorn?

Anyway, sorry guys.

MR. SPEICHER: Thank you, Chair.

Commissioners. It's nice to be up here talking -- talking about -- it's nice to up here talking about good news for a change. Seems like the last couple times I've been here it hasn't been on the best of circumstances.

Recently staff and Commissioner Burman went to the Dig Safely annual meeting. At this meeting they showed a video that captured all of the work that Dig Safely does and has done during
2013. As part of their spring outreach effort they provided training to over twenty-seven hundred excavators.

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

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

And, we'd also like to show a video that is one in a series of training videos that Dig Safely puts on. They do have a website they are on You Tube channel that if you want to look at the other videos it's Dig Safely New York 811. Very good videos, very good training available on there, so turn it over to you.
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this is loading, I'm going to actually note my appreciation, to Commissioner Burman, for bringing this to my attention to so that could use it today.

(Off the record)

CHAIR ZIBELMAN: Great. Great.

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

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

CHAIR ZIBELMAN: Thank you.

(Off the record)
STATE OF NEW YORK

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

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

__________________
Kirsten Lemire, Reporter