STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

REGULAR MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, February 20, 2014
10:35 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS:

AUDREY ZIBELMAN, Chair
DIANE X. BURMAN
GREGG C. SAYRE
PATRICIA L. ACAMPORA
GARRY BROWN
(The meeting commenced at 10:35 a.m.)

CHAIR ZIBELMAN: So good morning. I'd like to call the session to order. Secretary Burgess, are there any items to be added to the agenda?

MS. BURGESS: There are two changes to the agenda today. One item is added, case 14-G-0058 and case 14-G-0060, natural gas incidents at 43 4th Street, Brentwood and 65 Feller Drive, Central Islip and the service territory of KeySpan Gas East Corporation d/b/a National Grid. This has been added to the agenda and numbered item 102.

CHAIR ZIBELMAN: Okay.

MS. BURGESS: And there is a clarification in addition to the cases listed for item 202, to have the record clear, the other cases are 98-M-1343, which is the Retail Access Business Rules, 06-M-0647, which is the Energy Service Company Price Reporting Requirements, and case 98-M-0667, Electronic Data Interchange.

CHAIR ZIBELMAN: I was going to -- I picked that up, too.

MS. BURGESS: I'm sure you did.
CHAIR ZIBELMAN: Thank you.

So the first item today then is item 101, which concerns the natural gas incident at 198 Joseph Street in Horseheads. And Mr. Speicher, are you going to be presenting that for Staff?

MR. SPEICHER: Yes, I am.

CHAIR ZIBELMAN: Okay. Thank you. Please go ahead.

MR. SPEICHER: Thank you, Chair. Thank you, Commissioners. I'm here today to talk about Staff's investigation of a natural gas explosion that occurred at 198 Joseph Street in Horseheads, on January 26th, 2001. Today's presentation will touch on -- on the following topics, first an incident overview, a summary of the testing and analysis of the services to 198 Joseph Street, actions taken by NYSEG after the explosion, and recommendations for NYSEG and other L.D.C.s based on the findings of this investigation.

This is an overhead of the incident site and the middle left is where the 198 Joseph Street was. It exploded at approximately nine fifteen on the 26th. There was a fatality of
a fifteen-month-old boy and there were injuries to
his mother and the boy's great grandfather.

This is a quick sketch of the
incident site. Right in the blue circle the -- the
red area, we found a fractured service and that was
-- it had evidence of previous damage to it. And
that was located right above the green and blue
lines there. They're -- they're the water and
sewer mains. It had evidence of -- of previous
damage, but we did not find any records of a
previous repair.

This is the -- the fracture of
the service. It's evident with the backfill
material on it. It's right at the tip of the arrow
and it's fractured in the three o'clock to nine
o'clock position.

The service was sent to the
F.B.I.'s labs in Virginia for testing, including
metallurgical testing. The results came back that
the fracture was caused by S.C.C., which is stress
corrosion cracking. S.C.C. needs three elements to
occur. One is stress, a corrosive environment, and
time. In this slide, the S.C.C., the crack is seen
-- is the black part of the pipe there. That was
the existing crack. The reddish color would be the
intact material prior to the explosion. That fractured sometime prior to the incident.

The service at 198 Joseph Street had all the elements for S.C.C. to occur. The stress was provided by the backfill and poor support. The corrosive environment was provided by the improperly applied coating to the service. And it had plenty of time. We believe it was damaged sometime in the '60s to '70s.

Shortly after the explosion, NYSEG excavated services on Joseph Street. They found evidence of other damages and replaced the services. Because of this, they performed investigatory excavations in the subdivision around Joseph Street known as the Mayfair Plot. They ended up replacing all the services in the Mayfair Plot.

NYSEG started performing increased leakage surveys in Horseheads. They now perform these surveys on the entire -- on the entire NYSEG system at intervals far exceeding our current requirements. And they are continuing leakage surveys in Horseheads. So as soon as they finish in Horseheads, they're starting another one. So it's just a cycle that is continuous.
NYSEG also hired a metallurgical expert, Lucius Pitkin, to analyze the Horseheads system and have begun to implement recommendations made by Lucius Pitkin. In addition, L.P.I. is studying other areas of the NYSEG system. Based on its analysis, L.P.I. has recommended that all one-inch and one-and-a-quarter-inch services adjacent to sewer and water in Horseheads be replaced. NYSEG has begun these replacements during 2013 and is scheduled to have it completed by August of 2014.

Staff has a series of recommendations for NYSEG and for all L.D.C.s. First, we recommend that NYSEG replace all of the services remaining -- all of the one-inch and one-and-a-quarter-inch services in Horseheads that are remaining that were recommended to be replaced by L.P.I. This should be completed by August of this year.

We also recommend that NYSEG develop and submit a written action plan for replacing all remaining gas services in Horseheads. And they should provide monthly progress reports to Staff until this work is completed.

In addition, NYSEG should
continue to perform leakage surveys in the town and
gallery of Horseheads until the work is completed.
In addition to the recommendations for NYSEG, Staff
is recommending that other L.D.C.s take certain
actions. These recommendations deal with
performing system wide risk assessments,
 improvements to the public education programs, and
recording of leak and odor calls made to the
utilities.

Staff recommends that all L.D.C.s
perform system-wide risk -- a system-wide risk
assessment of their distribution systems to
determine if conditions similar to those in
Horseheads exist. These assessments should be
completed in six months. In addition, if -- if
these risk assessments indicate conditions similar
to those found in Horseheads do exist, the L.D.C.s
will be required to submit, within thirty days, an
action plan to address the increased risk.

In addition, if a risk mitigation
plan is needed, the L.D.C. needs to follow the plan
and provide monthly reports until the risk is
mitigated.

Finally, Staff recommends that
all L.D.C.s take steps to enhance public education.
Staff recommends that the L.D.C.s collaborate and develop best practices for improving public education on the reporting of natural gas odors. These best practices should also address steps to take to reach more local government entities to educate them on potential hazards of excavations near gas facilities.

The L.D.C. shall report the results of the public and local government outreach collaborative, including concrete improvements each utility will make to increase customer understanding of the need to report gas odors and the new steps each utility will take to educate local governments about excavation practices within ninety days.

This concludes my presentation. I'm available to address any questions you have. And also with me is Assistant Counsel Diane Dean. She could address questions as well.

CHAIR ZIBELMAN: Thank you, Kevin. And welcome, Diane.

Let me just start with, you know, I -- I think that all of us at the Commission and certainly the Staff and the Agency were struck by this case. It's a -- it's a sad reminder of the
business we're in and the dangers that can be posed to the public and to workers if things are not done precisely and we're not aggressive about protecting the safety and recognizing the -- the fact that we are dealing with both in terms of electricity and gas, the potential for -- for affecting public safety.

So I appreciate the scope of the Staff's investigation, the details that you went into, and the thoughtfulness of what you're -- what you're recommending that we do.

It's -- it's clearly a comprehensive approach. Certainly, the first step we have to do is -- is do these risk -- risk assessments, understand where in fact we're vulnerable, and make certain that we're taking the right steps to address that. And -- you know, and that certainly it's -- well, this happened with one utility, I think the fact is -- is that we need to make sure that all utilities are looking at this in the appropriate way and we're using best practices and sharing them with each other.

The other piece I think is critically important and as we continue to look at natural gas, both as -- as a heating fuel is under
-- is making sure that the public and local communities are aware of these issues and that again we're doing everything we can to provide that awareness and allow people to be in a position to protect themselves. So I think -- you know, from that perspective, I think that the Staff has done a good job -- an excellent job of trying to scope out the issues and setting processes in place that -- that we can make certain that this never happens again and to any New Yorker.

With that, I would ask -- and I noted that you have a number of dates, but I think it's going to be important that we continue to highlight the activity that is going on here for the Commission. And I would ask that Staff, in addition to establishing the collaborators and getting the reports from the utilities, come back to the Commission periodically. And I would -- I would say at least in six months and, if needed, quarterly, but certainly to identify what progress has been made, where you might be having issues, where you have concerns, so that we continue to be aggressive in addressing them.

And with that, let me turn this to my fellow commissioners. Commissioner Brown?
COMMISSIONER BROWN: Yeah, Kevin, I just want to clarify one thing just to be sure. The way I understand this, this tragedy happened because of some excavation work that was done after the natural gas line was installed that compromised the -- the gas line that caused the stress, that caused -- caused the break, which had caused the leak, which caused the explosion, which just leads to if that's -- which I believe is the case?

MR. SPEICHER: That is -- that is correct.

COMMISSIONER BROWN: Which leads to, I think, two things that you've touched on, but I really want to highlight here one is the excavation call number. I believe it's --

MR. SPEICHER: Eight one one.

COMMISSIONER BROWN: -- eight one one. Thank you. I'm not an excavator, but there is a number and all excavators need to know that before they do any excavation. There's a number to be called and you can find out where all the lines are. And if you don't do that and you excavate, there's potential penalties in place.

And number two, that if people smell gas, they need to report it to their utility.
And this was a huge tragedy that can be avoided if those simple steps are taken. And I know that's exactly what we're telling the utilities to go out and do and that's why I think this recommendation is so important. It, unfortunately, sometimes, takes a tragedy like this to get people to do the reminders again. Here comes a line now, excavation now.

So anyway, thank you for your hard work on this and I just wanted to remind everybody of those two important elements of this recommendation.

MR. SPEICHER: Thank you very much.

COMMISSIONER SAYRE: This really was a horrible situation and I'd like to stress again one of the points that Commissioner Brown just made, which is the public really is our second line of defense. The first line of defense is the utilities, but the public smelling gas is our second line of defense. And it's just critically important that the public understand and that the utilities help the public understand that they need to report gas odors. A hundred false alarms are better than one tragedy like this by -- and it just
can't be stated how important it is.

COMMISSIONER BURMAN: I -- I agree with all of my fellow commissioners. I just want to state that I also am very sympathetic and thinking about the family that's still dealing with the tragedy that has struck them and that's why we take our role so seriously, so thank you.

COMMISSIONER ACAMPORA: Kevin, I'd like to thank, you know, you and the Staff for the intense work that you put into this order. I've been sitting here now for nine years and it seems as though our work in this area is never complete. There's always something more to be done. And protection of lives is first and foremost.

And I think that New York has been a leader when it has come to the odorization. We had a case not long ago where we asked a company to odorize their gas. And the education process, I know, is going to be a difficult one. I mean the question we all asked when we were briefed on this case is why wasn't anybody making any calls. And so I think that part, we're going to need to partner with so many groups out there to educate people.
And also for the first time in many years, Commissioner Burman has taken on the role of our gas lady, NARUC, National Association for Regulators. And I think that her work -- she has a lot to do, because I think it's something that the rest of the country, while we lead, we can still work with the rest of the states and make sure that not only people in New York are protected, but people throughout the country are protected. And there are ways to protect them.

So we thank you for your work and we look forward to hear from you so that if you do need the Commission to make any steps to assist that we will be there to do that. So thank you very much.

MR. SPEICHER: Thank you. And I do have to give a lot of thanks to our Staff. Our Staff put a lot of work into this and did great work and -- and counsel's office helped out a lot with this also.

CHAIR ZIBELMAN: Thank you, everybody. And I do want to echo for us this is a docket number, but we do know for the family this is a life-long tragedy and all our prayers and wishes do stay with them.
With respect to that then, I'd like to take a vote. Any -- everybody in favor of the recommendations to require the risk assessments and other remediation and activities that Staff has recommended with respect to New York Gas utilities, please say aye.

FROM THE COMMISSIONER: Aye.

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

With respect to items 102, is that going to be -- whom? Okay. Mr. Stolicky, thank you. Welcome.

MR. STOLICKY: Good morning, Chair, Commissioners, and Justice.

Item 102 is going to be presented in two parts. First, I'm going to run through Staff's investigation into both the Brentwood incident and the Central Islip incidents. Then I'm going to hand it over to Robyn Adair from the Office of General Counsel, who's going to talk -- walk us through the Commission's enforcement authority.

First, the -- the Brentwood incident occurred on April 24th, 2011, Easter Sunday, on 43 4th Street in Brentwood. Safety
Staff responded that day. When we arrived on scene, Number 43 was completely destroyed and Number 41 and 45 were condemned due to structural damage. The total estimated property damage was approximately one point three million dollars. There were twenty-one minor injuries to people in the surrounding area, but no fatalities.

Staff performed a record search and witnessed a lease survey of the area and pressure tested the service line to Number 43. It was determined that National Grid's outside facilities were not a contributing factor to the incident. Both Staff and the fire marshal's investigating determined that the inside gas pipe work -- I'm sorry -- there was recent inside gas pipe work that was carried out and a gas shut-off valve was left in the open position.

Staff's investigation did find that a National Grid employee was at Number 43 4th -- 4th Street on April 13th due to a gas leak odor call and, during that visit, failed to follow company procedures and other safety code requirements. Staff determined that the primary contributing factor to the incident was that the National Grid employee left the site with the gas
service valve closed, but not locked to prevent unauthorized personnel from introducing gas into the house piping.

In addition, Staff determined that the National Grid employee did not inspect and then test the service regulator -- service regulator that he replaced and that he incorrectly followed warning tag requirements.

I'll now give an overview of the Central Islip incident. On July 10th, 2012 at Number 5 -- 65 Feller Drive, Central Islip, there was a large structure fire. Number 65 Feller Drive was one unit of a larger structure containing ten condominiums. All ten units suffered extensive damage exceeding over three million dollars. There were no injuries or fatalities due to this incident, but it did displace twenty people.

During the investigation, Staff determined that the same National Grid employee who failed to follow procedures in the Brentwood incident also failed to follow procedures during his visit to Number 65 Feller Drive that day. Approximately fourteen minutes after the National Grid employee's departure, the structure was on fire. Staff's investigation agreed with the
Suffolk County Police and fire investigation that
the source of the natural gas leak was an
open-ended pipe in a closet where an appliance
would be located, but was not present.

The National Grid employee
responded to the location on July 10th to
reactivate the gas service to Number 65 Feller
Drive which was issued a warning tag for a water
heater that was improperly venting carbon monoxide.
During this visit, Staff determined that the
National Grid employee failed to follow six
separate procedure requirements, including a check
of inside valves and pipe connections for leakage,
verifying proper appliance operation, purging gas
through the farthest appliance, a meter dial test
for leakage, a meter dial test -- I'm sorry --
meter dial accuracy test, and verifying the
identity of the gas meter before initiating work.

Staff's investigation further
discovered that National Grid failed to perform
either a post-accident drug test or a post-accident
alcohol test on the employee who performed work at
this location, both of which are required under our
safety regulations.

Before I hand this to Robyn, I --
I want to mention that Suresh Thomas, from our New York City Office, led these investigations, along with a lot of leg work from Jonathan Mercurio and Sergey Peschanyy. I'll now turn it over to Robyn, who will walk us through the enforcement portion of this item.

MS. ADAIR: Thank you, Chris.

Good morning, Chair, Commissioners. Mr. Stolicky has outlined the support that Staff believe we have to bring a case pursuant to the Public Service Law Section 25. Specifically, Public Service Law Section 25, Sub 1, has a general requirement that every public utility and its employees comply with the Public Service Law, our regulations, and Commission orders.

Additionally, under Public Service Law, Section 25, Sub 2 every public utility and their employees can be held accountable where they knowingly fail, neglect to obey or comply with our law, the Public Service Law, or Commission orders. This statutory provision fixes the maximum penalty at a hundred thousand dollars per day per violation. In the alternative Public Service Law, Section 25, Sub 3 requires every public utility and their employees can be held accountable where they
knowingly fail, neglect to obey or comply with our law, the Public Service Law, the associated regulations, and Commission orders. This provision affixes the maximum statutory penalty at two hundred fifty thousand dollars per violation.

Notably, Public Service Law, Section 25, Sub 7, talks about how the actions of an employee of a utility, when they're functioning within the official scope of their employment and performing their official job duties, can be imputed to the utility.

Now, Mr. Stolicky outlined the facts that Staff believes support violations of our gas safety regulations found in Part 255 of the Code. Under Public Service Law, Section 65, Sub 1, Staff contend that violations of these regulations illustrate the failure of KeySpan National Grid to furnish and provide safe and adequate service, instrumentalities, and facilities.

Accordingly, Staff is here today to ask the Commission to institute a proceeding and require KeySpan National Grid to demonstrate why a penalty action should not be commenced for violations of the Public Service Law and our regulations. Staff will engage in settlement
discussions with the utility. If settlement cannot be reached, Staff will ask the Commission to issue an order authorizing commencement of a penalty action and enforcement proceeding in court. Thank you.

CHAIR ZIBELMAN: Thank you both, Mr. Stolicky and Ms. Adair, for the briefing.

First of all, let me echo I do appreciate the -- the work of Staff, including Staff in New York City in investigating -- and I don't have my mic on. Thank you. So let me again thank you and again my appreciation to Staff.

A couple of questions. You're -- you're bringing this under Statute 25 and not Statute 25A. Did you want -- and my understanding is it's with respect to the timing of the incident?

MS. ADAIR: Yes, Chair Zibelman.

These incidents occurred, as Mr. Stolicky described, in April of 2011 and July 2012, which pre-dates the enactment of Public Service Law Section 25A. So we need to rely on 25.

CHAIR ZIBELMAN: And by issuing the show cause order and -- and asking Staff to engage in discussions with the parties, with -- with the utility, does that stay the running of the
statute of limitations?

    MS. ADAIR: It does not.

CHAIR ZIBELMAN: So what will stay the statute of limitations?

    MS. ADAIR: A filing in court.

CHAIR ZIBELMAN: So when would that be done?

    MS. ADAIR: Honestly, it depends how settlement negotiations proceed. Staff could appear before the Commission in either March or April.

CHAIR ZIBELMAN: But it would have to be done by that time?

    MS. ADAIR: It would have to be done prior to April 24th.

CHAIR ZIBELMAN: Okay. So by issuing the order today, we're giving Staff and the Company an opportunity to look for an opportunity for settlement before proceeding with litigation, hence the timing --

    MS. ADAIR: Yes.

CHAIR ZIBELMAN: -- and the need to act today? Okay. Thank you. I have no further questions on this.

    Any other questions from other
commissioners?

COMMISSIONER BURMAN: Thank you. Robyn, I think this is your first time appearing before us. Is that correct?

MS. ADAIR: Yes.

COMMISSIONER BURMAN: Thank you. Just back to the Public Service Law 25 and the statute of limitations, is that -- for April -- you said April 24th, 2014. Is that for the first incident that the statute of limitations, but the second incident would be the following year, or is it both together?

MS. ADAIR: No, Commissioner Burman, the statute of limitations with respect to Brentwood is three years and that would be April 24th of 2014. With regard to Central Islip, that would be July of next year.

COMMISSIONER BURMAN: Okay. But we would handle them both together?

MS. ADAIR: Yes. Staff are looking to package the incidents.

COMMISSIONER BURMAN: Okay. Great. I think it's very important and the -- the item 101 spoke to an incident that, you know, really called for making sure that we did as much
public education as possible. And I think these
two incidents in -- in this item show the need for
looking at the culture of safety and making sure
that -- you know, that the education is also done
internally in -- in the company, as well. And I
know item 101 is going to be looking at those
issues as well, but I think that both speak to the
continuing need and vigilance of -- of all of us on
these issues. Thank you.

CHAIR ZIBELMAN: Okay.

Commissioner Acampora?

COMMISSIONER ACAMPORA: In the
previous 101, we saw a picture of the devastation.
As someone who lives on Long Island and pays
attention to the news and the newspapers, I can
tell you if we had pictures here today to show you
that house was left to nothing. And the people who
lived in that complex, as you said, many of them
were dispersed and lost their home, had no place to
go. It's really very jarring when -- when you see
that on T.V.

And again, to back up what
Commissioner Burman said, education, when people
smell something, they need to make that call and
the employees, they actually have people's lives in
their hands to make sure that they’re doing their job correctly. So thank you for your work on this one.

CHAIR ZIBELMAN: Commissioner Sayre?

COMMISSIONER SAYRE: I’d just echo the comments of my fellow commissioners and make it clear that -- that our view is that there is no acceptable level of gas explosions in New York State and the utilities must adopt a culture that ensures that safety is a top priority.

CHAIR ZIBELMAN: Thank you. So this is all quite sobering and you know, unfortunately, our -- we don't get to hear from -- or fortunately, we don't hear from them very much, but the gas safety Staff at the Agency does an incredible job. Clearly, whatever we are doing, it's never enough and -- and it's something we will continue to focus on and -- and continue to work on and continue to improve. Having seen -- being part of a process myself in my career where there were burns from gas, it's -- it's an awful, awful thing.

With that, I would ask for a vote on item 102 for Staff's recommendations to go forward with the show cause order and -- and
commence the proceedings. All those in favor?

FROM THE COMMISSIONER: Aye.

CHAIR ZIBELMAN: Hearing none -- no dissents, the recommendations are carried, and thank you.

MR. STOLICKY: Thank you, Chair and Commissioners.

CHAIR ZIBELMAN: And welcome, Ms. Adair. You did a wonderful job.

MS. ADAIR: Thank you.

CHAIR ZIBELMAN: So next item before us is item number 201. These are the major rate filings of Con Edison. And they are going to be presented by our Administrative Law Judges Bielawski and Stein. And A.L.J. Paul Agresta, who also presided in this case, I believe, is available. So let me start with Julia and Eleanor. Which -- who is beginning?

Julia, welcome.

A.L.J. BIELAWSKI: Thank you.

Good morning, Chair, Commissioners. Judge Agresta, Judge Stein, and I are here to present an order which will -- proposes a resolution of the three pending Con Edison rate cases for their electric, gas, and steam
businesses. These rate filings were filed over a year ago after an initial delay while Con Edison was focusing on the aftermath of Super Storm Sandy. There were also two extensions of the suspension period, the latest one which will expire at the end of this month, so the Commission does need to act soon in these proceedings.

Last May, Judge Agresta gave you a presentation outlining Con Edison's rate filings. The company was seeking approximately four-hundred-and-eighteen-million-dollar increase in revenue requirement in the electric business, twenty-seven-million-dollar increase in the gas business, and an eight-million-dollar increase in the steam business. Litigation ensued. Twenty parties were involved. We had two full weeks of evidentiary hearings and two rounds of negotiations, the second of which was headed as -- by Kim Harriman, acting as settlement judge.

As a result of a tremendous effort by all the parties, on the final day of 2013, a joint proposal was filed. It was executed by twelve parties and opposed by only two. To give you a sense of the scope of the enormity of the amount of work that was put in this proceeding and
the litigation, when the joint proposal was filed
it was marked on this record as Exhibit One
Thousand.

We propose an order that adopts
the terms of the joint proposal with very minor
modifications, which I will highlight. We believe
the joint proposal to be not only a fair compromise
between the parties, but to carry with it extensive
benefits for customers.

The electric plan is a two-year
rate plan. The steam and gas plans are three-year
rate plans. Each of these rate plans have a
revenue requirement decrease in year one, followed
by increases in successive years,
but by leveling those components the joint
proposal would avoid any increase to what customers
are paying for the duration of the late rate plans.

However, although customers will
not see the impact of any increases during the rate
plans, there are revenue requirement increases
inherent in these plans. As such, in the proposed
order, we do recommend one change to the terms of
the joint proposal. And that is to utilize
customer credits that will be created during the
terms of these rate plans. We propose to utilize
these to mitigate the impacts of those revenue requirement increases. So that won't happen until the end of the rate plans and only in the event that the company does not come back in and file for new rates in that first year following each rate plan.

On the electric side, the revenue requirement increase would be a forty-eight-million-dollar increase and it could be mitigated by a thirty-million-dollar credit. Gas is a forty-million-dollar increase that could be mitigated by a thirty-two-million-dollar credit. And on steam, it's an eighteen-million-dollar increase that has a potential mitigation with a credit of eight million dollars.

These -- the electric rate plan carries with it a return on equity of nine point two percent. In recognition of the longer term plans, steam and gas have a nine-point-three-percent return on equity. And each plan has a forty-eight percent equity ratio.

One of the clear benefits that we see to these multi-year plans is it allows the Commission in this instance to be responsive to the huge public outcry we have heard from Con Edison's
customers that they do not want to see their bills increase, at least in the near future. Except for a few customers that may experience some changes due to revenue allocation and rate design changes, the average bills that customers are paying for delivery service will not change during the course of these rate plans.

In addition to these rate proceedings -- these rate details, the joint proposal resolves a multitude of other issues, which I can't resolve -- I can't discuss them all here. We'd be here all day. It really was a tremendous effort by the parties. But I will detail a few.

There are earnings sharing mechanisms that have been restructured to capture the greater customer -- customer benefits while still incenting the -- the company to make cost savings. In particular, fifty percent of the company's share of those shared earnings will be applied to reduce deferred site investigation and remediation costs. There is a new business incentive rate program to assist small businesses struggling from recovery after Super Storm Sandy. There are substantial increases to the low-income
programs on the electric and gas sides. In electric, it's an annual increase for the overall funding of twenty-four percent. And in addition the -- the customer credit will increase from eight dollars and fifty cents to nine dollars and fifty cents per customer for electric. In gas, it's an annual budget increase of seventy percent.

Now, the Public Utility Law Project is one of the two parties that oppose the joint proposal and they recommended a number of changes which we addressed in detail in the order. But the overall message we got from PULP was that low-income customers are struggling -- increasingly struggling to pay their bills. In response to that, we propose one additional change to the joint proposal and that is to remove from the joint proposal an adjustment mechanism that would have allowed Con Edison to reduce the electric low-income discount by fifty cents should the pool of eligible customers reach a certain size. And this way the Commission can guarantee that all electric low-income customers will have the full benefit of the nine-dollar-and-fifty-cent credit.

In addition, the order also responds to PULP's suggestion that Medicaid
eligibility be used as an additional threshold for participation in the low-income electric program, as it is done on the gas side. This record did not provide us with sufficient details to evaluate what impact that would have on these programs. Accordingly, the order proposes that Con Edison work with the City of New York and with Westchester County to obtain numbers and return them to the Commission for your consideration.

The order memorializes a commitment by Con Edison to attempt same-day reconnections for those customers who have been disconnected and are eligible again for service. In addition to all these economic benefits, there are significant environmental benefits that the parties agreed to in the joint proposal. There's an aggressive plan for the replacement of leak-prone gas pipes. There's more support for oil-to-gas conversions. There are provisions encouraging the development of distributed -- distributed generation, including a micro-grid pilot project and a commitment by Con Edison to explore alternatives to traditional infrastructure when meeting the significant load growth in the Brownsville section of Brooklyn.
There is a new voluntary
time-of-use rates program in the rate plans, which
will enable customers to more effectively manage
their energy costs by switching their time of use.
These rates are particularly designed for the
owners of electric vehicles. It is on this topic
of the voluntary time-of-use rates that the other
party who opposed the joint proposal submitted
comments. The Retail Energy Supply Association did
not attack any particular term of the voluntary
time-of-use program, but identified certain
barriers in the market that they perceived to
interfere with ESCO's full participation in that
market. Those issues will be considered in the
generic proceeding considering residential and --
and small commercial retail -- the retail energy
market.

This order also proposes stronger
performance metrics, addresses the treatment of
past and future storm costs, and provides for
substantial investment in capital projects. In
addition to everything that was brought up in these
proceedings that the parties resolved, they also
reached out and resolved some issues in other
pending proceedings, including the apportionment of
a property tax refund, the disposition of proceeds
of the sale of the John Street property, and a
pending rehearing petition concerning the
allocation of P.T.M.O. costs.

Finally, the parties also
included many initiatives that are very
forward-looking for future studies to enable you,
the Commission, to make more informed decisions on
certain critical topics. Just for example, there
is a staffing study that Con-Ed will undertake to
examine the use of contract labor and there will be
a study to best determine what the appropriate
future treatment of Con Edison's Hudson Avenue
facility will be.

We thank the parties for their
enormous amount of work and see this resolution as
not only fair, but very much in the public
interest. And unless you have any particular
questions on those issues, I'll turn the program
over to Judge Stein.

CHAIR ZIBELMAN: Thank you. Why
don't we proceed with Judge Stein and then we'll
come back, I'm sure?

A.L.J. STEIN: Thank you.

As Julia alluded, this case was
litigated in the shadow of Super Storm Sandy, which struck New York in late October of 2012 with historic flooding, unprecedented winds which caused the death of over fifty New Yorkers, resulted in billions of dollars in property loss and damage to energy systems such that electric service outages hit more than two million people in New York.

So this raised not only the urgency of ensuring our emergency preparedness, but of long-term advance planning for the impact on New York utilities of extreme weather events exacerbated by a changing climate.

In Con Edison's initial filing, it requested approximately one billion dollars in capital investment for what the utility termed storm hardening of the utility infrastructure. And parties' testimony filed thereafter really brought in an inquiry beyond simply storm hardening of utility property to a more holistic view of resilience or flexibility, generally. And this testimony included that filed by the City of New York, the Attorney General, the Columbia Law School Center for Climate Change, who produced expert scientific testimony detailing anticipated climate change impacts to the region over the next years.
and over the next decades.

And when we’re looking at investments in infrastructure that may be in use for thirty, forty, fifty years, or more, this long-term look clearly emerged as something that was critical to do.

And staff proposed at this point the convening of a collaborative to look at these longer-term issues in particular. And the collaborative began in June of 2013 and we were very fortunate to have the dedicated participation of roughly twenty parties and to harness a tremendous amount of expertise and experience on these matters on the part of Staff, New York City, which was in the process of its own resiliency initiatives, environmental, and other non-governmental organizations.

This phase of the collaborative ended in December of 2013 with the filing by Con Edison of its resiliency report. And in the report, Con-Ed recognizes the necessity and agrees to develop certain new tools in conjunction with the participation of the collaborative. Some examples of these most prominent, one was a new design standard that would underpin all of its 2014
construction projects, which would entail the use
of the most current FEMA, the Federal Emergency
Management Agency, floodplain maps to be able to
identify most accurately the areas that were at
risk of flooding and to add three feet in
additional protection anticipating future sea level
rise and other events. And this design standard
became called FEMA Plus Three.

A second example of a new tool
that was developed in the course of the
collaborative for Con Edison and by Con Edison was
an effort with leadership of New York City
designing a new risk assessment model that would
gauge the value of investment in specific storm
hardening measures in reducing storm and flood
risks to various groups of customers.

These tools identified and shaped
Con Edison's storm hardening projects for 2014 that
included things such as raising barriers around
substations, installing submersible transformers in
flood prone areas, or elevating electric substation
controls, increasing the ability of the -- to
isolate damaged parts of the electric system.

These projects -- the cost of
these projects are included in the revenue
requirement in the case as a whole and they were built on these new tools and new standards. But also emerging, not only these tools and -- and approaches to looking at storm hardening for the utilities, but the understanding that investment in other approaches such as the development of distributed generation or micro-grids could also contribute importantly to the resiliency of the system as a whole.

So this collaborative process ran parallel to the litigation and then to the settlement negotiations. And the joint proposal itself includes numerous recommendations that stem from the collaborative. Certain other recommendations with regard to the collaborative have their origins in the Con-Ed resiliency report and parties' comments on it.

So before you for approval are these recommendations that are either contained in the joint proposal or in the Con-Ed report. The first is the general recommendation that the collaborative continue into a phase two going through this year, the end of 2014. The proposed order suggests approval of this recommendation with specifics as to its scope to avoid duplication of
effort or overlap in work of the collaborative with work in other existing proceedings or proceedings that are anticipated to be commenced in the near future.

And just briefly, to tell you what that scope is -- looks like, the first thing is that Con Edison will, of course, be proposing new storm hardening projects for rate years two and three under the joint proposal. And as with those that are embodied in the rate plan before you today, those will be brought to you in September of 2014 and those new projects will be vetted by the collaborative as the ones for this year were vetted. And they also will be based on similar design standards and similar tools.

The second is Con Edison has agreed to undertake a comprehensive 2014 study of the utility's vulnerability to the full range of climate change effects, not only storms and floods, but also effects such as increased heat and heat waves. We're proposing three specific alternative resilient strategies to be looked at in the collaborative setting. These all stem from the joint proposal. One are solutions for the network growth in Brownsville Brooklyn, which Julia also
alluded to.

A second is to consider the elimination of the single customer limitation in the Con Edison offset tariff, to expand the availability of micro-grids, and to be informed by the study that's now underway by D.P.S., NYSERDA and Homeland Security of micro-grid feasibility.

And the third is a time-of-use rate pilot, time for -- to study time-sensitive rates.

The fourth issue for the collaborative for phase two concerns an investigation into additional reduction in natural -- natural gas leaks, which not only propose the safety concerns that have been addressed at length today, but also result in greenhouse gas emissions into the atmosphere.

Finally, the collaborative, in phase two, would continue the development of Con Edison's risk assessment model and also perform some cost benefit studies to apply these tools equally to utility infrastructure improvements and also other resilience approaches.

So, in conclusion, I would just suggest that this was really a unique process
involving stakeholders hard at work and a valuable outcome that's already being studied in other regions. And at the heart of it the outcome is the successful integration of resiliency considerations into Con Edison's own planning process. So if you have questions for either of us, we're available. Thank you.

CHAIR ZIBELMAN: Thank you.

First, let me just start off with, you know, one of the great advantages of the digitalized economy is the fact that what we've learned is crowd thinking, crowd sourcing. Crowd involvement, engagement often ends up with solutions that individual companies may not do on their own. And one thing that it strikes me that this case exemplifies as having more than -- having interested parties in the room, multiple viewpoints of view.

Recognizing the complexity of the issues that we have to deal with in this industry, in all our industries with respect to the provision of utility services has ended up with, I believe, a much stronger result than anyone could have done alone or we could have achieved in litigation. So I -- I congratulate the Staff, the Company, and all the parties who -- who worked with us to both
identify the issues, synthesize the problems, and
find a solution that I believe, while I'm sure
anyone would say not perfect, but clearly addresses
the most salient, the most challenging issues we
have in front of us, and does it in a way, I
believe, that provides the greatest amount of
benefit for the consumers.

So I congratulate you for that
effort. And I know that while there's only two
people at this table, there are hundreds of people
who were involved in this. And I personally know
that many people spent their holidays working,
working, working to -- to get this resolved. And I
-- and I truly appreciate that.

With regard to that, I think that
the -- the key elements of this plan certainly
recognize the -- the critical issues that are in
front of us. We -- this is certainly a sobering
day and -- and it's hard to say anything without
feeling trivial, based on what we've been talking
about, both in terms of gas safety and Super Storm
Sandy and the effect it had on the city on top of
economic struggles that people are already
experiencing.

With that, there's no question
and this winter has certainly been another reminder
that we are seeing extreme weather conditions.
Whether caused by global warming or any other
element, we are seeing extreme weather conditions.
And we have to begin addressing them and that our
utility infrastructure absolutely needs to be
looked at and thought through in terms of not what
happened in the past, but what we're confronting in
the future, what technology allows us to do, and
what we need to do to protect consumers.

So I think the -- the efforts of
the collaborative, of what they've been able to
produce, the standards, risk assessment, I believe,
Judge Stein, you're right, that we're setting new
standards, we're -- we're helping lead the way, but
more importantly, we're being thoughtful in
thinking in terms of the future and not the past in
how we need to design and operate our systems.

So, I think that this is a great
start. And I agree that the work that the
collaborative has done will certainly be built upon
and added to, as we think about where are we --
where do we need to move to make sure that the --
especially our -- our infrastructure is future
proofed and is meeting the needs of consumers for
low-cost electricity. So thank you for that.

With regard to the other issues, bill affordability, electric affordability, gas affordability, steam affordability, these are basic needs. And while we've restructured parts of this industry, they continue to be essential services. And we need to do everything we can to help maintain affordability, particularly recognizing we have vulnerable communities that -- that need the extra help to make sure that they -- they are able to protect themselves and have access to these services.

So I think, clearly, the efforts that have been made in this -- in this case to think about not only how we keep -- make this our grid, our systems the best in class, but how we keep it affordable for everybody are -- are a great accommodation and I appreciate the thoughtfulness. Again, these are challenging issues. We have to build -- we have to main affordability. So one of the things we continue to look at is not only what we -- what we need to do to make the grid resilient, but also what we can do in the long-term to make it more efficient. So I think that the work that has been identified around looking at
micro-grids, looking at alternatives so that we can
manage demand become a critical element of what we
can do to help maintain affordability.

Certainly the extra effort that's going on in terms of gas conversions and looking at
gas leaks address our twin concerns of safety, with the environment, and allows consumers to save on
heating costs, which is also very critical. The --
the breadth and weight -- in fact, it went over my weight limit that the doctor told me I can carry -- of the proposals is incredible. And I thank Judge Bielawski is correct is it's hard to do justice to the amount of issues that were resolved in the path that this sets us on, which I think is a very strong path for the company and certainly for consumers because it provides rate stability, price
stability that we require.

So I am hugely appreciative of the -- of the work that's gone on. I congratulate everybody who was engaged and I appreciate, particularly, your willingness to stay engaged so that we could get this to an appropriate conclusion.

And with that, I will turn it over to my fellow commissioners for any additional
COMMISSIONER BURMAN: Thank you. First of all, job well done. I -- I have often described myself as a cynical optimist. In this case, beforehand I think I was an optimistic cynic and was pleasantly surprised to see how much this was able to really come together and the breadth of issues that had to be dealt with and really the care from Staff, Con Edison, and all the stakeholders, including A.A.R.P., was really quite wonderful to watch and then to see this come to fruition today.

Price pressures on ratepayers is a significant issue and I'm glad to see how this is being dealt with. I am in very support of -- of this item and will be voting yes. I will be submitting a small concurrence. And part of the focus for me is on the collaborative process. And it's important for me to make sure that, you know, I -- I look at sort of the whole picture and holistically I think it's wonderful that in this case Con-Ed voluntarily stepped up and asked to address some of these issues sort of outside of the norm. It worked for them, it worked for Staff, and
I think it worked for the stakeholders. It's not a one size fit all -- fits all and I think in this case it was very helpful.

And in looking at sort of phase two, that, too, needs to be looked at and see what works, rather than sort of trying to fit it into -- into what we think it should fit because, really, the end game is that we are doing what we need to do to have a resilient and reliable system. I think threats to the critical utility system are there from all extraordinary events, whether natural or manmade, whether weather related or other. And they have the potential to interrupt reliable utility service.

Extended interruption to a reliable utility service has far-reaching serious secondary impacts and are necessary for us to make sure that we are doing all we can to make sure that there are -- is no harm to public health, public safety, and frankly, the economy as well, which is significant.

I -- I think that utilities need and I believe that they embrace this, that they -- they want to ensure resiliency. It's one of the highest priorities for all utilities, Con-Ed in
this case. And if -- if they look and are 
consistently monitoring, evaluating, analyzing, and 
taking into consideration what the events are that 
they need to do to continue to have a reliable and 
resilient system. I've seen firsthand the folks on 
the ground, not only at Con-Ed, but at other 
utilities, showing just how much they care, that 
they're prepared, and they -- they want to be 
prepared. And it's -- it's for me very comforting 
to know that this is, from the top down and from 
the bottom up, a highest priority. 

Utilities can't do it alone. And 
that's sort of why the collaborative process was 
one that worked and -- and will continue to work. 
We do need to be concerned about not duplicating 
efforts, not only of Staff efforts, but of all 
stakeholders and utilities and looking -- we've 
done many, many things on storm hardening, storm 
resiliency, and reliability. There are many 
different proceedings that are going on, addressing 
a number of these different factors. So we really 
need to be mindful that we need to take a step back 
and make sure that we are looking holistically and 
making sure that we are doing things for the short-
and the long-term. And the -- the utilities, the
Staff, and all stakeholders have my support. Thank you.

CHAIR ZIBELMAN: Thank you.

Commissioner Sayre, any comment?

COMMISSIONER SAYRE: I would also like to commend the judges, the Staff, and all parties for the tremendous amount of work that they've put into this settlement. With a few tweaks that we're making, it is in the public interest.

I'd like to focus, though, on one particular element of the settlement and the ongoing collaborations. And that's the time sensitive rate pilot. I think that's an extremely exciting concept and I wanted to stress that it's voluntary for any ratepayer to enter into it or not enter into it. But I read in the Trade Press this morning that ratepayers in Chicago who have used the time sensitive pilot that they -- that they have out there have saved tremendous amounts of money on average, compared to the default utility rate because they were able and willing to match their electric use so that it was as efficient as possible and -- and matched what was available in the system.
If we give customers the right incentives and they follow those incentives, then that reduces the need for additional generation transmission distribution, which translates to lower rates for everybody. And in terms of the environmental benefit, a megawatt bid of electricity that's never used at all is the cleanest possible use or -- or non-use of electricity that you can have. Far better than any environmental control is simply non-use.

So I, again, commend the parties, the Staff, and the judge -- and the judges for a tremendous effort.

CHAIR ZIBELMAN: Commissioner Sayre, you're singing my song.

Commissioner Brown?

COMMISSIONER BROWN: Hopefully, everybody's a little unhappy with the settlement. That means we've probably done it correctly. Early on in my tenure, we -- we approved a rate case and I got a call from the company saying how can you expect us to go on and do business with what you just did to us. And I got a call from a legislator asking us how we could give away the store. And I realized we had probably done our job correctly
that day. This is a balancing of all the interests which you articulated, all of which are extremely valid, making sure it's affordable, making sure it's reliable, making sure we make the incremental investments that we need. All of those things are part of this case.

And I'm thrilled, frankly. This beats the heck out of rate increases, which we've, unfortunately, had to do plenty of. And it again is a balancing. We could have done a couple of different ways. We could have had a rate decrease for a year, followed by a rate increase the next year, which can be confusing to consumers. The fact we managed to get a long-term delivery rate freeze, I think is a positive. I think what we're doing with the credits that are accrued to preclude, perhaps, some rate increases that would be automatic if they didn't come in otherwise is extremely important.

I want to thank you for the recommended decision that sits in the ether somewhere that we'll never see, but I know how much work was put in by the judges on that and the Staff that worked so hard and, of course, the parties in this proceeding. I -- you know, I'm -- I'm
supportive of this process. I'm glad we could get to where we are. And again, hopefully everybody's a little unhappy with where we ended up because then we probably did it correctly.

CHAIR ZIBELMAN: Commissioner Acampora?

COMMISSIONER ACAMPORA: Well, again, it's groundbreaking, I think, work that the public is hearing about today. And of course, I agree with all my fellow commissioners and the chair with regard to the effort put forth by the judges, the Staff, and all the interested parties. And I would be remiss if I did not make Doris work today.

In -- in talking about all of this, Doris, you know, I'm interested to know your feelings on how the Street will view this.

MS. STOUT: I have a couple thoughts on that.

COMMISSIONER BROWN: What Street is that?

COMMISSIONER ACAMPORA: The only Street, Garry.

MS. STOUT: I can say that generally the Street views our multi-year
settlements favorable. They eliminate a lot of uncertainty by setting a revenue requirement for a number of years and they provide a lot of risk-reducing cost recovery elements.

But in the same regard, going to Commissioner Brown's comments, I could say that some of the equity analysts were probably hoping for more on return on equity. So they weren't overly happy with the result, but in the end, they recognized that the way we set return on equity in this state is transparent and predictable and consistent with the interest rate environment. So they also recognized that Con-Ed has a long history of earning its return on equity under these rate plans, so I think in that regard the equity analysts are okay with the joint proposal.

The other point I want to raise, too, is on the other side of the street we have our bond rating analysts and only Moody's has actually made statements about the settlement. They recently came out with an analysis that upgraded Con-Ed, and O and R, and a few other companies in the state. And they recognized that the regulatory environment in the U.S. and in New York, in particular, is appropriate and that we recognize
the importance of our utilities in this state and
that we won't do anything to harm their bond
ratings intentionally.

So they upgraded Con-Ed and they
actually specifically noted that rate -- the rate
making mechanisms that we provide in these
multi-year settlements are part of the
contributions to that positive assessment. So I
think, overall, the street probably is happy with
this multi-year rate plan.

COMMISSIONER ACAMPORA: Thank
you. We always like to have something positive
from the Street on what we do, which we don't
usually get. And -- and I'd also like to commend,
again, the judges and all the interested parties on
your work with the low-income issues. That was
really important to get some kind of a consensus.

And again, you know, we've
learned through this, because it's been a long,
arduous trip, that there can be respectful
disagreement with a positive outcome. So I really
am very much in favor and proud to vote for this
particular matter. Thank you.

CHAIR ZIBELMAN: Thank you,
Commissioners, for -- for your comments. I -- I do
note that we have Mr. Whitley from the I.S.O. And
in a previous life, we used to talk about the
arrows in the front have to equal the arrows in the
back to know you've done a good job. And I think
that that's pretty out.

Clearly, the importance of the
fact of -- of price stability, both from the
standpoint of consumers, as well as the utility and
the reason why that's important is -- is that in
the end, the utilities have to raise money. And
investors who see this as a good investment that
the cost of that money stays at a reasonable level
which, in turn, helps us keep prices reasonable.
So it is an important matter that people have
confidence in our companies and that consumers have
confidence that they're getting value for their
energy dollars. And I believe that we've looked to
accomplish both and accomplished them quite well in
this particular proceeding.

So, with that, all those in favor
of the recommendation to approve the electric, gas,
and steam rate plan for Con Edison, as recommended
with the modifications to ratepayer credits and the
low-income program, as well as the additional
efforts to be taken by the resiliency
collaborative, as described by Judges Bielawski and Judge Stein, please say aye.

FROM THE COMMISSIONER: Aye.

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

And again, congratulations to all for your -- your particular efforts.

A.L.J. BIELAWSKI: Thank you very much.

CHAIR ZIBELMAN: Okay. Our -- the fourth item we're going to be taking up today is item 202, which is case M-0476, et al, as noted by Ms. Burgess. And this is addressing certain aspects of the residential and small non-residential retail market. And Doug Elfner, who's Director of the Consumer Policy, and LuAnn Scherer, Chief of Consumer Advocacy, and Brendon Goodrich, Assistant Counsel, welcome, will be here for the presentation in question.

So Doug, will you be beginning?

MR. ELFNER: Yes.

CHAIR ZIBELMAN: Okay. Thank you.

MR. ELFNER: Good morning, Chair
Zibelman and good morning Commissioners. The Commission began this case to assess certain aspects of the retail energy markets for small customers, residential customers and small non-residential customers in New York. Currently, more than two hundred ESCOs, Energy Service Companies, are authorized to provide electric service in New York. And a similar number are authorized to provide natural gas service in New York.

Between twenty and twenty-five percent of residential customers now obtain commodity from an ESCO. And approximately a third of small commercial customers purchase energy from an ESCO.

Staff conducted a thorough review, including numerous meetings with ESCOs, ESCO trade associations, utilities, consumers, representatives of consumers, low-income advocates. We developed an online survey to assess the -- how customers -- to determine a customer's assessment of their experience with ESCOs. We conducted an extensive review of ESCO-related consumer complaints that the Department has received, collected and analyzed data regarding the prices
that ESCOs charge, and we identified the types and the frequency of value added services that ESCOs are providing to residential and small commercial customers.

In addition, we thoroughly reviewed comments from the parties on a series of questions that the Commission posed regarding these markets and how these markets might be improved. Active parties included four ESCO trade associations, approximately seven individual ESCOs, every major utility, and five groups representing these small customers.

I want to emphasize that our review focused on markets for residential and small non-residential customers. Regarding large commercial and industrial customers, retail energy competition appears to be working very well. The vast majority of these relatively sophisticated customers obtained their energy from ESCOs. They report savings and/or benefits from services that the ESCOs provide.

For residential and small non-residential customers there are several main areas which we believe enhancements can be made and should be made so that these markets provide
similar benefits to those obtained by large customers.

The first area is price transparency. For markets to work effectively, consumers must have ready access to information regarding which firms provide the best value. Currently, there's a very wide variation in the price charged by ESCOs. And some residential customers pay -- some residential ESCO customers pay considerably more than they would have with another ESCO or with the utility. However, it's very difficult for small customers to obtain relevant comparative pricing information. The absence of that information is an impediment to a well-functioning competitive market.

So the draft order contains several recommendations regarding price transparency, including requiring utilities to implement online bill calculators for ESCO customers so that they can compare historically what they were charged by their ESCO as compared to what they would have paid if they purchased commodity service from the utility; require ESCOs to file with the Department historic pricing information for certain products, which the
Department will then compile and publish; and modify the Power to Choose website, which is now designed just for residential ESCO products so that it also covers ESCO services for small commercial customers as well.

The second main area where enhancement should be made concerns benefits for customers participating in utility low-income assistance programs. The Commission has established policies to protect and assist low-income customers. And we talked about them in the very last item. Over the -- over recent years, the Commission has more than doubled funding for low-income assistance programs as just one example. Consistent with those policies, the recommendation is that ESCOs only be allowed to enroll customers who participate in utility low-income assistance programs in ESCO services that guarantee savings over what the customer would have been charged by the utility or that provide energy related services designed to reduce the customer's overall energy bill, for example, home energy management services. And I'll talk more about that in a minute.

The third main area where enhancements should be made is in the rules and
procedures applicable to ESCO marketing practices. The Department continues to receive a large number of complaints regarding inappropriate marketing practices, particularly regarding door-to-door and telephonic marketing. The main recommendation is to require that all enrollments made through these means be verified by an independent third party. This is an approach now used successfully by several ESCOs and it's also been used successfully in the telecommunications industry.

The draft order also recommends that the process for enforcing Commission rules regarding ESCO marketing practices be streamlined to help facilitate prompt enforcement action where it's appropriate.

The final area concerns value added services provided by ESCOs to small residential and commercial customers. Staff's review finds that ESCOs are offering some value added products to these customers, specifically fixed prices and energy from renewable sources. However, there are very few products available from ESCOs for residential or small commercial customers that are designed to assist customers in managing their energy use, such as energy management.
services, demand response programs and tools, and
energy efficiency measures.

The recommendation is to
immediately commence another phase of the
proceeding which will investigate ways to
facilitate the development of innovative new energy
related value added products and services. Among
other things, this phase will investigate ways to
reduce the costs to ESCOs of acquiring customers
who purchase these energy related value added
services, remove barriers that now impede ESCOs'
ability to market the availability of these
services using consolidated utility bills, modify
utility billing systems to facilitate the ability
of ESCOs to offer time-of-use products. This was
an issue that the judges raised in the Con Edison
case just a few minutes ago. The proposal is to
treat that generically here. Identify what
additional data might be available to assist ESCOs
in developing these services, including customer
specific usage data and information about network
constraints, and streamline processing of ESCO
enrollment requests.

So to begin this next phase, a
notice will be issued, inviting comments on these
and other issues. And we'll come back to you with specific recommendations on actions that the Commission should take.

So overall, retail energy markets continue to be an integral part of the Commission's overall regulatory framework. And development of a competitive market structure which leads to innovation and consumer and societal benefits is an ongoing process. We believe that the recommendations outlined here will help achieve that goal.

Thank you and we're available for questions.

CHAIR ZIBELMAN: Thank you, Doug. I'm going to defer my comments for right now. I'm going to turn it over to Commissioner Sayre. When I joined the Commission, this was one of the first proceedings I was alerted to that we were going on and were engaged in. And I know that Commissioner Sayre's been working, particularly, as all the commissioners have, but has been focused and been thoughtful about this issue. And -- and Gregg, let's -- I'd love to hear your thoughts.

COMMISSIONER SAYRE: Well, Staff has found that for -- for the residential and small
business markets, the energy marketing really hasn't worked in a competitive way as the Commission originally envisioned would happen in terms of savings over the default rates or savings vis-à-vis each other and -- and new innovative services offered by the ESCOs that the utilities don't offer.

What we're doing here to address that is primarily to increase the information available to residential and small business consumers so that they can make informed choices. And I -- I want to stress that what we're doing here is something that we think will make the market work better. We're not trying to regulate competition. We're trying to create a structure so that competition can thrive and work a little better than it appears to be working now.

And as Mr. Elfner said, we are also addressing some marketing problems, particularly in the door-to-door and telemarketing areas and -- and marketing and -- and services provided to low-income customers. With my experience in the telecommunications field, I want to assure the ESCOs that -- that the third party verification rules that we're putting in place for
door-to-door and telemarketing acquisition of customers are not particularly onerous. The telephone industry has been living with those for a very long period of time and there are plenty of vendors out there who are ready, willing, and able to conduct third party verification on your behalf. So I think that we are nudging the market with a relatively light hand to a place where it will work better.

CHAIR ZIBELMAN: Thank you.

Commissioner Brown?

COMMISSIONER BROWN: I just have one question, Doug. One thing we've talked about in the past is the entry requirements to become an ESCO. Is this further proceeding going to address that at all? And just for people to know, I think it's a little too simple right now, the reason we've got a couple hundred ESCOs, and I'm concerned about for the lack of a better term fly-by-night companies in the business, as opposed to more responsible adults.

MR. ELFNER: Yes, Commissioner, that -- that is an issue to be addressed in the next phase. We don't have a record on the pros and cons of that yet, so we can't bring that to you for
a recommendation now. We'll come back shortly with
a recommendation there.

CHAIR ZIBELMAN: Commissioner

Acampora?

COMMISSIONER ACAMPORA: I'm glad
that Commissioner Brown asked that question because
you know that's near and dear to my heart to make
sure that the people who are out there who are
looking for other services that aren't provided by
their utility do not get taken advantage of. And
when I talk about, you know, the low-income people
and the elderly, to make sure that we don't have
companies -- we have very -- some very good
companies, but we've had some others that, you
know, have caused us to pull our hair out in some
of these instances.

So I think that we're headed in
the right direction. And I'm always concerned
about, again, how to educate the consumer to make
sure that they do have all the tools needed to make
that intelligent decision because it's a big
decision and it's kind of intimidating to people,
no matter what age they are, who don't have the
information at hand. So, you know, could you kind
of like walk me through some of the ideas of how
you're going to make sure that the consumer is educated?

MR. ELFNER: Sure. In the draft order would establish several new tools. One of the tools is an online historic bill calculator. So one of the informational devices that we're using -- we would propose to be used for consumers is to require, on utility bills, not necessarily that provision of information, but simply a notice that says here's where you can go to get that information. So one is use of utility bills for -- for particular bill messages for ESCO customers.

Two is expanded notice requirements for contract renewals that's also a recommendation in here.

COMMISSIONER ACAMPORA: Uh-huh.

MR. ELFNER: Right now we see that many consumers are paying prices that you don't know how they got to that point. Why would a customer knowingly pay that price? So receiving additional notices on contract renewal time with specific messages, the intent is they are, again, to help the consumer be more attuned to their -- their options and their ability to -- to have -- to make -- to make different decisions. So it's, I
think Commissioner Sayre used the words, it's -- it's mostly information through a variety of sources, including our websites. Power to Choose website will be enhanced and promoted after it's enhanced --

COMMISSIONER ACAMPORA: Right.

MR. ELFNER: -- to facilitate all the objectives that we've been talking about.

COMMISSIONER ACAMPORA: I might like to add that I think it would be important again where people who may go to their libraries, who may deal with senior citizen -- local senior citizen organizations, and elected officials at different levels, that we could share this information with so that they can share it with their constituency because, you know, the more we get the word out, again, more education to the consumer.

MR. ELFNER: Very good. Good idea.

COMMISSIONER ACAMPORA: Thank you.

CHAIR ZIBELMAN: Thank you.

COMMISSIONER BURMAN: Thank you.
When I look at this, I, as you know, have struggled with a lot of the different issues on what's happening in the ESCO world. And I'm very thankful that Staff has indulged me with going through a lot of the ins and outs that you've been experiencing and working with the different companies and hearing from them. And -- and I was glad to hear, you know, Commissioner Sayre has been a strong leader in this issue and really helping to set a good course. And I think that was very complimented by the Chair in her looking to the future of utility service and what ESCOs can do to help facilitate more value added services.

So when Commissioner Sayre spoke about, you know, don't worry about the fact that some of these requirements will not be onerous, I was very happy to hear that from his experience in the -- in the telco world.

And what -- what I'd like to make sure is that, you know, there are -- there is a need for us as we evaluate this and this new process that really is going to have to be worked through and that we do it, not in a vacuum, but with the utilities, the ESCOs and the customers, those potential and those current customers in both
the utility service and the ESCO service, so that we really make sure that we're not causing anything that is unnecessarily burdensome or onerous. And I know you share my sympathies with that.

So what I'd like also is to see that we keep sort of the goal really is -- is for ensuring proper competition, ensuring proper education to the customers, and allowing them the choice, and working through so that we get to a much better service and products that -- that can help all of us. And if there are things the -- the -- the next phase for value added services is really facilitating ESCOs' ability to provide these value added services, but it's really facilitating all sectors in their ability and what we can do, you know, as a -- as a Commission to help in that.

So if there are things that we, ourselves, are finding from, either continuing ongoing regulation, or this new -- this new process that is becoming onerous or is causing some issues, that we make sure that in that collaborative process that we revisit it and be open to making whatever changes are necessary to -- to ensure that what our goal is for competition is -- is -- is -- is done. Thanks.

CHAIR ZIBELMAN: Thank you.
Let me just, in avoidance of trying to repeat things, but provide sort of my -- my perspective and my support for the draft order. I think that one of the things of lessons learned that we've gotten from the wholesale power market is that information is the tool. And the reason why the wholesale markets have worked so well is because we've moved to locational marginal pricing and have price transparency that everybody in the market can see and then they can make their economic decisions based on the fact that everybody has the same level of knowledge.

The problem is as we, as Staff, perceived it and I think has grappled with in this order is that no retail market can work if customers are uninformed. And the major difference between large industrial and commercial customers and the mass market is the mass market just didn't have the tools to make informed decisions. And what we're trying to do is not become paternalistic or maternalistic about -- about retail customers, but to provide them the tools so that they can exercise their individual sagacity and make the decisions that are best for them.

The other piece is -- is that a
well-functioning retail market does allow people to respond to price. And the fact of the matter is if we have time-of-use pricing, but no tools available to consumers to manage their consumption, they'll get to see the price, but they won't be able to control their bills. And that's what this is all about, retail competition.

When we talk about value added services, ought to be putting consumers in the driver's seat so they can manage their electric bill and take the type of services, the type of value that they want to achieve in order to make the market truly dynamic.

And the issue that, as we saw it here, is one, is because the market was not really quite effective yet, because customers didn't have the information they needed and they didn't have the ability to make selections and they were encumbered sometimes by actions that -- particularly vulnerable customers, it put them in a bad position relative to making decisions. It is important that the government step in and provide those tools so we can get on the path.

But that is not to say that we don't believe that competition and innovation is
the right thing for the mass market, which is why I think it's just as important in this docket that, not only are we grappling with what do we need to do to make sure that customers can get as much information as necessary so they can make decisions, but really, what are the barriers so that we can create effective competition, but also innovation so that we could provide real value to customers.

And you know, for me, the real value will be that when all the customers get to make choices around, not just what commodity supplier, but how do they want to control the bills and what services are available to them so that in the end of the month or the end of the day, they're satisfied that they're just not a take of services, but they're actually engaged and able to manage their -- their energy services, both gas and -- heating and electric.

So I think that this docket is an important step forward in that direction. Clearly, it needs to be combined with -- and again, as Commissioner Burman has said, we need to avoid duplication of services. We're already looking at, in terms of the energy efficiency two docket, how
do we need to manage, how do we drive these
services forward, how do we inform customers
effectively.

We will also be looking at, as we
think about the utilities of the future, what do we
need to do on regulation, how do we make these
retail markets work. So part of, I think, the
challenge for all of us, as we think about this, is
how do we do this in an effective way with the --
with the recognition the ultimate goal here is not
necessarily the ESCOs. The ultimate goal here is
the consumer. We want to drive value to consumers.
We believe innovation and competition is the way
forward, but to make a competitive market work it
has to work for the consumer.

So with that, I think we're on
the right path. I clearly think there's work to be
done. I think Commissioner Brown is correct; we
need to think about the market, what's the right
size, what -- what kind of real value we have --
can bring and -- and what are -- and again, because
in the end we're talking about consumers and an
essential service, what protections need to remain
in place while this market continues to transition.

So, with that, I also endorse the
recommendations of Staff and would like to take a vote. So, all those in favor of the recommendations, say aye.

FROM THE COMMISSIONER: Aye.

CHAIR ZIBELMAN: And hearing none -- dissension, the recommendations are adopted.

Thank you, Mr. Sayre.

And we're going to take a ten-minute break.

(Off the record)

CHAIR ZIBELMAN: Okay. Our next item on the agenda is item 301, which is -- which reflects to case 12-T-0502, et al. And it's the examination of altering current -- alternative current transmission upgrades. And Administrative Law Judge Prestemon and Administrative Law Judge Phillips, who is presiding with -- with Judge Prestemon, are here to present the item and also answer any questions.

So, Judge Prestemon?

A.L.J. PRESTEMON: Thank you, Chair Zibelman and Commissioners. Good afternoon. It's lunchtime, so I will be brief.

The draft order you have before you is the product of a process that was initiated
by a notice issued by the secretary on January 17th. The notice announced the Commission's intention to review the process in this case in light of policy concerns about environmental and landowner impacts.

It should be noted that this draft order is somewhat different from those we normally present as judges in that it is not the result of a process initiated by the parties or advisory staff. Rather, the draft order reflects our efforts to express what we understand to be the conclusions you have reached as a result of the announced review.

The draft order makes four principal points. First, it reaffirms the Commission's original goal of relieving congestion by increasing the power transfer capability across the electrical interface between Upstate New York and Southeastern New York by at least one thousand megawatts.

Second, it invites the developers who have submitted Part A applications in this case to offer alternative proposals that would require no or minimal expansion of existing rights-of-way so that to the maximum extent
possible, projects can be contained within the bounds of existing rights-of-way.

Third, the draft order removes the requirement that was specified in your original September 2013 order that each project proposal submitted must, by itself, provide a minimum of one thousand megawatts in increased transfer capability. The purpose of this change is to allow for consideration of smaller projects that may efficiently and cost effectively contribute to meeting the overall goal of a one thousand megawatt increase in transfer capability.

Fourth, the draft order directs the presiding judges to work with the parties to establish a process for the receipt and consideration of these alternative proposals in a reasonably expeditious manner so as to not significantly impact the timetable for having these alternating current transmission upgrades in service.

The order concludes by expressing the Commission's intention to select the project or projects the best balance, the objectives of reducing congestion and minimizing costs and risk to ratepayers, and avoiding negative impacts on
That's my presentation.

CHAIR ZIBELMAN: Thank you, Judge Prestemon and thank you for your brevity, as well.

A.L.J. PRESTEMON: You're welcome. I'm hungry.

CHAIR ZIBELMAN: So first of all, I -- this process did initiate, actually, with my request that we take a look at this issue. And we have another item, item 369 in the consent agenda, in which we are -- which proposes that we -- that we commence a proceeding to take a look at how we can modify Article 7 to address the request by Governor Cuomo in his State of the State that we look for an expedited proceeding when, in fact, we're able to develop transmission within existing right-of-ways including state-owned right of ways.

The recognition there, and I think is very important, is that the state is in sorely need of developing transmission. We have under-utilized assets. We have congestion on the system that's costing consumers lots of money. And we need to do everything we can to make certain that we're maximizing the value of instate assets, including renewable assets, and that we're doing so...
in a way that's cost effective, and also thinking
and being considerate about land use, which is also
an extremely precious resource.

So the State of the State and --
and this related item really is addressing how do
we provide incentives for all developers, not just
incumbents, to think about how do we develop
transmission, including new technologies that allow
us to increase the transfer capability of the
system, to reduce congestion, and minimize the land
use effects, and provide that right incentive by
having an expedited process which is less costly
for everyone and ends up in less cost to consumers,
but takes advantage of competition.

While we recognized that while
this is a great value, we could not obviously
include that in the existing proceeding wherein
we're looking again, and I want to stress this, the
importance of developing transfer capability in
this case, one thousand megawatts south to north
and east to west, so that we can take value --
value out of existing resources in the state and as
well as elsewhere, but primarily looking at the
state resources.

What -- what we recognized is
that in looking at transmission, there's always a multitude of issues. One, of course, is the transmission capability, system capability to provide reliability which is foremost, as well as cost effective through congestion relief, and to do so, though, in a way that is also cost effective for consumers and is minimizing land use. And by that, in our case here, while we continue to look at and are focused on achieving we would like to get to that one thousand is that by coming up with a minimum threshold for each project to hit that one thousand, we might have unduly tied our own hands to look at alternatives that allow for maximum use of existing right-of-way, in other words can be built within existing right-of-way and give the capability of the parties, along with the judge, to think about how we can look at these on both an individual and a comprehensive scale to get that level of transfer capability, but do so in a way so it's an end solution that minimizes land impacts.

What we wanted to do then from -- what this order proposes is -- and what I endorse is we give all parties now an opportunity, because this, again -- we're pretty early on in this case.
We're talking about assets that are going to be around for sixty, seventy, eighty years. Let's take the time and make sure that the developers, who I believe will be able to do so in a way that's efficient and in the end will either keep us on track or maybe even faster, get this transmission built. Let's look at what we can do in existing right-of-way and make sure that we don't unduly constrain ourselves to not look at innovative solutions and make it open to all developers, again on a voluntary basis, to say well, with that in mind, I'll provide this alternative so that it could be considered as part of the record.

So that's the point of this proceeding and I think the major takeaways. One is we're not walking away from the desire to get transmission built. We do need it in the state. And secondly, we also need other sources -- resources. As -- as everyone, I think, should well know, I am absolutely committed to looking at demand, resources, efficiency, anything we can do to reduce congestion. But that doesn't necessarily mean there's a single resource. And transmission is -- is also quite important.

Secondarily, we want this done
efficiently. I am confident that the judges and
the parties are going to be able to say let's
interpose this alternative without delaying the
process.

And third is we want to make
certain that we truly have a record that looks at
what can we do using existing right-of-way, using
ingenuity, and -- and being basically free to think
about what's that individual or combination of
projects that allows us to meet all of our goals,
transmission capability, reliability, congestion
relief, cost effectiveness, and minimal land use.

So that's -- that's what this is
about. I appreciate that -- that any change brings
questions, which is why I'm certain that Judge
Prestemon and Judge Phillips are going to be able
to design a process that gets us there effectively
and gets us, really, the best record so we can make
the best decision for the state. So, thank you for
that. And I'm open to any other questions or
comments.

Commissioner Burman?

COMMISSIONER BURMAN: Thank you.

I do know it's lunchtime, but I'm not going to be
-- I'm sorry.
So I -- I first want to thank Chair Zibelman and Staff for being very kind during this process and listening to, you know, me and talking about what the goal was today and being clear, because I think that the -- the A.C. transmission proceeding is really a first of its kind. And it's required us to really think in a deliberative way with -- with every step of the way are we doing the right thing, what impact this is having, and what changes in the process we may need to make midstream, not wholesale changes, keeping with the overall goal.

And I looked back and I spent a considerable amount of time reviewing all of the different documents, not only comments from parties and the public, but also all of the documents that the Commission and the A.L.J.s have issued.

And what struck me is that especially -- this proceeding was started in 2012. And we then had a series of collaboratives and discussions and comments. And then in April of 2013, the Commission instituted an order sort of setting in motion. And then September 19th, 2013, we really then handed it over to the A.L.J.s to start the Part A application. And what struck me,
when I looked at the -- the orders, is that a lot of the wording has remained the same. And that, to me, is an indication that the path is still the same. And it follows really the leadership of Governor Cuomo in looking at what we can do as a state in upgrading our transmission system.

And -- and some of the -- the takeaway for me is this is an energy highway initiative of the Commission, trying to be focused on ensuring that New York's electric system is the best in the country and really will meet the demands for secure, cost effective, clean energy. And we have -- really following in the footsteps of the blueprint and the task force, we now have sort of one of the first proceedings to really address this.

With that, it is different from what we've normally done with Article 7 processes. Here, we're looking at a very competitive process. I know the question has been put do we really want a competitive process. And -- and I think, clearly, that we do. It is helpful to us to have all folks looking at this and from the get-go, not only in the energy highway blueprint, but in all of the documents we've talked about the need for folks
to weigh in and to work together. And I think that
that has been very helpful.

It's not an easy road to try to
build transmission for addressing different issues
and it takes time and it also takes us needing to
be open to making sure that all of the different
avenues to get to where we need to be are there.
And -- and I think that this really, today, is to
try, in my mind, to clarify that we are on that
same pathway and it's very important for us, as we
go through this Part A process, which will lead
into a Part B process, that we -- we listen to all
stakeholders and we give an opportunity for the
developers to let us know, you know, what they've
heard, what some of their takeaway is on their
current proposals, as well as if there are any --
and you know, some of the proposals laid out other
alternative proposals. And during some of the
stakeholder process that the A.L.J.s were engaged
in, they also heard that there might be some
alternatives.

Normally, when you deal with an
Article 7 process and you're looking at one
project, that negotiation and that discussion can
happen on an individual project basis so that any
modifications to the original project are made with
sort of a give and take and working to get to the
goal that's -- that's helpful for -- for all New
Yorkers. So when I look at this, I see, clearly,
that we're also trying to fit within that mold, but
we need to be flexible. We need to understand that
there are -- there are competitors in this process
and they need to know if they should continue. And
I think that it's really helpful to us to hear and
to really put a huge burden on the A.L.J.s because
what I really want to make clear is the job needs
to be done in a deliberative, but a fast-paced
process.

And so one of the things, looking
at the different things and -- and the A.L.J.s were
very kind to let me sit in on the first scoping
conference, which was helpful to me. But what I
realized is that there are still lingering issues
that are out there. And the A.L.J.s -- in I think
it was October 25th, 2013 you issued -- it's not a
trick question -- you issued -- you issued a ruling
that sort of tried to detail some of the scoping
that had happened at the first conference. And
also in that, and you know, I would really turn to
that document where it did talk in there about the
need to examine, possibly after the Part A applications and the I.S.O. study, looking at some early screening, looking at possibly some cost recovery or -- or -- and so those issues, I think, I was glad to see were in your lap and will continue to be something that we will need to look at.

I'm sure there are many other issues and I think I'd want to encourage the parties in -- and all the stakeholders in their deliberative process that is really on a fast track to lay out what issues may still be lingering and see what we may need to do in this process. I think it will be very helpful to us.

For me, the -- the transmission development is a huge priority. And getting there, we need to be transparent. We need to have certainty and we also need to have flexibility in our process. Economic development is something that we need to be ever mindful of and we need to address the customer and the community impacts and we need to look at the cost and who bears that cost.

And the Article 7 process, you know, I know there's a consent agenda item that
also talks about, more directly, future processes
with expedited rights-of-ways, but they all need to
be evaluated holistically. And we need to really
make sure that when we look at what we're doing
that we look at what is the overall goal, and how
are we going to get there, and what are some of the
pros and what are some of the cons, and really have
that open dialogue.

   So when I look to the item 369,
which is the -- the -- the future, I do think,
though, that we need to be mindful that it does
have an effect on or can have an effect on the A.C.
transmission process and things that don't fit
within just that expedited process, and look -- you
know, we have, right now, really no legislative
barrier to expediting transmission development.
The barriers are we need to address all of the
different impacts. And -- and frankly, in the --
in the order, which was the 2012 order, which I --
I was not at the Commission at that time, it
addressed the issues that really are sort of at the
crux of Article 7. And of course, I can't find it
right now, but that's just me. So I'll read the
next one.

   It says upgrading this section of
the state's transmission system has the potential
to bring a number of benefits to New York
ratepayers. These include the near term benefits
of enhanced system reliability, flexibility, and
efficiency, reduced environmental and health
impacts through reduced downstate emissions, and
increase diversity and supply, as well as long-term
benefits in terms of job growth, development of
efficient new generating resources at lower costs
in upstate areas, and mitigation of reliability
problems that may arise with expected generator
retirements.

And that was the theme
throughout. And so I think here we really need to
just make sure that the goal is the development of
New York's transmission system, which really can
make more effective use of statewide generating
resources, including renewable resources being
planned and developed throughout New York and, in
particular, the effect on upstate New York.

So I'm very encouraged that this
process today and this order will help the A.L.J.s
in their focused process that they're already doing
and make sure that we really drill down, invite all
stakeholders to be a part of the process and work
through a lot of the kinks with the end goal that it's helpful to making sure that we are benefiting all New Yorkers.

CHAIR ZIBELMAN: Thank you. Any further comments?

COMMISSIONER SAYRE: I have a brief comment.

CHAIR ZIBELMAN: Commissioner Sayre?

COMMISSIONER SAYRE: This item does two things that I'm very pleased about. Hopefully, without slowing the process down, at least not more than a little, it focuses more closely on the issues of minimizing the impact on communities of any new capacity that we decide is -- is necessary to serve the public interest. And secondly, it gives the judges more flexibility and also lets the parties understand more clearly that we may mix and match the pieces of the various proposals to get the best result. I'm, therefore, very pleased with this item.

CHAIR ZIBELMAN: Thank you. Any further questions? Thank you very much.

And -- and you know, this is our first foray into looking at a competitive process
for transmission. I think we all endorse the view that competition is healthy, it's good, it's to the benefit of consumers. And as we think through our processes, which were, after all, designed around incumbent utilities and how they need to be modified, it's a complex issue, but I do join Commissioner Burman in saying that, to the extent the judges do identify issues that they think would be helpful for earlier Commission action, we would fully expect they would bring them to our attention.

So, with that, let me take a vote on all this. All those in favor of the recommendations to invite developers who have applications pending to file an alternative with the A.L.J.s, as recommended in this order, notify by saying aye.

FROM THE COMMISSIONER: Aye.

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

We're going to move now to the consent agenda. And I -- I just -- there's one item on the consent agenda. It's our national -- we -- it's a single Commission order and we're
recommending confirmation of this order with respect to National Grid's request that there be a waiver of tariff rule forty-six point three point two with respect to it allowed them to modify prices -- electric prices that they were going to see in February on top of increases that consumers were experiencing, particularly in the Capital Region in January as a result of vast increases in natural gas prices.

And I'm going to vote to confirm that order, but I want to note that, clearly, our experiences this winter with respect to the -- the -- the storms and particularly with the polar -- I can't remember how it was -- polar vortex, our science fiction polar vortex, really was something to take note of. And we all recognize that with increase in demand, we're going to see increase in prices. But -- but we clearly saw increases well above that we had experienced historically.

And not only that, it's -- it's clearly strained the grid. We don't live in a vacuum. Not only were -- and although I, you know, congratulate all the operators because the New York grid worked extremely well, in fact was exporting during periods of time where it was cold here, to
support its neighbors, but -- but it affected not just our region, but the New England region, and all of the P.J.M. region, as well as the mid-west. And all of that creates strain both on electric supplies and gas supplies.

So it's extremely important to me that we understand the fundamentals of what happened with a full expectation that these type of weather conditions may not be isolated events and that we both examined in terms of the individual utilities, the procurement practices, how they worked, were they effective, should they be changed.

We also take a look at fuel practices at generating plants. We had problems with fuel access. We take a look at our gas infrastructure. Is it adequate? What do we need to be doing? And we also take a look at market behaviors, both alone and in conjunction with the New York I.S.O., to make certain that the markets were -- and market players were behaving as we would expect them to do in these circumstances.

I think that we need a fuller understanding of the fundamentals. We need to understand what happened on the system and what
could be changed. And we need to be thinking, going forward, what can be affected. I have asked Commissioner Brown, who's been involved extensively with the Department of Energy, looking at both electric and gas infrastructure adequacy, to take a lead on any of these issues with the Staff. Clearly, Commissioner Burman is very interested in -- in the gas pipeline issues. And Peter, I would ask that you work with Staff and get back to us with a full report and some directions of actions to be taken as soon as possible, but certainly in sufficient time that we could start taking whatever actions we need to by the summer.

So, with that, I have no further comment on the consent agenda. But I do want to note that we all, I know, in talking to individual commissioners, everyone is aware and alert and concerned about these issues and it's important that we tackle them head on.

But any other comments on the consent agenda?

Hearing none, let me take a vote to move on the consent agenda. All those in favor say aye.

FROM THE COMMISSIONER: Aye.
CHAIR ZIBELMAN: Hearing no opposition, the consent agenda is approved.

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

MS. BURGESS: There are no other items today and the next Commission session is on March 13th. At that time, the Commission will be taking up primarily water, telephone, and cable matters.

CHAIR ZIBELMAN: Thank you very much. And we stand adjourned. Thank you all for your resiliency in sticking with us.

(The meeting adjourned at 12:45 p.m.)
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 95, is a true record of all proceedings had at the session.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 26th day of February, 2014.

Kirsten Lemire, Reporter