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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

BIMONTHLY MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, May 8, 2014
10:34 a.m.
19th Floor Board Room
Three Empire State Plaza
Albany, New York 12223-1350

COMISSIONERS:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Garry A. Brown
Diane X. Burman

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(The proceeding commenced at 10:34

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a.m.)

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CHAIR ZIBELMAN: I'd like to call

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the session of the Public Service Commission to

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order. Can you guys hear me?

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SECRETARY BURGESS: Yes.

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CHAIR ZIBELMAN: Secretary Burgess,

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is there any changes to the agenda?

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SECRETARY BURGESS: Good morning.

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There is one addition to the agenda today. Case

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13-W-0246, the interlocutory appeal filed by the town

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of Ramapo, and the United Water and New York case

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long-term water supply, surcharge case has been added

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to the agenda, and it's numbered 462.

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CHAIR ZIBELMAN: Okay. Thank you.

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Typically, we -- we deal with the

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regular items, and then move on to the consent

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agenda. I'd like today just to reverse the order,

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and move into the consent agenda. With respect to

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that, I just want to note that we do have one item,

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and it's item number 361, which is the petition of

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C.P.V. Valley, and it's to get a C -- a C.P.M., is

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that correct, counsel?

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MS. HARRIMAN: C.P.C.N.

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CHAIR ZIBELMAN: C.P.C.N., and it's under Section 68 of the Public Service Law. I wanted to be really clear about this because I know that there are a number of comments that we received on this request concerning environmental concerns, and land-use concerns.

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And I've -- and there's a -- I want to make sure there's no confusion that Section 68, which is what we're reviewing the C.P.C.N. under is not a siting statute. And rather the decision as to whether or not to site the power plant actually resides with the planning board of the town of Wawayanda -- wait, who had -- and that town has already given its approval.

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Rather our task under 68 is very limited, and it's only to consider whether C.P.V., Valley L.L.C. should be allowed to act in the wholesale electric market as a New York and Electric Corporation.

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And what we're really considering is whether the charter of the corporation is adequate, and whether the company has received the required consents of the proper municipal authorities. The question is really not, whether or

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2 not a plant is needed. It's really only whether
3 another electric corporation is needed, and because
4 we're working in a deregulated market, and -- and
5 therefore in this case, it's not ratepayers who will
6 be paying this, but it's actually the company's
7 shareholders at risk. It's a very limited purview,
8 and our typical process is to say, so long as they
9 required -- achieved the required permits, that we
10 would allow for another electric corporation because
11 we do favor competition in the markets because
12 additional competition is in the best interest of
13 consumers.

14 So to the extent therefore that we
15 have comments regarding environmental concerns, land
16 use concerns, it's really outside the purview of this
17 particular proceeding.

18 I wanted to make sure that that was
19 clear to the public and why, and -- and that our
20 focus is extraordinarily limited in this situation.
21 So that's -- that's one.

22 We have another matter, and this is
23 the Horseheads' matter. I think its 169.

24 SECRETARY BURGESS: Uh-huh.

25 CHAIR ZIBELMAN: And just on that,

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2 in that particular case there's a request on the part
3 of the -- of the utilities who we've asked to do a --
4 a very comprehensive risk-analysis concerning gas
5 pipes, and our concerns about the safety of these
6 pipes; is that we recognize that the risk analysis
7 that we've asked the companies -- I recognize that
8 the risk analysis we've asked the companies to do
9 is -- is this really extensive?

10 And we want to make sure it's done
11 right. So the fact that they've asked for an
12 additional six months, while -- while we want this
13 done -- an additional year, we want this done as
14 quickly as possible. And I -- and I think the
15 recommendation, which I support, is to give the
16 companies another six months.

17 At the same time, however, that
18 proceeding is we're also looking at gas safety issues
19 relative to making certain that's there education of
20 the public. And I want to make sure that, you know,
21 we're -- we're proceeding with that aspect of our
22 inquiry with all due diligence. And also to make it
23 clear to the parties and staff it is our expectation
24 that the scope of that inquiry, in terms of what can
25 we do to make certain that the public is aware of

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2 gas-safety issues, and reports them. It's not --
3 should not be considered constrained by any
4 limitation that this is just about education or
5 notifying the people of odor. But other issues, such
6 as, the availability of technology that would improve
7 safety. And even additional information, such as,
8 location if it's appropriate.

9 I would expect that the -- that the
10 utilities and the staff, and others involved in this
11 proceeding make sure they take an expanded review,
12 and that we come out of that inquiry with as a good
13 of a process as we can, with as good a decision as we
14 can as to what needs to be done to ensure that the
15 public is informed, and can inform us if they smell
16 gas. Or, if there's other technology available that
17 we're looking for ways to start to implement that.

18 So Kevin, I see you in the back,
19 and I just want to be clear that there's no --
20 there's no handcuffs on this. We want a full
21 inquiry, and we want to make sure all the issues are
22 explored.

23 At least I do, and I assumed you
24 understood that.

25 MR. SPEICHER: I do understand, and

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2 I am meeting with N.G.A., Northeast Gas Association,
3 this afternoon and I'll make sure that we all
4 understand it.

5 CHAIR ZIBELMAN: Okay. I -- I have
6 no other further comments on that, or either -- any
7 other item. But I just wanted to note that.

8 MS. BURMAN: I just want to echo,
9 and also thank you for your leadership on the
10 gas-safety issue, and also the hard work that staff
11 has been doing.

12 And, I know that they really
13 appreciate just how much you have been involved on
14 this issue. So thank you very much.

15 CHAIR ZIBELMAN: Unnecessary. I
16 think the hard work is staff. But thank you.

17 So with that, I have no further
18 comments. Any other comments on the consent agenda
19 by any commissioners? Okay. Do any of the
20 commissioners wish to recuse or abstain from the
21 consent agenda? Hearing none, all those in favor of
22 the recommendations on the consent agenda, please
23 indicate by saying, aye.

24 COMMISSIONER BURMAN: Aye.

25 COMMISSIONER SAYRE: Aye.

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COMMISSIONER ACAMPORA: Aye.

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COMMISSIONER BROWN: Aye.

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CHAIR ZIBELMAN: Aye. Opposed?

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Hearing no opposition, the recommendations are

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adopted.

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So now, we'll move on to the

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regular agenda, and thank you for allowing me to take

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this out of order.

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The first item for discussion is

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item 101, which is the National Fuel Gas Distribution

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Corporation rate proceeding. And I believe

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Administrative Law Judges Prestemon and Casutto will

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be presenting this? Okay.

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Who's beginning?

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A.L.J. PRESTEMON: Oh, I'll be

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speaking.

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CHAIR ZIBELMAN: Thank you.

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A.L.J. PRESTEMON: Thank you. Good

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morning, Chair Zibelman --

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CHAIR ZIBELMAN: Good morning.

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A.L.J. PRESTEMON: --

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commissioners.

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The draft order you have before you

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in this case would bring to a conclusion the

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2 examination of the rates of National Fuel Gas
3 Distribution Corporation that was begun by order of
4 the Commission back in April of 2013, after a staff
5 analysis of National Fuel's recent earnings.

6 It would do so by approving the
7 terms of a joint proposal that was submitted to the
8 Commission, was signed and supported by the company,
9 by department staff, by multiple interveners, the
10 utility intervention unit of the Department of State,
11 and People United for Sustainable Housing, PUSH,
12 Buffalo.

13 Under the terms of the joint
14 proposal, the rates of National Fuel would be frozen
15 at their current levels. Those rates have been in
16 effect since January 1st, 2008. They would be
17 refrozen through September 30th, 2015, meaning by the
18 end of this rate plan, the ratepayers in National
19 Fuel service territory would've enjoyed rather
20 remarkable nearly eight years of stable rates, which
21 means of course, that in real terms the cost of gas
22 service in National Fuel Service territory, has been
23 and will continue to be steadily declining.

24 Combined with lower national -- the
25 natural gas commodity prices, this means that natural

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2 gas heating in western New York has actually gotten
3 substantially more affordable over the last few
4 years.

5 Other important terms of the -- of
6 the joint proposal include provision for 5.5 million
7 dollars in direct refunds to customers. A one-time
8 credit that would be issued to customers upon
9 approval of the order.

10 There's also a significant increase
11 in funding for programs aimed at providing assistance
12 to low-income customers, including 1.75 million
13 dollars in additional funding for a home
14 weatherization program administered by NYSERDA, 250
15 thousand dollars for a furnace replacement program,
16 and the creation of a twelve dollar and fifty cent
17 monthly bill credit for all eighty thousand of
18 National Fuel's home-energy assistance program
19 benefit recipients that would be provided during the
20 winter heating months.

21 In addition, the -- the -- the
22 agreement would provide for increased rate allowances
23 for site investigation and remediation, and for
24 pension, and other post-employment benefits expenses
25 that would -- will go towards the reduction of

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2 accumulated deferrals, that might otherwise have
3 required rate increases in the future. They will
4 substantially reduce those deferrals.

5 In addition, the provisions of the
6 agreement tighten the safety standards applicable to
7 National Fuel, and increase the potential negative --
8 negative earnings adjustments applicable to failure
9 to meet those standards.

10 And it also, provides 8.2 million
11 dollars in additional funding for important safety
12 related replacement of leak prone pipe.

13 And finally, the -- it would
14 provide 1 million dollars in stable annual funding
15 for the area development program, which provides for
16 economic development projects -- gas-related economic
17 development projects within National Fuel Service
18 territory. This agreement was some five months in
19 the making. Five months of negotiations among these
20 parties, and the amount of time is not at all
21 surprising because they had a very difficult task.

22 Not only were they in effect doing
23 a complete rate case for future rates, but as you
24 recall in the -- in the order initiating this
25 proceeding, the Commission told the parties to take

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2 into account the possible applicability of Public
3 Service Law 66 -- Section 6620, which provides for
4 the possibility of recovery of over earnings from
5 past periods.

6 And also, in June of last year the
7 Commission made National Fuel's current rates
8 temporary, subject to refund. So, the parties not
9 only had to do a rate case, but they had to consider
10 what -- how to treat past and continuing over
11 earnings, and they did so quite well I believe.

12 They addressed the -- the past over
13 earnings issues, and the temporary rates issues by
14 agreeing upon a 7.5 million dollar credit that would
15 be created upon approval of the -- of this agreement
16 for the benefit of ratepayers, and would be used
17 to -- to fund the benefits I described before, the
18 5.5 million dollars in refunds, and the programs for
19 low-income customers.

20 As to the future rates -- current
21 that would apply, they began with the premise that
22 rates would be frozen as I mentioned. They then
23 developed, based on an analysis -- a rate case type
24 analysis performed by staff, they developed a revenue
25 requirement for National Fuel.

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2 Then comparing the revenue
3 requirement calculated or -- and agreed upon to the
4 revenues that would be generated by the frozen rates,
5 they found that National Fuel would continue to have
6 some substantial excess earnings. They then agreed
7 to apply those excess earnings to repurpose them for
8 ratepayers -- for the benefit of ratepayers. They
9 calculate -- oh by the -- I should've mentioned, they
10 calculated the revenue requirement based on a 9.1
11 percent R.O.E., and a 48 percent equity ratio, both
12 of which are consistent with what the Commission has
13 approved in other recent cases.

14 And as I said, the -- the excess
15 earnings revealed by this analysis were then applied
16 to increase the rate allowances for, as I mentioned,
17 pensions and other post-employment benefits, and
18 S.I.R. expenses in order to decrease deferrals.

19 And after that, there was still 1
20 million dollars in -- in calculated excess earnings,
21 which National Fuel agreed to credit immediately upon
22 approval of the agreement to ratepayers as a -- as an
23 offset against deferrals for which ratepayers would
24 otherwise be responsible.

25 So the potential for future excess

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2 earnings was also addressed by the parties. They
3 established an earnings-sharing mechanism, very much
4 consistent with others that have been adopted in
5 multi-year rate plans. The earnings sharing
6 agreement would -- has -- actually has a very small
7 dead band during which there'll be no sharing above
8 the 9.1 percent R.O.E. that would be authorized,
9 there would be a dead band of forty basis points. At
10 9.5 percent, fifty/fifty sharing with customers would
11 begin. At 10.5 percent, the sharing would go to
12 eighty percent customers, twenty percent company.

13 The customer share of -- of the
14 excess earnings would be applied to further reduce
15 the deferrals. So there are substantial provisions
16 here to keep deferrals under control.

17 Some other notable features of the
18 agreement include a requirement that National Fuel
19 develop a pilot gas expansion program to extend
20 service to customers no longer getting it. This is a
21 very important provision for low-income customers
22 because many of them live in older housing stock, and
23 have oil, or propane, or other relatively high cost
24 fuels now in comparison with what have become quite
25 affordable costs for national gas.

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The agreement also calls for a collaborative to consider the expansion of the public assistance cooperative energy program in -- in National Fuel's service territory. Which is a program that aggregates low-income customers, HEAP recipients, to allow them -- to allow gas to be purchased by bid from a -- an outside supplier.

According to U.I.U., this has consistently provided five percent in savings for participants. And the idea here is to expand it. Right now, it's only available to public assistance customers. The idea is to expand it possibly to HEAP customers, as well in the service territory.

Again, as I mentioned the gas-safety standards are significantly tightened. And the service quality performance mechanism that has been in place is continued.

As you know, the parties to this agreement represent the full spectrum of National Fuel customers: Residential, commercial, industrial, and low-income. Their positions in our cases are often, if not always adverse. And they were so -- so at the beginning of this case, as well.

The fact that they have now come

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2 together and produced what I consider, and I believe
3 the rest of the advisory staff agrees with me, is a
4 very fair equitable, and even innovative agreement
5 makes it, I believe, well worth -- worthy of your
6 approval.

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And that ends my comments. If you

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have any questions?

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CHAIR ZIBELMAN: That was very
eloquent. Thank you.

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A.L.J. PRESTEMON: You never know.

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CHAIR ZIBELMAN: Any further
comments from the staff on this?

Well, first of all, so thank you
very much. And I -- I would agree that, you know,
first of all I want to congratulate the staff. I
know this started as an investigation that we
invest -- that we initiated in order to look at a
potential over-earning situation. There we go.

And then, you know, so -- so I
applaud the staff both and the Commission for its --
the initiation. But clearly, you know, from the
standpoint of fact that this involves a very
comprehensive settlement of both -- of staff and the
company, the PUSH organization, the multiple

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2 interveners, and U.I.U., it -- it really shows
3 that -- that I'm -- the effects of what happens when
4 parties get together. I'm sure there was a lot of
5 give and take, and moments when everyone thought, it
6 would collapse.

7

8 But, it appears that the
9 willingness of folks to innovate, to be creative, to
10 compromise has resulted in a product that -- that is
11 fabulous for customers. Like the ability to have
12 fixed rates for an extended period, the credits, the
13 additional work on low-income, which I think is very
14 important, particularly in this area of the state.

15

16 And, then, ultimately, the also
17 looking at the safety improvements and economic
18 development comprehensively do what we would like it
19 to do, is maintain gas affordability, allow for gas
20 expansion. And at the same time, maintain a
21 significant focus on gas safety.

22

23 All -- all very critical elements,
24 I think, of what we want to do with gas industry in
25 New York.

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27 So I applaud the parties, I'm
28 appreciative of the fact that settlements are never
29 easy. They're sometimes much harder than litigation.

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And also, again, thanks to staff for their great work for keep -- continuing to guide folks along. So I also would note my intention to approve this.

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Any further questions? Comments? Commissioner Sayre?

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COMMISSIONER SAYRE: In my view, this is a better deal for western New York than we would've achieved in a fully-litigated rate case.

It has new programs, benefits for consumers, and sharing mechanisms that are not typically results in a case where everything is contested. I support the proposal, and I echo the Chair's commendation to staff, the parties, and the Administrative Law Judges for achieving this result.

CHAIR ZIBELMAN: I didn't note them. But I agree.

Commissioner Burman?

COMMISSIONER BURMAN: It's clear that the company cares about their community, so kudos. Thank you.

CHAIR ZIBELMAN: Commissioner --

COMMISSIONER BROWN: Yes. I

just --

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CHAIR ZIBELMAN: -- Brown?

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COMMISSIONER BROWN: -- again, I

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play historian over in the corner.

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CHAIR ZIBELMAN: I know. The old

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man in the corner.

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COMMISSIONER BROWN: You know,

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sadly.

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This was a company that through

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their own initiatives managed to reduce some of their

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internal costs, and got themselves in a position of

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some excess earnings.

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And this was never designed to, in

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any way, punish a company for a good performance.

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CHAIR ZIBELMAN: That's right.

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COMMISSIONER BROWN: And in fact,

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they got to take advantage of that good performance

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for a number of years. And this proceeding kind of

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puts that all behind us. They did -- they were the

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last company, I believe -- Doris, help me if I'm

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wrong, with a revenue-sharing, risk mechanism that

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we -- it wasn't in their last case, which meant that

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all excess earnings was maintained by the company.

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Now, I think we have a wonderful balance in place.

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I am thrilled that they managed

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2 with PUSH to come together, and figure out a way to
3 help the low-income communities to their
4 satisfaction. Never enough for, you know, things
5 like that. But to bring them on board, I think is a
6 major -- a major victory.

7

8 So I just want to thank the
9 company, the staff, PUSH, and all of the people that
10 were involved in getting this to this place. Because
11 this provides some stability for yet a few more
12 years. It includes a sharing mechanism so if we get
13 into a different circumstance, the perimeters were
14 already laid out.

14

15 And so thanks to everyone for
16 getting us to this place, and I think it's a victory
17 for everyone.

17

CHAIR ZIBELMAN: Thank you.

18

Commissioner Acampora?

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COMMISSIONER ACAMPORA: I'll just
20 chime in. I think that, also, I agree with my fellow
21 Commissioners.

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23 Usually, the parties that we're
24 talking about today, most of the time, were very
25 adversarial towards each other. And it just goes to
show when you focus in on doing the right thing, how

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2 people can come together, and get a good quality
3 product for the benefit of everyone. I really
4 address the part of the low-income programs. I think
5 they're -- it took a lot of leadership to get this
6 done. And I think that these programs will stand the
7 course, and help a lot of people in an area of our
8 state that sometimes struggles a bit.

9 This is really good for all
10 consumers; low-income consumers, our residential
11 consumers, and commercial, and industrial consumers.

12 So Dave, as the Chair said, you
13 were quite eloquent today. You must be on your
14 medication. And I know you've been away for so long,
15 I always look forward to when you give a presentation
16 because you always do an excellent job.

17 So congratulations to all the
18 parties involved, and many thanks to the staff for
19 sticking in there, and making sure that this was
20 really done right.

21 It's something to be proud of.

22 CHAIR ZIBELMAN: Thank you. Well,
23 then let's take a vote on this item. And all those
24 in favor of the recommendation to approve the terms
25 of the joint proposal establishing the two-year rate

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2 plan for National Fuel Gas Distribution Corporation,
3 please indicate by saying, aye.

4

COMMISSIONERS: Aye.

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6 CHAIR ZIBELMAN: Opposed? Hear
7 being -- there being no opposition, the
8 recommendation is approved.

8

9 And again, thank you very much for
10 everyone who contributed to this result.

10

11 Our second item for discussion is
12 item 201 A, and 201 B. This is a proceeding to
13 consider a clean-energy fund. And Colleen Gerwitz
14 who is the Director of Office of Energy Efficiency
15 and the Environment will be presenting this correct
16 Colleen?

16

MS. GERWITZ: Yes.

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18 CHAIR ZIBELMAN: Very good. Please
19 proceed. Thank you.

19

20 MS. GERWITZ: Good morning, Chair
21 Zibelman and Commissioners. Today, here I have
22 two -- oops. Now, can you hear me?

22

23 UNIDENTIFIED MALE SPEAKER: Get a
24 little closer if you can.

24

25 MS. GERWITZ: Now? Can you hear
me? Is the mic working now? All right. So there's

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2 two clean energy fund related items before you today.

3

4 One's a resolution authorizing the
5 preparation of a generic environmental impact
6 statement to assess the potential environmental
7 impacts associated with the development of a
8 clean-energy fund. The second is a draft order
9 commencing a proceeding to consider the development
10 of a clean-energy fund.

11

12 The draft, clean-energy fund order
13 that is before you builds off from the December 2013
14 EAPS order, and their recent April 25th reforming
15 energy vision order, that together began the process
16 of transitioning the state's clean-energy efforts to
17 a more modern regulatory framework.

18

19 The draft order recognizes that the
20 role of Commission authorized clean-energy programs
21 will undergo significant changes in support of more
22 market-driven solutions, such as, the New York SUN
23 and Green Bank initiatives, and REV.

24

25 The intent of a clean-energy
26 fund -- of the clean-energy fund is to ensure
27 continuity of the state's clean-energy programs
28 during this transition, and to provide the
29 flexibility that will be needed to adjust allocations

1
2 of funds among clean energy initiatives in response
3 to evolving market conditions.

4 The draft order proposes that this
5 flexibility be bounded by a discipline of a
6 transparent upper limit on ratepayer contributions.

7 That is an annual funding cap, as
8 well as, directional goals and objectives applicable
9 to the fund. Using ratepayer funds to support the
10 growth of robust markets in combination with the
11 regulatory reforms being considered in the REV
12 proceeding will lead to a more efficient use of
13 ratepayer funds, and a decreased need for ratepayer
14 surcharges to support these programs.

15 So, the order proposes, not only a
16 cap, but a cap that decreases over time. The draft
17 order recognizes that under REV, the utilities will
18 develop plans as part of their system planning, and
19 operation function to increasingly integrate
20 distributed energy resources into their systems.

21 The utility's current surcharge
22 funded EAPS programs will evolve to become a
23 component of these utility plans. As part of these
24 plans, future utility efficiency efforts will be
25 treated like any other part of the utility's revenue

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2 requirement, rather than being funded through a
3 dedicated surcharge.

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5 NYSERDA's efforts will also need to
6 evolve, and should focus on market and transformative
7 strategies that are designed to provide temporary
8 intervention, and support to overcome specific
9 barriers, and provide self-sustaining results.

9

10 NYSERDA's efforts should also
11 ensure continued support for low-income customers who
12 are less able to obtain market-based services.

12

13 In this context, the draft order
14 directs NYSERDA, in consultation with staff, to
15 develop a comprehensive clean-energy fund proposal by
16 August 13th of 2014 for Commission consideration and
17 stakeholder comment.

17

18 The draft order requires the
19 proposal to recommend annual ratepayer collection
20 levels that would serve as fixed annual caps for each
21 year between 2016 and 2020.

21

22 The recommended collection levels
23 are to be below the total R.P.S. EAPS and S.B.C. 2015
24 collection levels, and should decline in reflection
25 of the full capitalization of the Green Bank, and the
26 expected transition of the utility EAPS programs to

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2 the -- to the REV plans.

3

4 The proposal should identify
5 directional goals and objectives for the clean-energy
6 fund that align with -- align with and support state
7 energy-plan policies, and should address the issue of
8 fuel neutrality as appropriate. The proposal should
9 also address the possibility of transition --
10 transitioning to a bill-as-you-go model where
11 collections supporting NYSERDA programs are retained
12 in utility accounts, and transferred to NYSERDA as
13 needed in accordance with expenditures.

14

15 The draft order also directs
16 NYSERDA in consultation with staff to develop, and
17 submit a plan, and schedule within thirty days for
18 obtaining broad stakeholder input during the
19 development of this clean-energy fund proposal.

20

21 The draft order also redirects and
22 clarifies some items from the December 2013 EAPS
23 order.

24

25 As the scope of the REV proceeding
has come into sharper focus, it is clear that some of
the activities that were assigned to the E-squared
working group in the December order are more
appropriately considered in the context of this

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2 proceeding and the REV proceeding.

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4 So the draft order provides
5 clarification regarding the appropriate home for the
6 various activities, and eliminates the requirement
7 for a June 1 action plan associated with those
8 activities.

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9 Similarly, the order -- draft order
10 clarifies that the funds were authorized -- that were
11 authorized to support these activities may continue
12 to be used to support these activities and others
13 that staff deems appropriate, to align the clean
14 energy programs with the REV regulatory framework,
15 including the SEQR compliance for both the
16 clean-energy fund, and the REV proceeding.

16

17 That concludes my presentation. I,
18 Tony Belsito and Deb Labelle are available to respond
19 to any questions.

19

20 CHAIR ZIBELMAN: Great. Let me
21 being and see if there are any questions for the
22 staff.

22

23 Commissioner Burman?

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24 COMMISSIONER BURMAN: Thank you. I
25 have a number of questions. And I'm not sure if
26 you're going to have all the answers to them. So if

1

2 you don't, it's okay if you say you don't know the
3 answers, or have them at this moment.

4

I guess the first threshold
5 question is, we're commencing -- we're being asked to
6 commence a proceeding today. Is there anything else
7 other than commencing a proceeding that we're being
8 asked to do today substantively? Legally?

9

MS. HARRIMAN: I'm -- I'm going to
10 answer that question, Commissioner. One of -- two
11 things you're asked to do today in addition to
12 commencement of the proceeding. And that is a
13 clarification as to the requirements to file the
14 action plan on June 1, as my colleague indicated.

15

The second, is clarification of a
16 previous order that authorized certain funds for
17 NYSERDA to utilize in conducting the environmental
18 assessments that are necessary in relation to both
19 REV, and to the clean-energy fund. So I want to be
20 clear on that.

21

COMMISSIONER BURMAN: Okay. And
22 the clarification is to the filing the action plan is
23 really clarifying that we're saying, we're no longer
24 going to require the action plan. Is that correct?

25

So it's clarifying that we're

1

2 saying, we're no longer requiring the action plan to
3 be filed?

4 MS. HARRIMAN: You're not requiring
5 the action plan to be filed on June 1 because as
6 Colleen indicated the activities contemplated in the
7 working group, which would then produce that plan are
8 being subsumed into the -- both the clean-energy
9 proceeding which you would commence today by your
10 vote, as well as, the REV proceeding, which was
11 commenced at the April session.

12 COMMISSIONER BURMAN: Okay. So the
13 clarification is really changing the requirement?

14 MS. HARRIMAN: Yes.

15 COMMISSIONER BURMAN: Okay. And
16 the clarification to that also ties into the
17 authorization or the direction of the 5 million
18 dollars that we had tied to the E Two working group,
19 am I correct?

20 MS. HARRIMAN: Correct.

21 COMMISSIONER BURMAN: Okay. So
22 what's the 5 million dollars now tied to? The 5
23 million dollars, which I think is the ratepayer
24 funds?

25 MS. HARRIMAN: Right.

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2

COMMISSIONER BURMAN: Am I correct?

3

4

MS. HARRIMAN: Colleen, you might want to answer that.

5

6

COMMISSIONER BURMAN: I just want to make sure, because I'm very -- just so you know.

7

My sort of focus, and I know all of the commissioners

8

are focused on the -- you know, our obligation to --

9

the responsibility we have for a ratepayer funds.

10

So I just want to be clear when we

11

are authorizing anything to do with ratepayer funds

12

that I understand what we're doing with ratepayer

13

funds.

14

So I just am making sure that I

15

understand that.

16

MS. GERWITZ: Then it was an up to

17

amount, first of all --

18

COMMISSIONER BURMAN: Uh-huh.

19

MS. GERWITZ: -- to be available --

20

COMMISSIONER BURMAN: Thank you.

21

MS. GERWITZ: -- to support various

22

activities to advance these programs. Okay?

23

COMMISSIONER BURMAN: Uh-huh.

24

MS. GERWITZ: Currently, like I

25

said, it'll be used to support the -- the SEQR

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2 assessment --

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COMMISSIONER BURMAN: Right.

4

MS. GERWITZ: -- for both of these

5

initiatives. So that's one definitive task.

6

The other one that we're planning

7

on doing, you know, that's in the works right now is

8

continue to work on a technical resource manual that

9

we've got in place. We continue to work on

10

developments in that that we believe will continue to

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have value for the current programs, as well as,

12

future programs.

13

And as we identify other potential

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tasks like -- I could give you other examples, you

15

know, of other things that may become clear that will

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continue to provide value into the future, as well

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as, now. The staff will bring those recommendations,

18

you know, and we, you know, if there needs to be a

19

mechanism to bring that to you for approval, we can

20

do that.

21

But the point is that we needed to

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have the flexibility to be able to get to providing

23

these additional resources to make these tasks

24

happen -- some of these activities.

25

COMMISSIONER BURMAN: Okay. Thank

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2 you. So now, when we're looking at this, we're
3 looking at now authorizing NYSERDA to work with staff
4 to come back in August of 2014 to submit a proposal
5 for a comprehensive clean-energy fund, is that
6 correct?

7

MS. GERWITZ: Correct.

8

COMMISSIONER BURMAN: So this
9 proposal for this comprehensive clean-energy fund
10 will be going forward for 2016 through 2020?

11

MS. GERWITZ: The proposal that's
12 one that would -- it's a design of a programs from
13 the funding levels to support the programs for that
14 period-of-time, yes.

15

COMMISSIONER BURMAN: Okay. So
16 the -- let me make sure I understand this then.

17

So that comprehensive clean-energy
18 fund would be comprehensive of what? Would that be
19 R.P.S.?

20

MS. GERWITZ: The point is, yes, it
21 would the proposal is to consider the full suite of
22 clean energy programs.

23

COMMISSIONER BURMAN: Okay. And
24 would that full suite -- and let me just say it, it
25 would be R.P.S.? Would that --?

1

2

MS. GERWITZ: R.P.S.?

3

COMMISSIONER BURMAN: EAPS --

4

MS. GERWITZ: EAPS and S.P.C. --

5

COMMISSIONER BURMAN: -- and

6

S.P.C.?

7

MS. GERWITZ: -- technology and

8

market development.

9

COMMISSIONER BURMAN: And Green

10

Bank?

11

MS. GERWITZ: And Green Bank, and

12

New York SUN.

13

COMMISSIONER BURMAN: And REGGI?

14

MS. GERWITZ: REGGI's not under

15

this.

16

COMMISSIONER BURMAN: Okay. But

17

would they also be -- would REGGI be separate? So it

18

would be comprehensive, but not include REGGI, but

19

REGGI could also be utilized by NYSERDA?

20

MS. GERWITZ: Uh-huh.

21

COMMISSIONER BURMAN: Okay. So

22

Green Bank we authorized 700 million?

23

MS. GERWITZ: Right.

24

COMMISSIONER BURMAN: So

25

technically, under this comprehensive clean-energy

1

2 fund by authorizing it then they could then utilize
3 part of that clean-energy fund, and they wouldn't
4 have to come back to us for the remainder of the
5 billion dollars that have been talked about?

6 MS. GERWITZ: The proposal -- the
7 clean-energy fund proposal will consider all of
8 those -- that full suite of activities, including
9 Green Bank. And the funding that they need in each
10 of those years to support that suite of activities.

11 So the idea would be that they
12 would lay that out.

13 COMMISSIONER BURMAN: Okay.

14 MS. GERWITZ: What that -- what --
15 what the planned allocation would be. They'd still
16 have to come in with a petition to seek that
17 additional approval for that extension of that
18 program, and approval of that funding for that
19 particular purpose.

20 So this sets up the broad
21 parameters, and then there'll be under -- for each --
22 each of the activities, you'd have to approve it
23 again.

24 CHAIR ZIBELMAN: So may I --

25 MS. HARRIMAN: I just want to make

1

2 a --

3 CHAIR ZIBELMAN: -- go ahead.

4 MS. HARRIMAN: -- clarification

5 here. The Green Bank is on the separate proceeding
6 track, and it has a distinction in activity. It's --
7 it's a financing vehicle. So I just -- I just want
8 to be clear as the clean-energy fund is a -- the
9 proceeding initiates an examination as to how you
10 could combine EAPS, R.P.S., and S.B.C. into one pot
11 of funding. And the appropriate levels of that
12 funding through 2016 to 2020 reflective of the
13 activities that are going on in the market place
14 driven by Green Bank, and those driven through the
15 REV proceeding to rate cases and other market
16 development.

17 So, I don't want to muddy the
18 waters here because Green Bank has its proceeding,
19 and it has its distinguished responsibility, and that
20 more work may be necessary on Green Bank.

21 But clean-energy fund is
22 complimentary and reflective of the work going on in
23 the Green Bank.

24 CHAIR ZIBELMAN: But if -- yes.

25 COMMISSIONER BURMAN: I totally

1
2 agree with you about not muddying the waters. That's
3 why I'm being very careful, both legally and also as
4 regulators. Because if we're talking about a
5 comprehensive clean-energy fund, and we're talking
6 about the fact that we're going to take all of the
7 comprehensive funds, and put it into a clean-energy
8 fund, I want to be careful with the ratepayer funds,
9 and make sure especially because we're giving
10 ratepayer funds to NYSERDA, which is the appropriate
11 entity. And when -- and when we're looking at that,
12 I want to make sure that when we do that that I
13 understand what pots of funding that we're giving
14 them.

15 So if the clean-energy fund is
16 truly comprehensive, or if we're limiting it, and
17 saying it doesn't include the Green Bank because the
18 Green Bank is right now what with a 700 million
19 dollars was part of R.P.S., part of EAPS, part of
20 S.B.C. unencumbered funds, and part of REGGI. So we
21 really need to make sure that we carefully articulate
22 what the ratepayer funds are, and where they're
23 coming from. So I just --

24 CHAIR ZIBELMAN: If --.

25 COMMISSIONER BURMAN: -- want to

1
2 make clear when I'm looking at this, and when NYSERDA
3 is coming back with their proposal, that it's very,
4 very clear because it is very confusing. And it
5 needs to be clear because if I don't understand it,
6 I'm very concerned because then the ratepayers who
7 are the ones who have to pay it, and it's their --
8 it's we're collecting from the ratepayers. We have
9 to be careful. So that's why I'm trying to
10 understand what the collections are, and what the
11 funding sources are. And, why we're collecting it
12 into one comprehensive fund, and it truly isn't fully
13 comprehensive because we're also -- now, I'm hearing
14 from our legal counsel that it's not going to contain
15 the collections that may be coming in the future for
16 the further collections that will be needed for the
17 Green Bank.

18 CHAIR ZIBELMAN: I don't think
19 that's correct.

20 They -- the concept here as I
21 understand it, and this is -- and perhaps we
22 should -- we should clarify this, is that previously
23 we -- we have -- we had separate funds, EAPS, R.P.S.,
24 as well as, the S.B.C. funding. Rather than having
25 these segregated funds, which made it very

1

2 complicated to administer, the idea is to move from a
3 separate funds to a one fund, which we're nominating
4 the clean-energy fund, which will be budget bound.

5 And will be predicated on the fact
6 that over the next duration, there are going to be
7 elements that we need to continue to collect,
8 ratepayer charges to fund clean-energy projects to
9 allow for this transition away from ratepayer-funded
10 to market-funded energy efficiency clean energy
11 projects.

12 But we recognize we're in
13 transition. So there's two pieces of it that I
14 understand -- that -- that I believe are really
15 critical.

16 One, is just to making sure that we
17 understand that it's -- this is a commencement of the
18 transition, and it's complimentary and consistent
19 with what we're saying in all of these dockets. In
20 REV docket, in -- in the Green Bank docket, and even
21 in EAPS, is that we realize that we're moving from a
22 point where energy efficiency clean energy was
23 considered part of the periphery, to part of the core
24 of operating the system.

25 And what we expect to see,

1

2 particularly out of REV, is an increased movement to
3 finding commercial market-based solutions that are
4 consistent with a ratemaking regime that recognizes
5 the value of these investments to help maintain a
6 reliable, resilient, affordable and clean system.
7 So we're moving it to the center.

8 At the same time, there's a period
9 of time we're going to need a transition. There's a
10 period of time that we're going to need to continue
11 to collect from ratepayers. And particularly what we
12 want to do is while we're having the utilities
13 refocus their attention, we think about where NYSERDA
14 is now in thinking about administering these
15 ratepayer funds. Where best to focus and be much
16 more efficient in terms of where these funds are
17 placed.

18 To one, accelerate markets to --
19 particularly for things like Green Bank. To look at
20 market transformational activities, and to continue
21 to fund programs where the markets may not be, such
22 as, low-income or rural areas where you might not see
23 a commercial market develop as quickly. And
24 potentially look at new technologies that again,
25 could use some help that could be highly valuable.

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While I don't want to -- what I believe the clean-energy fund does is it sets us on a path of saying, number one, this is how much is available for funding, and we truly expect the budget to come in to be less than what we have baked into the 2015 collections. So it'll be a reduction below that, and continue to reduce over the five years reflecting the fact that we expect to see increased expenditures by market-based solutions.

So the commitment to the state as a whole to energy efficiency will continue to grow. But it will grow through market innovations, not by continuing increasing collections of ratepayers. And we should if we're -- and I believe we will be successful, be able to see a reduction in these ratepayer collections as the market picks up.

And, so, this is a really -- think about this as a bridge to where we want to be where we have sustainable market-based solutions.

Although, I -- you know, with a possibility over time, and I think this will continue that we'll continue to identify areas where government can leverage ratepayer funding most effectively to ensure that these markets continue to

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2 evolve to a point, I hope, that in our future that
3 this becomes part and parcel with electric service,
4 and we don't require ratepayer funding anymore.

5 So it is a transition. There's a
6 change in moving to a budget-bounded approach as
7 opposed to segmenting dollars for specific programs.
8 And I think it allows us the flexibility, and the
9 focus we need of thinking about the complimentary
10 activities of government funding versus market
11 evolution with recognition that our expectation is
12 that we're going to see market animation, and
13 actually then the markets supplanting and improving
14 what we could do from ratepayer funding itself.
15 That -- that to me is sort of the overarching
16 objective.

17 And I -- so, you know, that's why I
18 think it's difficult. It sounds complex. But in the
19 end, I think if we allow our staff to develop this
20 type of process, we'll find that it's very
21 complimentary to what we're trying to do elsewhere
22 with REV, New York SUN, as well as, with the Green
23 Bank. And I think -- so -- so I appreciate the
24 need -- that we need to be very specific and clear
25 because it can get confusing on what we're doing.

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COMMISSIONER BURMAN: No, I

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don't -- I don't think. I think if you'll listen to

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the rest of my questions, I think we're on the same

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page.

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CHAIR ZIBELMAN: No, I -- yes.

7

COMMISSIONER BURMAN: Which I think

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really is that we are looking at exactly why I have

9

concerns with commencing this proceeding without a

10

thorough review.

11

So, when I look at all of this, all

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of what you're speaking to, goes to the Green Bank

13

and the REV proceeding. And also, what we've been

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talking about, which is the R.P.S., and the EAPS

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review, the comprehensive review. And, so, when we

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speak to, and this is -- you know, from -- from my

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perspective is folks have been asking for when is the

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next R.P.S. solicitation; when is, you know, the --

19

the EAPS review, the comprehensive review. And --

20

and I know that staff has been diligently working on

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this.

22

So, what I've been sort of looking

23

at and trying to figure out, is if we are going to

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have a transition away from a ratepayer's subsidy

25

based focus, and we are truly going to get to a

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2 market-based approach, how are we going to do that if
3 we keep kicking the can down the road without fully
4 doing the comprehensive review?

5

I'm not hearing that the R.P.S.
6 main tier system is broken. What I'd like to look at
7 is understanding what has -- what have the
8 collections been, what are the collections in R.P.S.?
9 Can -- can you give me a ballpark on what are the
10 current collections in R.P.S.?

11

MS. GERWITZ: I always have my -- I
12 didn't bring the numbers with me again.

13

COMMISSIONER BURMAN: What are the
14 current collections in EAPS?

15

MS. GERWITZ: They were --.

16

COMMISSIONER BURMAN: Okay.

17

MS. GERWITZ: I know what the
18 totals are. I'm not --.

19

COMMISSIONER BURMAN: What have
20 been the -- the -- what has been expended so far?

21

MS. GERWITZ: We have that
22 information. I'm gathering it for you, as you know.

23

COMMISSIONER BURMAN: Okay. Now,
24 I -- I know that you said that right now that the
25 proposal that's going to be asked for -- from NYSERDA

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2 is going to be, and let me just make sure when I look
3 at the order -- excuse me while I get it.

4

5 The proposal should recommend
6 annual ratepayer collection levels for each year of
7 the 2016-2020 program cycle and beyond. The proposed
8 annual collection levels should ideally be below the
9 authorized 2015 total annual collection levels.

10 So ideally be, so could in fact, we
11 be looking at collect -- annual collection levels at
12 higher than the authorized 2015 total annual
13 collection levels currently?

14 CHAIR ZIBELMAN: I think what --
15 let me -- let me just jump in here.

16 What I'd like to see out of this,
17 and -- and what I've -- and what I'm -- why I believe
18 that this is the right way to go. Is that the
19 expectation is that the budget-bounded approach, the
20 amount of dollars that we're going to be collecting
21 from ratepayers should be less than what we've -- we
22 authorized for 2015 because we are starting this
23 transition away from ratepayer funding.

24 The budget-bounded approach that I
25 expect to see is a rational budget that will tell the

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2 Commission with this amount of collection of dollars
3 these are the things that we can believe that we can
4 achieve in terms of the various programs; the main
5 tier R.P.S., the New York SUN, the Green Bank, and
6 EAPS.

7 And, so, it'll be a full record,
8 the type of information that you're looking for that
9 sets us out, and says with this amount of dollars
10 these are the expected programs and costs around
11 that, and the expected outcomes.

12 But we can't -- what we want to do
13 because things are going to change, and we can't
14 predict where the change is going to be, is to make
15 sure that we maintain the continuity of where we are
16 today, but provide the flexibility to address
17 evolving events.

18 That's why it's so important to
19 move to a grouped fund, but at the same time set the
20 signal in the market that we expect the attention to
21 be moving towards commercial implementations. And
22 that therefore the burden on ratepayers, the
23 surcharge burden, will be reduced.

24 And we want to start -- I would
25 like to see this reduction begin in 2016. The amount

1

2 of reduction, I don't want to prejudge --

3 COMMISSIONER BURMAN: Absolutely.

4 CHAIR ZIBELMAN: -- because I want
5 to see, the budget come in. If they come in with a
6 higher amount, we'll have to, you know, look at it.

7 COMMISSIONER BURMAN: Uh-huh.

8 CHAIR ZIBELMAN: But like any other
9 thing, I'm telling the staff and NYSERDA the burden
10 is going to be on you to convince us that we need to
11 increase the funding as opposed to reduce it.

12 COMMISSIONER BURMAN: Absolutely.

13 CHAIR ZIBELMAN: But clearly, we --
14 you know, that's why we set this up. I believe it's
15 important to set the expectation of where we'd like
16 this to land.

17 COMMISSIONER BURMAN: Absolutely.

18 And I think also -- really I think what's necessary
19 is -- you know, when I look at this is that what --
20 what's hard is they're all these different
21 proceedings.

22 And it's hard for me to keep track.

23 And I know it's very hard even for staff to keep
24 track, and you know, people get confused. You know,
25 even when they saw on the agenda that there's this

1

2 clean-energy fund. I had to go back through the
3 orders to figure out which order had first mentioned
4 the clean-energy fund.

5 And, then, kind of figure out well,
6 where does it fit within all of this. And it is part
7 of the REV proceeding, it's part of the EAPS, it's
8 part of the R.P.S. New York SUN is part of R.P.S.,
9 it's part of Green Bank.

10 And somehow, we need to do a better
11 job because we are trying to merge clean energy
12 together. And we need to do a better job of figuring
13 out how everything fits, so that people don't have to
14 be figuring it all out, and trying to follow
15 everything because everybody's head is spinning. And
16 they want to be able to be, you know -- you know,
17 understanding it.

18 And we need to do a better job
19 because, you know, we are, you know, the -- the --
20 working with ratepayer funds here. And we -- we need
21 to be accountable to that. Looking at that, I think
22 it's also important that we understand exactly what
23 the metrics are that we're trying to achieve.

24 Part of the -- if this isn't going
25 to be rolled out until 2016, we have got to

1

2 understand what are we doing with R.P.S. and EAPS.

3

4 Is there going to be an R.P.S.
5 solicitation? Are there going to be changes to
6 R.P.S.? What is that? I'd like to see in the
7 proposal in August some mention from, you know,
8 whether it's a store proposal or something from staff
9 that is, you know, giving some certainty to the
10 public on what's happening with that. I think that
11 there needs to be a signal so that people understand
12 that we are serious about doing something.

13 CHAIR ZIBELMAN: Do you have any
14 further questions?

15 COMMISSIONER BURMAN: Let me look.
16 I did have a lot of questions, but I think some of
17 your changes -- will there be actual changes to the
18 direct orders? That's what I'm hearing, there's
19 going to be --.

20 CHAIR ZIBELMAN: I -- I think the
21 draft order contemplates what we were talking about
22 is that -- that there will be a proposal that comes
23 in that addresses these issues.

24 Let me -- let me -- if I can, let
25 me just take a minute, and then I'll turn it over to
the other commissioners for comments.

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COMMISSIONER BURMAN: Actually, I don't think so. I think that what you're proposing were some changes to the draft order because you were talking about some changes in terms of the level of ratepayer collections.

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CHAIR ZIBELMAN: No. No. I think the draft order says that we want a budget-bounded approach, and ideally, we want it to be less than the 2015, that's our expectation.

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16

But that -- obviously, we're not foreclosing something now because we don't have the record yet to determine what is the right level of funding going forward. It's directionally where I -- where the Commission asking NYSERDA and staff to focus.

17

18

19

COMMISSIONER BURMAN: So I'm going to reserve my right to ask more questions after --

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21

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24

CHAIR ZIBELMAN: Okay.

COMMISSIONER BURMAN: -- the other commissioners talk.

CHAIR ZIBELMAN: All right. If --

if I can, I -- I do want to move forward -- do --

just take a few minutes and comment.

25

So one is: I'm appreciative of the

1
2 clean-energy fund proposal for this reason; I think
3 that having separate funds has created any number of
4 problems in terms of how best to use ratepayer
5 funding to have the most efficient result relative to
6 clean energy. And this helps provide that kind of
7 fluidity.

8 COMMISSIONER BURMAN: Uh-huh.

9 CHAIR ZIBELMAN: And you know, as
10 we talked about even in the REV proceeding we need
11 nimbleness because we're in a point -- an inflection
12 point and looking at change. So we need commission
13 to give NYSERDA, just like we're asking utilities, to
14 rethink how things are done so they're done more --
15 more efficiently. So I'm appreciative of -- of this
16 concept to clean that up.

17 I think in terms of, you know,
18 recognizing that this is a transition, and one that
19 the elements that the staff have pointed out that are
20 critical to the transition are maintaining the
21 continuity so there's not market -- unnecessary
22 market disruption.

23 And, I fully expect to see
24 proposals from staff on changes if necessary to the
25 main tier R.P.S. We're going to continue on as this

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2 goes. We're not going to let things stop, and then
3 go because we recognize people have made investments
4 in the markets, and we want to continue to see the
5 market develop. So I'd like to -- this is not an
6 indication that where there's a full stop, and then
7 we'll get back to folks. We -- that -- that's going
8 to continue.

9 I think that the other pieces, it's
10 the philosophy of moving forward, around expanding
11 energy efficiency but expanding it with -- with
12 consumer -- with market-based solutions and animating
13 markets is baked into this concept of sending the
14 right market signals where this is going from a
15 ratepayer-funded approach, and how that's
16 complimentary to the activity in REV.

17 Understanding within that context,
18 there is going to be complexity because change is
19 hard and complex. But, you know, I -- I think that
20 we've got a really lot of smart people, and we'll
21 figure -- we'll figure it out in such a way. And I
22 think staff is -- what we're trying to do is be very
23 transparent on where this change is occurring, how
24 it's occurring so people can understand not only
25 where we are today. But where we're headed, and why

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2 we're headed there, and how these two types of
3 proceedings will work together.

4

5 So, I think it's -- it's a
6 necessary point to make this change, and start the
7 process so that NYSERDA can start thinking about, and
8 we -- and the company -- and the staff can, and then
9 we can. Where does -- what happens after 2015 as we
10 proceed with changes in REV, we develop the Green
11 Bank, we look at New York SUN, and the other programs
12 that we want to continue to fund. So it -- getting
13 started now, having a budget, sending these signals
14 allows for us to then give the market the confidence
15 and the understanding of where things are headed, so
16 that people can adjust their plans appropriately and
17 as necessary.

18

19 So that's -- that's how I see this
20 as all leading together.

21

COMMISSIONER BURMAN: Uh-huh.

22

23 CHAIR ZIBELMAN: There is obviously
24 going to be bumps in the road, things that we're
25 going to have to adjust as we proceed because that
always happens when you're trying to transform from
one type of approach to a second approach.

26

But I think this -- I -- this

1

2 coming up with a budget this summer, which -- which
3 is more comprehensive, is an essential piece of where
4 we're headed with everything else. So, I am -- I am
5 so totally supportive of opening this proceeding, and
6 I think it is very -- very necessary based on where
7 we want to go with everything. It is part of a
8 whole. And I think we have to look at it that way.

9 So with that, I'll open it up to
10 any further comments.

11 Mr. Sayre?

12 COMMISSIONER SAYRE: To be a good
13 and responsible steward of all of these ratepayer
14 funds, we obviously have to periodically reconsider
15 and retarget programs that the funds are supporting.
16 The changes in the market that are already taking
17 place due to technology, and Green Bank, and a host
18 of other factors, and that are likely to accelerate
19 as part of our REV proceeding, create an opportunity
20 that can't be missed. In order to ensure that the
21 programs are well targeted as economically as -- are
22 economically administered as possible, and -- and
23 consistent with the State's policy objectives. I
24 really see this item as simply moving us to the next
25 step in this process. And on that basis I fully

1

2 support it. And I particularly look forward to --
3 as -- as the chair does, to the reduction in
4 ratepayer funding as competitive markets develop.

5 COMMISSIONER BURMAN: Thank you.

6 CHAIR ZIBELMAN: Thank you.

7 Commissioner -- Commissioner Acampora?

8 COMMISSIONER ACAMPORA: I'd like to
9 agree with some of the comments that were made by the
10 Chair.

11 In transition and building a
12 bridge, and instituting new change, things are never
13 easy. But there again, my favorite word always gets
14 put into the mix, and that's called flexibility. And
15 what we've instituted with the REV, and now moving
16 forward with this, I think does send the right
17 signals to the investors, and the programs that we've
18 already looked at. So that there is a future, people
19 need to know what's going to go on in New York State,
20 and that this is a place for investment, and that we
21 do have a plan. And I think that this is kind of
22 cohesive, and brings everything together.

23 So I -- I do support this, and I
24 thank everybody for the hard work. And again, the
25 flexibility, if something's wrong, we come back.

1

2 We've been coming back for a long time. There's
3 nothing wrong with that because you can't get
4 something as big as REV, and changing all of this,
5 you can't get it done at one time. It's never going
6 to be right the first time, or the second time, the
7 third time, and maybe even more. So I look forward
8 to moving on with this.

9

Thank you.

10

COMMISSIONER BROWN: I do have a

11

comment.

12

CHAIR ZIBELMAN: Yes.

13

COMMISSIONER BROWN: You know, I --

14

maybe I'm being overly simplistic. But right now,

15

we've authorized programs through the end of 2015.

16

CHAIR ZIBELMAN: Uh-huh.

17

COMMISSIONER BROWN: It is May

18

2013. No matter what we're going to do, we needed to

19

start a proceeding about what we're going to start

20

doing in January 2016.

21

CHAIR ZIBELMAN: Right.

22

COMMISSIONER BROWN: We could've

23

done it under the old pots, and the old buckets, and

24

do a renewable portfolio standard proceeding, and an

25

energy efficiency portfolio standard proceeding.

1

2 Instead, I think wisely we're trying to put them
3 together, and make a clean-energy fund. I'm not
4 predetermining anything here today. Whether -- I
5 mean, we can have aspirational goals of reducing
6 money in 2016.

7

CHAIR ZIBELMAN: Uh-huh.

8

COMMISSIONER BROWN: It may not
9 make sense to reduce money in 2016. I want to see
10 the evidence. All we're doing today from my
11 perspective, is start the process --

12

CHAIR ZIBELMAN: Uh-huh.

13

COMMISSIONER BROWN: -- of the 2016
14 review with an open mind, with the evidence coming
15 our way, and we'll go from there.

16

And we know that there's other
17 things going around since we just implemented a REV
18 proceeding that it would be silly for us to go
19 forward with this proceeding without taking that into
20 account. So that's what I see we're approving today,
21 and not much beyond that. Except just clarifying
22 where it sits in the pantheon of proceedings we have
23 going on.

24

CHAIR ZIBELMAN: Well -- yes --
25 well said, and I think simple is best.

1

2

COMMISSIONER ACAMPORA: Yes.

3

4

CHAIR ZIBELMAN: Was it the KISS theory? The regulation?

5

COMMISSIONER ACAMPORA: Uh-huh.

6

7

CHAIR ZIBELMAN: But I -- I do think that -- that the other thing we are doing is this proceeding is trying to get some clarification because there have been activities that we initiated --

10

11

COMMISSIONER ACAMPORA: Uh-huh.

12

13

CHAIR ZIBELMAN: -- which in light of the initiation of the REV proceeding we felt were going to be duplicative. So it was important to get some clarification so people understood where things would land.

16

17

18

And I, again, I appreciate everyone's tolerance that -- just like we're asking the -- you can't ask the industry to change, and then sit still, and continue to do everything we do the same way.

21

22

COMMISSIONER ACAMPORA: Uh-huh.

23

24

CHAIR ZIBELMAN: So any other -- do you have questions Commissioner Burman?

25

COMMISSIONER BURMAN: Yes. I'm

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2 glad I saved my -- reserved my comments.

3

4 So I -- you're all not wrong. But
5 I'm not wrong either. So I think that there is --
6 you're right. We are starting, commencing something.
7 But we need to also be able to review what we have
8 done and look. And we all have -- there've been
9 orders that have talked about the need to do a
10 comprehensive review. Part of what's also out there
11 there are current pending proceedings, R.P.S. being
12 one of them, which is looking at -- and EAPS, looking
13 at what are some of the tweaks that we can make in
14 the current R.P.S., and the current EAPS, and what
15 needs to be added.

15

16 So that is currently what we are
17 trying to do, is working group figure out what's
18 appropriate.

18

19 So part of this is when I look
20 again at the draft order for the clean-energy fund,
21 it doesn't talk about new metrics. It doesn't talk
22 about folding in, you know, the old metrics, or you
23 know, folding in things, or what's going to happen
24 with the 2014-2015 processes.

24

25 So, we need to also make sure that
we are -- just because we're going to put it into a

1
2 comprehensive clean-energy fund, that we are looking
3 at what are we going to do new or different, or
4 better, and make sure that we are not just putting it
5 into one big pot just for the sake of that. I know
6 that that's not the intent.

7 But, I think that we need to really
8 ensure that we're also not doing anything that's
9 harmful.

10 And, you know, I just -- some of
11 the questions that I still have is, does this also
12 include NYPA customers, or LIPA, P.S.E. and G.
13 customers? Would they be able to participate?

14 MS. GERWITZ: The proposal is not
15 yet formed.

16 COMMISSIONER BURMAN: Okay. So
17 those are something --.

18 MS. GERWITZ: We're starting a
19 proceeding to consider those kinds of questions.

20 COMMISSIONER BURMAN: Okay. And
21 again, as I said from the beginning, you may not have
22 the answers to that. But those are some of the
23 things I would want to know.

24 Will the criteria change? Again,
25 those are some of the things for how will it be --

1

2 R.P.S. and EAPS, how will that be determined in terms
3 of with this clean-energy fund, will we be looking at
4 one big criteria or there'll be different --
5 different criteria?

6 MS. GERWITZ: All questions to be
7 considered as part of the proceeding, I believe.

8 COMMISSIONER BURMAN: In the EAPS
9 order, there were several things in the E Two working
10 group that were the action plan. There was
11 something, and I'm blanking on the specific
12 terminology. But it talked about M.I., and the
13 business council, and some of their concerns on the
14 self-banking fund.

15 MS. GERWITZ: Uh-huh.

16 COMMISSIONER BURMAN: And it said,
17 some of those ideas were really good ideas, and they
18 should work with -- or submit proposals to the E Two
19 working group. And the E Two working group should
20 talk to them. How are those types of things going to
21 happen with the entities?

22 CHAIR ZIBELMAN: But -- if I can,
23 let me suggest this. I think that there's -- there's
24 two things that we -- we need to do, and I don't want
25 to -- I'm not cutting short your questions. But

1

2 there's two elements to keep in mind. One is is that
3 the development of the clean-energy fund will have to
4 be justified both into the amount and how the funds
5 will be used, and administered --

6 COMMISSIONER BURMAN: Uh-huh.

7 CHAIR ZIBELMAN: -- and the
8 metrics. So that the Commission can continue to
9 maintain its accountability for assuring that
10 ratepayer funds are being used in the best
11 appropriate way. That -- that -- I think it's
12 important that we give staff and NYSERDA an
13 opportunity to come back, and develop out a proposal,
14 which we'll receive comments from the third parties,
15 so that when we make this decision it's on a full
16 record. I don't want to suggest that staff has an --
17 should have answers before they develop the
18 proceeding because that's -- that is really what the
19 proceeding is about --

20 MS. GERWITZ: Uh-huh.

21 COMMISSIONER BURMAN: Right.

22 CHAIR ZIBELMAN: -- to make certain
23 we're on the right track. Secondarily, I want to be
24 clear that in our move towards this clean-energy
25 fund, and simultaneously our move towards REV, there

1
2 are some issues, such as, both in the REV docket, and
3 frankly even in the ESCO proceeding that are going to
4 be -- and in the EAPS proceeding that really fold
5 into the REV proceeding. And in the interest of
6 accomodate and efficiency of time I -- we've -- we've
7 asked staff to begin identifying what types of issues
8 really need to be put under this umbrella of a REV
9 proceeding so that we don't have competing
10 collaboratives and competing proceedings.

11 I don't necessarily want to
12 actually combine the proceedings into one docket
13 because there are issues that may fall outside of it.
14 But there are things, such as, issues raised about
15 how the multiple interveners, how we can make this
16 better for industrial customers really can be part
17 and parcel of a REV-type consideration of public/
18 private partnership or utility industry partnership.
19 And so I don't want to preclude the -- how these
20 issues will be evolved. But we are in this
21 transition.

22 I think for Commissioner Burman,
23 for your assurances, what we can do, and I don't
24 think we should do it today, but we can do it for you
25 and all the commissioners; take a list of all of the

1

2 topic matters: EAPS, ESCO, and I know the staff is
3 already working on this, and come up with a matrix
4 that shows where these issues are going to be dealt
5 with in which docket. So we have an assurance, and
6 then also provide that so it's transparent to the
7 parties, so the parties understand where these issues
8 are going to land.

9

Because it is -- we are in
10 transition, we've opened up the new docket, and that
11 new docket to a certain extent has overtaken other
12 proceedings where we were looking at these issues.
13 So if you could -- if I could ask your forbearance
14 give us an opportunity to develop that because it's
15 already underway, I think that would clarify a lot
16 your -- your concerns.

17

COMMISSIONER BURMAN: Thank you,
18 Madam Chairman. The -- the question I have really is
19 related to the order though -- the EAPS order, which
20 actually I'm talking about the specific clarification
21 that we're changing now in here, which deals with the
22 M.I., and the business council that we directed in
23 the order that talks about them working with the E
24 Two working group on their self-directed -- the
25 self-banked fund. And I'm just trying to look --

1

2 there were certain things, and I think there were
3 about four or five things in the EAPS order that
4 said, talk -- work with the E Two working group.

5

And the one that comes to mind off
6 the top of my head was the M.I. and business council
7 working with the E Two working group. Another one
8 that comes to mind is the privacy concerns of -- you
9 know, customer privacy concerns.

10

So, what I wanted to just make sure
11 is that those things that are in there that they
12 don't fall off the table because we are now changing
13 the actual specific order. And how are those things
14 getting changed because we're clarifying certain
15 portions of it. But we're not clarifying it legally
16 in this order.

17

CHAIR ZIBELMAN: Counsel, did you?

18

MR. BELISTO: I think the order
19 addresses all the separate tasks that were raised in
20 the EAPS order. Specifically, the M.I. issue, the
21 order does -- or the draft order does suggest that
22 those issues are probably best considered as part of
23 the REV proceeding because it seems more -- like a --
24 a deeper, more comprehensive change than some of the
25 other issues. But I believe if you go through the

1

2 list of the EAPS order that all of them are addressed
3 in the current order?

4 COMMISSIONER BURMAN: Okay.

5 MR. BELISTO: They're suggesting
6 they should be -- where they should be considered.

7 COMMISSIONER BURMAN: Okay.

8 MR. BELISTO: There is -- the order
9 does not wipe anything off the table.

10 COMMISSIONER BURMAN: Okay.

11 MR. BELISTO: It -- it tries to
12 recognize as much as we can from this standpoint the
13 best way to address it.

14 COMMISSIONER BURMAN: Okay.

15 Perfect. Thank you.

16 CHAIR ZIBELMAN: Okay. Are we
17 ready to take a vote? Okay. So we have two votes
18 for 201 A and B.

19 COMMISSIONER BURMAN: And just
20 before we start to make it easier, I'm going to vote
21 aye, but concurring based upon my discussions here.

22 CHAIR ZIBELMAN: Okay. So for 201
23 A, all those in favor of the recommendation to adopt
24 a resolution, and issue a positive declaration in
25 support of the SEQR, please say aye.

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2

COMMISSIONER SAYRE: Aye.

3

COMMISSIONER ACAMPORA: Aye.

4

COMMISSIONER BROWN: Aye.

5

CHAIR ZIBELMAN: Opposed? Hearing

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no opposition, and with the clarification provided by

7

Commissioner Burman the recommendation is adopted.

8

And then for the vote taken for 201 B, all of those

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in favor of the recommendation to commence a

10

proceeding to consider the development of the

11

clean-energy fund, please indicate by saying aye.

12

COMMISSIONER SAYRE: Aye.

13

COMMISSIONER ACAMPORA: Aye.

14

COMMISSIONER BROWN: Aye.

15

COMMISSIONER BURMAN: Aye.

16

CHAIR ZIBELMAN: Opposed?

17

COMMISSIONER BURMAN: And again,

18

with the clarification.

19

CHAIR ZIBELMAN: Okay. With the

20

clarification, and there being no opposition the

21

recommendation is adopted. Thank you, Colleen, and

22

Tony, and Debra that this -- I know these things can

23

be somewhat complicated, but great job.

24

Counsel. Okay. Now that it's hot

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in here, let's talk about the summer.

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So just kidding, just kidding. So we're going to be moving to item 301, which is a staff report actually on our 2014 summer preparedness.

Ms. Barney, are you leading the discussion?

MS. BARNEY: Yes, I am. Good morning, Chair Zibelman, Commissioners. I will be presenting on the summer preparedness of the bulk electric system. Next slide.

CHAIR ZIBELMAN: First slide.

MS. BARNEY: First slide. Okay. Let me proceed just with the overview. I plan to go through how the system is planned to have resources available to serve load. And then talk about the operating environment in which available resources are used to actually serve the load.

So we will start with what the load levels are expected to be, what resources are available to serve the load, and the readiness of the New York I.S.O. and transmission owners to manage the system this summer. No slide? Okay.

(Off-the-record discussion)

MS. BARNEY: This graph presents

1

2 the forecast of peak demand for New York this summer,
3 along with a five-year history to provide some
4 context.

5 The blue line is the actual
6 recorded load levels, and the red line converts the
7 load levels to a weather normalized basis. This
8 summers' forecasted peak load of thirty-three
9 thousand six hundred and sixty-six megawatts is
10 consistent with the historical trend.

11 The load forecast is based on a
12 fifty/fifty forecast for most of the state, with the
13 exception of Consolidated Edison, and Orange and
14 Rockland, which uses a seventy/thirty forecast.

15 A fifty/fifty forecast means
16 there's an equal chance of the load being higher or
17 lower than the forecast. So Con Edison and O and R
18 are being more conservative by using a seventy/thirty
19 forecast.

20 Next. New York City is always a
21 special concern. And here is the same graph as
22 presented for the statewide demand for the city. The
23 peak load is anticipated in the city to be 11,783
24 megawatts, which again, is consistent with the
25 historical trend.

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Next slide. What are the resources available to serve the anticipated load of 33,666 megawatts? In-state generating capacity is anticipated to be 37,978 megawatts.

Additionally, there are demand response resources, which include special case resources of 1,189 megawatts, and 94 megawatts are signed up for the emergency demand response program. The capacity backed imports amount to 2,130 megawatts, for a total of 41,298 megawatts of resource capability available for the summer, or about a 123 percent of expected peak load.

Next slide. How do the resources available stack up to what is required to maintain a reliable system. Annually, the P.S.C. looks to the New York State Reliability Council to determine what installed reserve margin is required to help ensure load can be met reliably.

The amount calculated by the reliability council and adopted by the Commission for this year is 17 percent. This slide reflects that for the base load forecast, available resources exceed the I.R.M. for a forecasted supply surplus of about 1,900 megawatts. That said, it should be noted

1

2 that we are facing a dwindling of supply in the form
3 of increased levels of generation retirement, and
4 reduced participation in demand resource programs.

5 As we move resource levels closer
6 and closer to the required reserve margin, which is
7 currently 17 percent, it is important that
8 replacement resources are correctly located, and that
9 the infrastructure is robust enough to move the
10 energy around the state to serve the load.

11 Next slide. The theory is that
12 planning provides sufficient resources to meet
13 expected load conditions. That planning the system
14 to be able to endure the worst set of outages under
15 peak loading conditions will provide operators with
16 sufficient operating flexibility to serve most
17 loading conditions.

18 The information provided on the
19 previous slides are predominantly based on a
20 fifty/fifty forecast. What if we experience extreme
21 weather consistent with a ninety/ten forecast? Under
22 that circumstance, the surplus disappears, and rather
23 than meeting a 17 percent reserve margin, we will be
24 down to 15 percent.

25 While there is only a ten percent

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2 chance of a high load condition at that level, there
3 are enough resources to cover that load level.

4

5 However, Murphy's Law says that
6 high load conditions can happen when more than
7 anticipated generation is out of service. Last
8 summer proved to be a tight situation, and that tight
9 situation could arise again this year. So, what
10 tools do the operators have to ensure reliability
11 under extreme conditions? This slide presents in
12 descending order the emergency operating procedures
13 the New York I.S.O. has available to it.

14

15 First, is to call on the E.D.R.P.
16 resources who have already volunteered to be
17 curtailed.

18

19 Second, is to move to a voltage
20 reduction, which will provide a quick reduction in
21 load levels.

22

23 Next, calls are made for voluntary
24 industrial curtailment, which is followed by public
25 appeals. Emergency purchases are the next resort.
Generally, not everyone peaks at the same time, and
there are usually resources available from our
neighbors. Last is to eliminate thirty-minute
reserves, which will still leave enough reserves to

1

2 cover the largest contingency.

3

4 Next slide. On the individual
5 transmission owner basis, each transmission owner is
6 reporting that they anticipate being able to meet
7 peak projected loads in all areas under normal
8 operating conditions. The companies have spare
9 transformers, breakers and equipment to rapidly
10 repair most system failures. Consolidated Edison, in
11 particular, has many of its own demand response
12 programs that can provide relief, and help shape the
13 load under stress system conditions, which Tammy will
14 be elaborating on in her presentation.

15 This concludes the summary of the
16 bulk electric system summer preparedness.

17 CHAIR ZIBELMAN: Thank you, Diane.
18 Tammy, why don't we just move on to you?

19 MS. MITCHELL: Good morning, Chair
20 and Commissioners. Item 301 B provides a summary of
21 the New York State utilities preparedness on the
22 electric distribution system for the 2014-2015 summer
23 season.

24 Next slide. The summer
25 preparedness program requires that all New York
utilities review their electric distribution system

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2 capability to withstand increased loadings during the
3 summer period.

4

Overall, the annual summer
5 preparation process performed by each utility is very
6 similar in methodology. The utilities each project
7 summer load by reviewing historical summer loading
8 information, taking into account historical weather
9 conditions, load growth, and any new business
10 information available to obtain projected loading for
11 the next summer season.

12

The utilities then simulate its
13 electric system using the projected summer loadings
14 to identify any equipment for specific areas where
15 overloading may occur. From these efforts, projects
16 are selected for completion prior to the next summer
17 season. In terms of our review and monitoring of
18 these efforts, staff request that the utilities
19 provide reports starting in March of each year.

20

These reports include a summary of the company's
21 process, procedures, and associated efforts. Along
22 with a list of equipment, such as, transformers and
23 circuits that are at or above normal operating
24 ratings during projected peak loading conditions.

25

And a list of proposed projects identified for

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2 completion prior to June 1st.

3

Typically, these projects include
4 load transfers, capacitor bank installations,
5 transformer upgrades, and sometimes new substations.

6

Additionally, utilities provide
7 status reports to staff on those projects identified
8 for a completion prior to the summer.

9

This year, staff tracked a total of
10 a hundred and eighty-nine projects identified by the
11 utilities. At this time, the New York State
12 utilities have completed approximately half of their
13 identified projects. The remaining projects are
14 considered minor, and are still expected to be
15 completed on or before June 1st. For any projects
16 that are not completed before June 1st, the companies
17 will develop and provide contingency plans describing
18 alternatives to address potential problems.

19

One quick note on staff's review.
20 This year's staff review and analysis included PSEG,
21 Long Island summer preparedness efforts, which prior
22 to this they had not.

23

Next slide. Due to its unique
24 characteristics, Con Edison has in place multiple
25 load relief programs available for deployment during

1

2 high-load conditions to alleviate potential feeder
3 overloads. Two of its programs, its direct load
4 control program or Rider L, and its distribution load
5 relief program or Ryder U, are implemented by the
6 company during system emergencies.

7

Rider L allows Con Edison to reduce
8 enrolled customers' demand by taking control of and
9 cycling central air conditioning loads. The total
10 amount of load reduction available through Rider L
11 program is approximately thirty-seven megawatts for
12 both small commercial and residential customers
13 enrolled at this time.

14

Under Rider U participants provide
15 demand response through load reductions or operation
16 of onsite generation when called upon by Con Edison
17 on a network-by-network basis.

18

The total amount of load reduction
19 available through Rider U program at this time is
20 approximately a 182 megawatts.

21

A third program, Con Edison's
22 commercial system relief program, or Rider S, is a
23 more proactive program whereby customers are called
24 upon to curtail based on day ahead load forecasts.
25 This program is available to any customer that can

1
2 curtail load or offset load with onsite generation by
3 a minimum of fifty kW for an individual customer, or
4 to aggregators that can offer one hundred kW of load
5 reduction. Participants receive financial incentives
6 to reduce loads during events, which are called by
7 the company when the day ahead forecasted load is at
8 least 96 percent of the company's forecasted system
9 wide peak.

10 At this time, the Rider S program
11 has approximately one hundred -- one hundred
12 megawatts -- yes, megawatts of load reduction signed
13 up at this time. I'm going back and forth between
14 the little increments and the big increments. I'm
15 used to all the big stuff that Diane has now.

16 Enrollment in all three of Con
17 Edison's demand response program is up this year, and
18 is expected to increase as a result of May and June
19 continuous enrollment periods.

20 In conclusion, based on our
21 analysis staff is satisfied that utilities
22 distribution systems are prepared to meet the needs
23 of the upcoming 2014 summer period. This concludes
24 my presentation.

25 CHAIR ZIBELMAN: Thank you. I have

1

2 no questions. I think this is a good presentation.

3

4 Obviously, you've covered the
5 waterfront. In terms of moving forward, I appreciate
6 Diane and your comment that while things are
7 certainly -- the resources are adequate this summer,
8 and we're well within our reserve requirement. That
9 the situation is tightening, and it's certainly
10 something that we need to -- to watch. I'm also
11 aware that we're anticipating higher prices this
12 summer --

12

MS. BARNEY: Uh-huh.

13

14 CHAIR ZIBELMAN: -- which of
15 course, is always moving into a summer a matter of
16 concern. But I -- I think that we're going to be
17 meeting again next week to talk about the polar
18 vortex, what happened this past winter, and its
19 implications on infrastructure requirements, resource
20 requirements in the State.

20

21 And, I think while, you know, we
22 are -- we're the -- the initiation of this proceeding
23 was this past winter prices, and we'll be looking at
24 the causes, and what happened, and what we should be
25 doing. It doesn't, you know, this is -- is all one
and the same ultimately. If we need resources in the

1

2 winter, we definitely need resources for the summer.

3 MS. BARNEY: Uh-huh.

4 CHAIR ZIBELMAN: And I appreciate

5 the staff's diligence on that. And I think this is

6 clearly a, watch this spot, there's -- there's more

7 to come, and more -- more information. Thank you.

8 Any further -- any questions or comments?

9 COMMISSIONER BROWN: Do we have

10 another presentation?

11 MR. ADDEPALLI: We have one more on

12 the price.

13 CHAIR ZIBELMAN: On the prices.

14 Oh. There you go. Sorry. I was foreshadowing it in

15 an artistic way.

16 Go ahead, Mr. Turergo. Thanks,

17 Mike, thanks, Raj.

18 MR. TURERGO: Good morning, Chair

19 Zibelman and Commissioners. Regarding item 301 C,

20 I'll be providing you with a

21 summary of how the utilities have performed at

22 reducing their electric supply price volatility for

23 their full service residential customers, go over the

24 utilities, residential electric supply portfolio for

25 this summer, and finally compare this summer's

1

2 forecast electric market prices to last summer's
3 actual prices.

4

5 But first, I'll provide a brief
6 summary of the commissions' supply portfolio
7 guidelines.

8

9 Next slide. There've been three
10 Commission orders that have addressed retail supply
11 price volatility mitigation. The first is the
12 Commission's retail market policy statement issued in
13 2004.

14

15 The policy statement identified as
16 a long-term goal that competitive suppliers should
17 eventually displace the utilities in performing the
18 supply function.

19

20 In the near term, however,
21 utilities are to maintain supply portfolios to
22 protect residential, and small commercial, and
23 industrial customers, collectively mass-market
24 customers against wide swings and spot market prices.

25

26 The Commission also determined that
27 large commercial industrial customers are to be
28 exposed to hourly spot-market pricing, and that no
29 new hedges are to be entered into by the utilities
30 for these customers.

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2 Slide. The second order issued in
3 2007, laid out the commissions supply portfolio
4 guidelines. The guidelines reinforce that utilities
5 should engage in hedging to reduce the supply price
6 volatility for their mass-market customers. That
7 portfolio should encompass a variety of hedging
8 instruments. And also includes some wholesale
9 purchases, and that utilities are to avoid entering
10 into contracts that are unduly risky due to their
11 length or other unfavorable characteristics.

12 Slide. The third order issued in
13 2008 addressed utility reporting requirements. The
14 order requires utilities to report quarterly on their
15 portfolio volatility mitigation results using the
16 coefficient of variation.

17 Each quarter utilities file
18 electric market, and their supply portfolio prices
19 for the previous twelve months, and the resulting
20 coefficients of variation as a means to evaluate the
21 effectiveness of their portfolios.

22 In this order, the Commission also
23 determined that setting strict standards for
24 volatility mitigation was not appropriate.

25 Slide. This graph shows the

1

2 results of the utilities electric supply price
3 volatility mitigation efforts. It compares the
4 average New York I.S.O. market price volatility, the
5 red line, to the volatility of the utilities
6 residential electric supply portfolios.

7 As we all know, and can see from
8 the graph, electric market prices increased
9 dramatically this past winter. Issues surrounding
10 this past winter's supply prices will be the focus of
11 next week's technical conference.

12 While improvement opportunities
13 exist, and modifications to the utility hedging
14 practices, and or supply rate mechanisms are being
15 formulated as a result of the Commissions hedging
16 policies, the utilities residential supply portfolios
17 have been significantly less volatile than the
18 market.

19 So what -- so what is the
20 Commission's hedging policies that perform this level
21 of supply price volatility mitigation cost ratepayers
22 in terms of gains and losses relative to market
23 prices?

24 Slide. Essentially, nothing.

25 This slide shows the annual above

1
2 or below market cost of the utilities hedges that
3 were executed pursuant to the Commissions hedging
4 policy. The bars represent annual gains -- hedging
5 gains or losses. The line represents a cumulative
6 gain or loss since 2005. Negative numbers mean that
7 the contracts were priced below market. On a
8 cumulative basis over the past nine years, ratepayers
9 have essentially paid no premium for the supply price
10 volatility reduction.

11 Slide. This chart shows the
12 elements of the composite residential electric supply
13 portfolio for this summer. As shown, about half of
14 the composite portfolio consists of fixed price
15 instruments. Of the fixed price instruments, the
16 majority are financial contracts, and also include
17 newer physical contracts, older legacy contracts, and
18 a small amount of the utilities own generation with
19 fixed fuel costs, and NYPA contracts.

20 The balance of the portfolio is
21 predominantly made up of market purchases, followed
22 by relatively small amounts of utilities own
23 generation with variable fuel costs, index
24 contracts -- indexed to gas primarily, and options
25 contracts.

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Slide. This chart shows this summer's expected average energy-market prices based on NYEX futures for New York City, the Hudson Valley, and western New York, New York I.S.O.'s zones J, G, and A, respectively.

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Last summer's expected energy market prices that we reported to the Commission last May are in green. Last summer's actual market prices are in blue. This summer's expected average market prices are in red. As shown, this summer's energy market prices are expected to be higher than last summer's prices. Mainly, due to projected increase in gas prices compared to last summer.

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16

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Projected increases range from twenty-three to twenty-five percent compared to last summer's prices depending on the zone.

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21

22

But, please note that these are only projections. In the past five years, actual prices were below forecast for two years, above forecast for two years, and about equal to the forecast at a year.

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Slide. This graph is primarily showing the same data as the prior one, just with the winter period inserted in the middle, just for

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2 perspective. One interesting point to note here,
3 when this graph was created actual April prices were
4 not available. They have since become available.
5 And they were thirteen to seventeen percent less than
6 the forecasts. Again, depending on the zone.

7 Slide. This slide compares this
8 summer's New York I.S.O. six-month, summer-strip
9 auction capacity prices to last summer's prices. In
10 addition to the projected energy-market price
11 increase compared to last summer, capacity prices
12 will also be higher this summer, especially for
13 customers located in the new lower Hudson Valley
14 capacity zone.

15 Based on current projections from
16 the NYEX data, and capacity price data obtained from
17 the New York I.S.O., this summer's electricity prices
18 are expected to be higher than last summer's actual
19 prices.

20 Again, the actual prices can vary
21 from forecast due to a number of factors, such as,
22 weather, economic conditions. With the hedges the
23 utilities have entered into, mass-market customers
24 will not experience the full magnitude of any market
25 price changes.

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2

That concludes my presentation.

3

CHAIR ZIBELMAN: First of all.

4

Thank you. I apologize even though Commissioner

5

Brown is the more senior member, I seem to have had a

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senior moment.

7

So -- but let me -- Mike, could

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you -- can you go back just real quick to your

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volatility slide? They -- just so I -- I think this

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is an -- an important element, is that what we're

11

seeing is -- if I get this right, is that while the

12

volatility can change relative -- I mean, obviously,

13

here in this spot market, the effectiveness of the

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hedges would indicate that the volatility that

15

consumers are seeing is substantially less than --

16

than full-market exposure.

17

MR. TURERGO: For most of the

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period it was half of the -- right, the portfolio

19

volatility was about half of the market volatility.

20

And certainly, at the last few points from this

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winter, it was significantly less volatile than the

22

market.

23

CHAIR ZIBELMAN: And then -- then

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if you go to the next slide, it certainly indicates

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that the -- in terms of the marked market, that over

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2 time there are periods of time where you, you know,
3 if you had perfect knowledge, which none of us have,
4 you would say, oh we over hedged. Other times you
5 would say we under hedged. But over time, it all
6 works out that basically, you're at zero. That the
7 price of the hedges puts you where you want to be.
8 Is that -- that's what you're saying?

9

MR. TURERGO: Yes.

10

COMMISSIONER BROWN: Just one

11 follow-up question?

12

MR. ADDEPALLI: Chair? Let me

13 just -- let me just amplify on the previous slide,
14 what that showed was more of how the supply portfolio
15 behaved as to how it shows up in use customer's bills
16 there is one more step of how --

17

CHAIR ZIBELMAN: Okay.

18

MR. ADDEPALLI: -- the ratemaking

19 gets done, in terms of forecasting price, and then
20 reconciling the changes from actual to the forecast.

21

That may introduce a little bit

22 more volatility than what you see here.

23

CHAIR ZIBELMAN: Thank you. Thank

24 you, Mr. Turergo.

25

COMMISSIONER BROWN: My question

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2 was, does this include utility provider last resort
3 customers, or is this across the board including all
4 ESCO customers?

5 MR. TURERGO: No. This is -- this
6 is only full-service customers.

7 COMMISSIONER BROWN: That's what I
8 thought.

9 CHAIR ZIBELMAN: Utility customers,
10 not the ESCO customers.

11 MR. TURERGO: Utility customers.

12 COMMISSIONER BROWN: We'll follow
13 up on that next week.

14 CHAIR ZIBELMAN: Right. Right.

15 MR. ADDEPALLI: Mass-market
16 customers.

17 COMMISSIONER BROWN: Okay.

18 CHAIR ZIBELMAN: So but -- but the
19 point is that, and I -- and that's what I was going
20 to say, is that even though we're seeing these -- the
21 hedges being effective relative to what we would hope
22 to achieve. The absolute prices, and the volatility
23 we saw this summer -- this winter was very high in
24 terms of an individual bill basis.

25 And -- and so what -- what we want

1
2 to understand I would think out of coming out of
3 this, understanding these types of price volatility
4 in the market, looking at our hedging strategies
5 going forward to see what more we can do to avoid
6 this type of mass market exposure to this price
7 volatility and price increases. Because ultimately
8 telling someone, well, over the last ten years it's
9 been okay doesn't really cut it when you're paying a
10 bill that's two hundred percent higher than the bill,
11 you normally pay.

12 COMMISSIONER BROWN: And the other
13 question I'd be interested in is what sort of hedging
14 products are available --

15 CHAIR ZIBELMAN: That's true.

16 COMMISSIONER BROWN: -- to
17 customers. So --

18 CHAIR ZIBELMAN: So --.

19 COMMISSIONER BROWN: -- not today.
20 Don't need to answer it.

21 CHAIR ZIBELMAN: -- but again, I
22 think -- I think this is a really good precursor to
23 what I hope will be a much deeper conversation as we
24 begin to get to next week to really start thinking
25 about with these type of weather events like we had

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2 past winter -- this past winter. And with changes in
3 the supply mix, what does this mean for us on a
4 forward-looking process? Commissioner Acampora?

5

COMMISSIONER ACAMPORA: Do we look
6 at surrounding states so that we have an idea of
7 where the other states around us are?

8

MR. ADDEPALLI: Yes. Different
9 states have different restructured markets. Probably
10 outside of Texas perhaps, we are the most retail
11 market state with almost half the load being served
12 by competitors.

13

And in terms of procurement
14 policies, different states have different approaches.
15 Some have a lot more heavy state commission
16 determined hedge policies, more active engagement by
17 the Commission. Here this commission has provided
18 guidance to the utilities, and allowed flexibility
19 to -- to rearrange the portfolios, and -- and make
20 judgments.

21

With that said, I think our
22 programs have been reasonably successful as you saw
23 in the production on the volatility based on the
24 Commission guidelines. And the utilities have been
25 working with staff along the way. And but -- we'll

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2 hear next week what changes the utilities are
3 planning to make based on the lessons learned over
4 the last winter.

5

COMMISSIONER ACAMPORA: And also in
6 the bulk presentation, Diane, you've been here for a
7 long time. Could you just give us like a snapshot of
8 the past few years how this year's projections versus
9 the past two or three years?

10

MS. BARNEY: From load perspective,
11 it's been a moderate increase. No real major spikes,
12 especially when you get the weather normalized.
13 Those forecasts seem to be pretty good. The concerns
14 are more on the supply level.

15

COMMISSIONER ACAMPORA: Uh-huh.

16

MS. BARNEY: Ten years ago, we
17 weren't at this twenty-three percent level. We were
18 at a forty percent surplus level. So there was a lot
19 of flexibility in the system. There was a much
20 larger dispersal of small generation, which has been
21 diminished through retirements, which the net result
22 is there is a lot more pressure put on the
23 transmission system --

24

COMMISSIONER ACAMPORA: Uh-huh.

25

MS. BARNEY: -- because of that.

1

2 And concern about the retirements are, do we have the
3 generation in the right place so that we can move the
4 energy to the load centers when we need to.

5

COMMISSIONER ACAMPORA: Uh-huh.

6

MS. BARNEY: So things are getting
7 tighter on the system. There is no doubt about it.

8

MR. ADDEPALLI: Let me just add, as
9 you've probably seen in the last few years, the
10 energy prices have dropped significantly,
11 notwithstanding this last winter. Over the last
12 number of years, gas prices have dropped, and that
13 resulted in lower energy margins to many of the
14 generators, and that has resulted in either moth
15 balling or retirement over the last few years, a
16 significant amount of moth balling or retirements
17 have happened.

18

And so the supply is getting
19 tighter and tighter as we move forward. The capacity
20 prices have also dropped in the past, that also
21 contributed to the moth balling. But they are
22 bouncing back up a little bit. We'll see what that
23 means to the generated profit ability.

24

But the situation is tightening as
25 the Chair had mentioned.

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2

COMMISSIONER ACAMPORA: Yes. I

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just wanted to do a little walk down memory lane --.

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MR. ADDEPALLI: Yes.

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CHAIR ZIBELMAN: And it's --

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just -- we've said it, it's not a phenomena that is

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unique to New York, which is another issue, is that

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we're seeing retirements elsewhere, which also then

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affects your import capability. That's an

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observation, not a need for a comment.

11

Any further questions? Okay.

12

Well, thank you. And we'll look

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forward to further discussion next week on May 15th

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on this topic.

15

MR. ADDEPALLI: Yes.

16

CHAIR ZIBELMAN: With that,

17

Secretary Burgess, is there anything more in front of

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us today?

19

SECRETARY BURGESS: There is

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nothing more for today for the Commission to

21

consider, and as you mentioned the next commission

22

meeting is next Thursday, May 15th. It'll be the

23

technical conference on winter -- winter energy

24

pricing and supply, and that will begin at nine a.m.

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CHAIR ZIBELMAN: Thank you, and we

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2 stand adjourned.

3 (The proceeding adjourned at 12:15

4 p.m.)

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

IN WITNESS WHEREOF, I have hereunto
subscribed my name, this the 15th day of May, 2014.

Hannah Allen, Reporter