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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Regular Meeting of the Public Service Commission

THURSDAY, December 11, 2014
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS:

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

1 December 11, 2014

2 (The meeting commenced at 10:33
3 a.m.)

4 CHAIR ZIBELMAN: Good morning
5 everybody.

6 ALL: good morning.

7 CHAIR ZIBELMAN: I'm going to
8 call the Commission to order.

9 Secretary Burgess, are there any
10 changes to today's agenda?

11 SECRETARY BURGESS: Good morning,
12 Chair and Commissioners.

13 There are no changes to the
14 agenda this morning.

15 CHAIR ZIBELMAN: Thank you.

16 So, just for everyone's notice,
17 we're going to take matters slightly out of order.
18 The first step -- matters we're going to deal with
19 are related to Item 301 A. But before we begin --
20 and I know, Raj, you're going to be providing us an
21 overview of a number of the energy matters we're
22 going to be dealing with today that are related to
23 the changes we're making in the industry. I want
24 to just sort of open this up and frame it up a
25 little bit.

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2 I'm -- I'm very -- really very,
3 very excited about what we're going to be starting
4 to address today. And I was thinking about it. It
5 was just about a year ago this time that we
6 actually, in the context of the EEPS order, started
7 the discussions, saying, you know, technology's
8 changed, the market's changed, and it's really time
9 for us to start thinking about how we use
10 alternative technology, distributed energy
11 resources, load response, as something that's no
12 longer on the periphery, that's no longer supported
13 by individual government programs, but is actually
14 integrated in to the tapestry of how we develop
15 and -- and manage the grid.

16 And since that time, many of
17 you --.

18 Good morning, Mr. Stegemoeller.
19 I -- just came back to visit with us from vacation.
20 It's good to see you.

21 Since that time, you know, we've
22 opened the REV docket, which hence Rudy has done
23 such an incredible amount of work, as well as
24 everybody else on that, and we've taken a number of
25 different steps to really start thinking about

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2 that -- that really the role of good government is
3 to understand where technology's going, where the
4 innovation is occurring, where the needs of
5 customers are changing, and to make sure that our
6 job, as -- as economic regulators, are that we are
7 doing what we can do to make sure that we're
8 meeting our fundamental obligations of ensuring
9 electricity is delivered in a way that's reliable,
10 that's secure, that it's cost-effective, and taking
11 advantage of change -- an -- an -- a technology
12 change to accomplish that and so that regulation
13 really needs to both lead and allow, as opposed to
14 lag and then create market disruption.

15 So that -- that -- really what
16 this is all about. But even if we didn't think
17 about REV, I think the matters that are before us
18 today and what we're going to be talking about
19 are -- are things that we really need to be doing.
20 And they -- they're things we need to do because of
21 the fact that we have such opportunities in this
22 industry. There's so much excitement around how do
23 we use distributed energy resources better.

24 There's such excitement about how
25 do we use social networking better and how do we

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2 get the electric industry, really, into the
3 twenty-first century and thinking about how we use
4 communication devices better.

5 So, really a lot of what we're
6 talking about today is -- is really the step
7 forward that I -- that I believe very strongly we
8 have to make because, you know, while a lot of
9 folks would like us to say well study it more,
10 study it more, it's been studied. It's been
11 studied throughout the United States. We've had
12 endless, endless demonstration projects across the
13 United States that have shown how the -- demand
14 response have shown how solar energy, have shown
15 how distributed energy, have shown how smart
16 communications can make things better.

17 So I think what -- what's
18 important, as we move forward and we make these --
19 and to take some of the steps that we're beginning
20 to take today, is that we move from the academic
21 and the study to the experience, so that we can all
22 look back and learn from that. So I'm very
23 excited. I'm very proud of the fact that the staff
24 has been thoughtful in approaches, thinking forward
25 in terms of what things should we be doing now to

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2 both set the stage for the future and to create
3 the -- the necessary learnings, and also very -- I
4 guess, you know, I -- I take a lot of pride in the
5 amount of industry engagement we've had and
6 consumer engagement.

7 I think that, you know, in -- as
8 a whole, when I talk to folks, people are very
9 excited in the state about the opportunities we
10 have. And I think that the issues before us today
11 are issues that we should be contemplating in how
12 do we make the -- the concept to -- into experience
13 that we can all learn, so that we could start
14 providing benefits to consumers.

15 So, with that, I -- you know, I'm
16 interested in the discussion. These are obviously
17 complex matters. And I know that the staff has
18 done a -- quite a bit of work in moving this
19 forward and I think it should be a very interesting
20 day and we're all going to learn a lot.

21 So, with that, let me turn it
22 over to Raj to introduce the topics at hand.

23 MR. ADDEPALLI: Good morning,
24 Chair Zibelman and Commissioners. After your
25 introduction, my introduction is going to sound

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2 very feeble.

3 We are very pleased to --

4 CHAIR ZIBELMAN: Never, Raj.

5 Never.

6 MR. ADDEPALLI: -- bring forward
7 five related, yet distinct items for your
8 consideration this morning. All these items are in
9 pursuit of advancing the Commission's policy
10 interest in improved utility system efficiency,
11 facilitation of comparative new market entrance and
12 market animation, improved reliability and
13 resiliency, increased customer engagement,
14 empowerment and affordability of energy, and
15 lowering emissions.

16 As you said, while the generic
17 Reforming the Energy Vision docket is examining
18 various potential modifications to the current
19 paradigm in the utility structure behind the meter
20 to accomplish these objectives, the initiatives
21 before you today need not wait. Customers,
22 utilities, and other stakeholders are demanding
23 action and they're demanding action now; hence, the
24 issues before you today need immediate attention.

25 Given the known and anticipated

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2 benefits of these initiatives, we believe we should
3 move forward with these now and not wait for a full
4 track one or track two decision of the REV docket.

5 The first two items that will be
6 presented deal with improved integration of
7 non-wires technologies and new business models into
8 the utility system, as you move forward to
9 fundamentally transform the energy industry to
10 accomplish the Commission policy objectives.

11 Marco Padula will first begin
12 with offering recommendations on the Con Edison's
13 petition for action on its Brownsville Initiative
14 that the company is carrying out from its last rate
15 case decision.

16 For the first time, an initiative
17 is being undertaken in the state to seriously
18 consider, comprehensively, in an open and
19 comparative manner, non-wires alternatives,
20 alternatives to traditional utility delivery
21 infrastructure investments. This is a departure
22 from the status quo. It's a departure from the
23 traditional way of doing business.

24 This is an exciting project that
25 the whole industry is watching as to how other

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2 technologies will be deployed in a more
3 cost-effective and cleaner fashion to meet customer
4 needs, how customers will be engaged, how markets
5 will be animated, and more importantly, how
6 regulators will modify regulatory structures to
7 motivate utilities and other stakeholders to think
8 differently and more innovatively in offering
9 solutions to meet customer needs.

10 Then, Tammy Mitchell will discuss
11 the status of existing and planned REV-type
12 demonstration projects and offer guidelines and
13 criteria for future development of such projects.
14 Several stakeholders, including utilities and third
15 parties have been asking for guidance as they dole
16 out their demonstration projects.

17 There are significant
18 opportunities for innovative demonstration projects
19 that can offer valuable lessons as we embark on
20 transforming the industry and the Commission to
21 provide guidance now, to help them shape their
22 projects. The results from these demonstration
23 projects can go a long way in informing future path
24 in the industry transformation.

25 The next two items deal with

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2 continuing and expanding existing, successful
3 programs. The Commission opened a generic docket
4 in 2009, on utility programs for demand response,
5 but initially focused efforts on Zone J, or New
6 York City, where there is the best bang for the
7 buck.

8 Since then, the Con Edison demand
9 response programs have been continually refined to
10 incorporate lessons learned. Several hundred
11 megawatts are participating in various Con Ed
12 demand response programs now.

13 Given the rich history of these
14 programs in the city and knowing their benefits,
15 it's time to expand these efforts statewide, so we
16 can capture the low-hanging fruit quickly and
17 implement them by next summer. In this situation,
18 we should strive to move to the next generation of
19 dynamic load management programs to help accomplish
20 many of the Commission objectives. Steve Keller
21 will discuss staff recommendations on this item.

22 Fourth, with the rapid
23 implementation and penetration of qualified
24 renewable resources, caps for net metering are
25 being approached in some of the utilities. Several

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2 entities have asked the Commission to take action
3 to address the cap issue and certain other net
4 metering issues. Tina Palmero and Len Van Ryn will
5 provide staff recommendations on proposed
6 modifications to current net metering programs.

7 Finally, Luann Scherer will
8 discuss an innovative community choice aggregation
9 concept that will significantly increase
10 opportunities for customer engagement and
11 participation in energy programs and offer
12 recommendations on moving forward with exploring
13 this concept.

14 To recap, collectively, all these
15 five items are geared to promoting utility system
16 efficiency, improved reliability and resiliency,
17 animation of markets and facilitating entry of new
18 innovative players, to provide better products and
19 services to customers in a competitive manner, to
20 engage customers and enable them to manage their
21 bills better and to help reduce emissions. These
22 are major initiatives that we believe will help
23 move the ball forward in the beginning stages of
24 transforming the industry. We need to act and we
25 need to act now, to meet the needs of customers

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2 better.

3 And up front, I want to
4 acknowledge that an immense amount of staff work,
5 as you acknowledge, Chair, has gone into preparing
6 these items, by not only those presenting the items
7 here today, but all those supporting from behind.
8 Thank you.

9 And we'll start with Marco's
10 first item.

11 CHAIR ZIBELMAN: Great. Thank
12 you.

13 Welcome, Marco. Please begin.

14 MR. PADULA: Good morning, Chair
15 Zibelman and Commissioners.

16 Item 304 A and 304 B are
17 companion items related to the Con
18 Edison/Brooklyn-Queens Demand Management program,
19 which I will refer to as the BQDM program.

20 Item 304 A is a draft resolution,
21 which would have the Commission assume lead agency
22 status under the State Environmental Quality Review
23 Act and, based on its review of the environmental
24 assessment form and the record in case 14-E-0302,
25 adopt a negative declaration of environmental

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2 significance regarding its action on Con Edison's
3 proposed BQDM program.

4 The draft resolution would have
5 the Commission find that the proposed action will
6 not have a significant adverse effect on the
7 environment. Staff recommends that the Commission
8 adopt the draft resolution and issue a notice of
9 determination of non-significance.

10 Item 304 B is a draft order that
11 would establish the Con Edison BQDM program. The
12 BQDM program would allow Con Edison to procure
13 market-based distributed energy resource solutions
14 such as energy efficiency, energy storage,
15 distributed generation, demand response, to achieve
16 load reductions on the sub-transmission feeders
17 supplying the Brownsville Number One and Number Two
18 substations.

19 This program builds upon the
20 company's existing targeted DSM program, which has
21 been operational since 2004, but significantly
22 expands the number of market participants and
23 potential technology solutions. These market-based
24 solutions, in combination with other traditional
25 T&D investments, will allow the company to defer

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2 major substation need date, from 2017 to 2026,
3 while achieving an overall lower cost to
4 ratepayers.

5 There are five key decision areas
6 that I will now discuss. Those are the benefit
7 cost analysis, program costs and recovery, earnings
8 opportunities, DER ownership, and the RFI and RFP
9 review and selection process.

10 On the issue of the benefit cost
11 analysis, the draft order would have the Commission
12 adopt the benefit cost analysis framework provided
13 by the company and require filing of the results
14 after the selection of a portfolio resulting in a
15 positive net benefit is completed and the actual
16 costs are known. In addition, the draft order
17 requires the benefit cost analysis to include a
18 description of any non-monetized benefits of the
19 program.

20 On the issue of program costs and
21 recovery, the draft order caps total spending on
22 the BQDM program at two hundred million dollars.
23 This includes twenty-five million dollars of
24 existing targeted DSM program funding.

25 The hundred and seventy-five

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million dollar BQDM program costs would be amortized and recovered over a ten-year period and would include the Commission-approved rate of return. Cost recovery would be through the monthly adjustment clause for full-service customers and through a monthly surcharge for NYPA customers, until the next rate case filing, at which time, recovery would be moved into based rates.

On the issue of earnings opportunities, the draft order would establish new earnings opportunities for the company, which are tied to REV policy objectives. Those policy objectives are DER market animation and lowering overall costs to ratepayers.

The earnings opportunities would total one hundred basis points on top of the allowed ROE related to the BQDM program costs. This is approximately five million dollars and would be spread over three metrics. Forty-five basis points would be tied to achieving and exceeding the customer sited goal of forty-one megawatts. Twenty-five basis points would be tied to increasing the diversity of DER suppliers in the marketplace. And thirty basis points would be tied

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2 to reducing the dollar per megawatt life-cycle cost
3 of the complete Brownsville feeder overload
4 solution.

5 On the issue of DER ownership,
6 the draft order evaluates the Commission's vertical
7 market power policy statement in light of the
8 substantial changes to the electric market
9 contemplated by REV. By adopting the order, the
10 Commission would be permitting Con Edison to own
11 grid-based storage solutions on the -- for the
12 following reasons.

13 Customer-sited battery storage is
14 not precluded and ownership by the company is only
15 authorized as appropriate where installation is on
16 the distribution system. There is value in gaining
17 experience with storage-based solutions. And
18 grid-based storage will enable the deployment of
19 other third-party DER technologies.

20 For DER resources, other than
21 grid-based storage, the draft order would permit
22 Con Edison to own them only as a backstop where the
23 market fails to respond and five specific
24 conditions are met. Those conditions are a market
25 solicitation was performed and determined to be

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2 ineffective, the DER must be located on Con Edison
3 owned property, the DER assets must address a
4 substantial system need, the benefits of ownership
5 must outweigh the costs of such ownership, and a
6 competitive solicitation for construction and
7 operation is required.

8 On the issue of RFI and RFP
9 review and selection, to ensure fair and equitable
10 treatment of all RFI and RFP respondents, the draft
11 order will -- will require an independent third
12 party to be hired to review the selection process,
13 with direct reporting to staff. This review will
14 cover the RFI issued in July, for customer-sited
15 and company-sited non-traditional solutions, the
16 RFP issued in October for company-sited storage, as
17 well as any future RFI or RFP, under the BQDM
18 program.

19 This concludes my presentation
20 and I'm available for comments and questions.

21 CHAIR ZIBELMAN: All right.

22 Thank you, Marco.

23 And so -- you know, I think
24 from -- from the perspective of -- of many, when
25 you take a look at this project -- and we've talked

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2 about trying to drive innovation in this industry,
3 you know, clearly what we're doing in a BQDM,
4 although I -- it's a hard acronym to remember --

5 MR. PADULA: Difficult.

6 CHAIR ZIBELMAN: -- is -- is --
7 it sort of hits it in -- on all corners.

8 I mean, the first thing is it's
9 pretty obvious that the easiest thing for Con Ed to
10 have done is to say we have growing demand in the
11 region. There is no question about that. And in
12 fact, it's something we -- we like is the fact that
13 we have economic growth and that is driving
14 electric demand. That's -- that's a good thing.
15 And so saying -- coming in and saying we need to
16 build a substation to meet that demand and putting
17 that into a rate case that would have been --
18 amongst many other things, would have been very
19 easy for Con Ed to put forth and really easy for
20 this Commission to actually approve.

21 So, that -- the fact that
22 we're -- we are taking a step back and saying well,
23 that's what -- what the traditional route is, let's
24 see what we can do differently around distributed
25 energy resources and load management and take a bit

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of risk to see if, actually, these resources will

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appear in the marketplace and meet that need, but

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do it in a -- in a very careful manner because,

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as -- as we've -- know, that this has to happen and

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it has to happen with all due speed because if it

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doesn't materialize, we -- we will need to meet the

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demand so we have to move forward is, I think,

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exactly the type of action and reaction that we

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would like to see moving in this industry. And I

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applaud Con Ed, the stakeholders. I know this was

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an issue that came up in the last rate case, but

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actually taking the step forward to move forward

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is -- is a great thing.

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The second is in picking a

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project, we probably picked one of the most complex

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issues is that we dare doing it in the middle of an

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urban area. Now, many people, when they look at

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these things, they could do it in a commercial

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building, where you have a lot of industrial load

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and it's a pretty easy -- you've got one customer,

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two customers, that's all you have to deal with.

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Actually, going in and saying we're going to deal

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with a myriad of customers, different types of

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customers, residential customers, and start working

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on these, so that the collective whole can actually work together to create a benefit, not only for themselves, but all of Con Ed system is -- is really a -- a terrific undertaking and I think is, frankly, a lot of what people talk about when they talk about smart cities and -- and smart communities. So, you know, doing this is also -- I think is a great thing.

But in saying that, I want to make sure it's clear that I don't think we're doing a lot of experimentation because, again, as I said in my opening comments, a lot of these resources have been deployed. There's been a lot of demonstration showing that this works. It's just that we're trying to deploy it here and we're showing how it can work in -- in -- in New York City.

The other thing is -- that I think is great about this project is the way we're going about it in terms of using requests for in -- interests and requests for quotes. A lot of times, and historically, utilities would identify a problem and then they would design the solution and if -- and then they would go out and they'd get the

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2 solution that they designed.

3 What we're doing here, very
4 differently, is saying we've got a problem. We
5 need to meet this level of forty-one megawatts of
6 demand, we're trying to do it in a way that's
7 different and we're going to ask for requests
8 for -- of interest and request -- and -- and
9 develop proposals for the market to come back and
10 all the innovation in that market to come back
11 and -- and identify solutions that we, either in
12 the staff level or the -- or -- or the company,
13 would not necessarily have thought about on their
14 own.

15 So, I think this is a great
16 opportunity to show how you can -- in setting a
17 demand, you can get a market response and -- but in
18 doing so, I think it is very important that, as
19 we've talked about in REV that -- and what is --
20 the staff is suggesting here, is that we have the
21 independence of staff with a -- with an overseer so
22 that there's confidence that -- that there's a
23 third party looking at this and that the staff is
24 also engaged in looking at that.

25 That's also particularly

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2 important because we are looking -- one of the
3 things that has been identified as an opportunity
4 here is -- is looking at storage.

5 Marco, you -- I think you've
6 talked about the desire in this particular
7 proceeding to look at grid-based storage on Con
8 Ed's system.

9 One of the things that has
10 been -- you know, become very, very apparent in
11 this industry is the importance that storage is
12 going to play in enabling distributed energy
13 resources, renewable energy itself, et cetera. And
14 it makes the system more dynamic; it makes it more
15 flexible; it makes it more secure. But it's also
16 true that -- I think, that the utility industry,
17 itself, doesn't have the level of experience and
18 storage that I think they're going to need, moving
19 forward.

20 So, for that reason, I am very
21 comfortable and I think it's important that our
22 utilities get this experience because, until they
23 get the experience on how storage can operate on
24 the system, we're never really going to understand
25 the full capability of -- of using storage as a way

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2 of helping manage the grid, going forward.

3 The -- we've had an -- we had an
4 opportunity to listen a little bit in -- what
5 happens -- has happened in California since the
6 state there developed a program around storage.
7 And the utilities have reported out that they've
8 seen huge advantages in terms of integrating solar
9 and making the grid more flexible, in -- in dealing
10 with perturbances on the system.

11 And so they -- they have seen
12 opportunities that they didn't envision and I think
13 it's going to be very important for the state
14 utilities of New York to also get that. I know in
15 this case, we're -- we are just addressing the
16 Brooklyn-Queens, but I think for the purposes of
17 this project, particularly because of the
18 complexity of this project, I am also comfortable
19 with the idea of having ability to use storage
20 on -- on the Con Ed system.

21 And then the other piece that I
22 think is -- is very important here is how we're
23 setting up the economic advantages because they are
24 very much tied to the types of things we'd like to
25 see. I mean, I -- I think that what staff is

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proposing makes a lot of sense. This isn't just about getting a hundred basis points and doing something differently. It is around the types of outcomes, of driving innovation, driving savings, and demonstrating in effect that you're doing something in terms of engaging customers, to help drive solutions that -- that we want to see, going forward.

So, I -- for all of those reasons, I believe that this type -- this project is one that the state should feel very proud of, certainly appreciative of the work that staff has done and I'm prepared to vote that it moves forward.

So, any other further comments?

Commissioner Brown?

COMMISSIONER BROWN: I think the toughest part of this case has been the balance between trying to figure out the role that the local utilities should have, at the same time really being -- trying to encourage entrepreneurship and innovation by others. And it -- I know in some of the comments, people wanted us to go completely one way or perhaps completely

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2 the other, which I think both approaches would have
3 been incorrect.

4 This is not a pilot program. I
5 agree with you. This is a real program, but that
6 doesn't mean we can't learn from it. So, I -- I
7 think we've hit a very good balance, but it's
8 something I think we should keep our eyes closely
9 on.

10 We want the utilities to be
11 playing. We want them to play their important
12 role. At the same time, we want to see if there
13 can be new, fresh ideas that emerge, that come from
14 others besides the utility, and that we maintain
15 that balance. So that will be one of the things
16 I'm watching for as we go through this process, but
17 I think it's -- it's a very, very good starting
18 point.

19 CHAIR ZIBELMAN: Thank you.

20 Commissioner Acampora? Yes, no?

21 COMMISSIONER ACAMPORA: No.

22 CHAIR ZIBELMAN: No?

23 Commissioner?

24 COMMISSIONER SAYRE: I have some
25 general comments that apply to this and -- and the

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2 other four items in the -- what I call the REV
3 basket, this morning, in support of all five.

4 I am a strong supporter of the
5 REV policy goals, as explained by Chair Zibelman.
6 Given the magnitude of the changes we're
7 contemplating, my view is that we need to be, as we
8 move forward, careful, incremental, and
9 collaborative. We're not going to change the
10 landscape in one fell swoop on our track one order
11 or our track two order. And that requires us to
12 take small steps, partly because the changes that
13 we're contemplating are so large overall and partly
14 because we know we're not going to make precisely
15 the right decisions every time something comes in
16 front of us.

17 I think these items satisfy all
18 of these considerations. We're being careful.
19 We're moving incrementally. We're working
20 collaboratively with the stakeholders. And we're
21 developing track records that will give us a
22 history and metrics as to whether what we're doing
23 to implement these policies are right or possibly
24 what needs more work.

25 So, I'm pleased to see these

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2 items. I'm pleased to start moving ahead, even
3 ahead of track one.

4 CHAIR ZIBELMAN: Commissioner
5 Burman?

6 COMMISSIONER BURMAN: Thank you.

7 First, I'm very supportive of
8 this item and will be voting yes. I do come back
9 to the goals of REV and very much support them.
10 And the PSC began a process to transform our
11 regulation of the electric distribution utilities
12 and we articulated core policy outcomes intended to
13 better align the role and operations of utilities,
14 to enable market- and customer-driven change, and I
15 think this item clearly does demonstrate that those
16 outcomes that we have identified as our policies
17 are really being utilized.

18 And for me, when I look at the
19 five core policy outcomes, I think what strikes me
20 is that two of them are most prominent in this,
21 which is increasing system-wide efficiency by
22 encouraging innovation, and also we are assuring a
23 secure, reliable, and resilient electric system
24 will exist and continue to grow. And I'm very
25 happy that people and -- and commenters were at the

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2 table in terms of submitting their concerns and
3 their comments because it helped us to develop a
4 better work product and to look at where we are
5 going.

6 And this -- this program, I
7 think, will really be something that we will
8 monitor very closely in terms of looking at what
9 are the successes from this. And really, the
10 overwhelming piece of it that I was very pleased
11 with was the focus on working with the utilities
12 and others and looking at animating the market and
13 the -- ensuring that the -- we do have a
14 competitive process through the RFI and the RFP, so
15 that it really ensures fairness to all. So, I'm --
16 I am very happy with that.

17 I do want to just ask Marco to
18 clarify and sort of bring home the point of the --
19 the need to do this item today and why, if we
20 waited, that it would not be helpful to New York.

21 MR. PADULA: I think the most
22 pressing reason is that the -- the company is
23 currently in an overload situation on those
24 feeders. For this past summer and for next summer,
25 they're taking measures to -- to satisfy that, but

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2 once you get into 2016 and 2017, there' a definite
3 need to satisfy the forecasted load. So, we really
4 need to move as soon as possible.

5 COMMISSIONER BURMAN: Thank you.

6 And I think that also is a very
7 important matter and the reliability of our system
8 is critical and this is something we need to do.
9 Thank you.

10 CHAIR ZIBELMAN: Thank you.

11 COMMISSIONER ACAMPORA: Can I
12 just --?

13 CHAIR ZIBELMAN: I knew you
14 would.

15 COMMISSIONER ACAMPORA: You knew
16 I couldn't control myself.

17 I agree with everything that's
18 been said today. And as we all know, everyone is
19 looking at New York and where we're going with REV.
20 And so I think today, this really launches
21 something that's very exciting and will have people
22 actually see something concrete that they can get
23 an idea of where we're going. So, I think, you
24 know, it's good that we picked a complicated
25 project and not just a simple one because we know

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2 if we can get this done in New York City, the rest
3 of the state won't be that difficult to follow.

4 So, I really appreciate all the
5 work that's been done on this and concur with the
6 chair and my colleagues that the effort that's been
7 put forward on this is immense and it really is
8 appreciated by all the Commissioners as to what
9 you've done, again, to move the REV forward and to
10 get New York highlighted as to where we're going.
11 So, good job.

12 CHAIR ZIBELMAN: Thank you.

13 And I -- I think, to -- to echo
14 the -- the questions, in terms of why now, I think
15 it's very important. I think -- and -- and the way
16 that I understand this project is designed is --
17 is -- is really to make certain that we have the
18 cushions that we need. So we are going to be going
19 out, looking to get things done quickly that will
20 give us some -- some amount of load reductions and
21 move it forward.

22 There is -- you know, obviously,
23 in a lot of the things that we're doing and
24 comments we've received, some healthy skepticism.
25 We kind of like to joke, everyone says I like REV

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2 and then there's a line of but's. And the but's have
3 all the -- all the things that people are a little
4 bit concerned about.

5 But in this instance, I think one
6 of the things that I would say is this; healthy
7 skepticism's a good thing. We are looking at it.
8 We're taking these measured steps so we can get the
9 experience. And as my fellow Commissioners have
10 said, that allows us then to adjust our regulatory
11 and our format and our market approaches, to make
12 sure we have continued success.

13 So, I again, applaud the company
14 for stepping up and -- and identifying what I think
15 is a very innovative solution to a traditional
16 problem and for the staff for the hard work that
17 they've done, as well as the other stakeholders,
18 for their thoughtful comments on how we can best
19 proceed and make this a success for everyone.

20 So with that, I'm going to move
21 to a vote then, on both items, 304A and 304 B.
22 304A A is the -- the SEQRA declaration. So, all
23 those in favor of the recommendation to adopt a
24 resolution and issue a negative declaration in
25 accordance with the State Environmental Quality

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2 Review Act, please indicate by saying aye.

3 COMMISSIONERS: Aye.

4 CHAIR ZIBELMAN: Opposed?

5 Hearing no opposition, there
6 being none, the recommendation is adopted.

7 The next item then is Item 304 B.
8 And all those in favor of the recommendation to
9 approve Con Edison's Brooklyn-Queens Demand
10 Response program, as described in -- in this
11 proceeding, please indicate by saying aye?

12 COMMISSIONERS: Aye.

13 CHAIR ZIBELMAN: Opposed?

14 Hearing no opposition, there
15 being none, the recommendation is adopted. Thank
16 you very much.

17 And thank you, Marco.

18 The next item then on our agenda
19 is in connection with the REV proceeding. And it
20 concerns the -- the use and development of
21 demonstration projects. And Tammy Mitchell, who is
22 the chief of our electric distribution system, is
23 going to be presenting that today.

24 So, Tammy, it's -- please go
25 ahead.

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2 MS. MITCHELL: Good morning,
3 Chair Zibelman and Commissioners.

4 Item 305 recommends that the
5 Commission adopt a resolution, encouraging the
6 utilities and third parties to begin developing
7 potential demonstration projects, to help inform
8 the --Reforming the Energy Vision, or REV,
9 initiative.

10 Staff's August 22nd straw
11 proposal on REV track one issues noted the
12 importance of demonstration projects to inform the
13 REV initiative. The straw proposal went on to
14 discuss some general criteria, which could be used
15 for the development of such projects.

16 As you are aware, the Commission
17 has not yet acted on the August 22nd staff proposal
18 on track one issues of the REV proceeding.
19 However, when the Commission does act, it would be
20 preferable to have demonstration projects that are
21 ready to be rolled out.

22 Additionally, as you are aware,
23 some utilities have proposed or are currently
24 pursuing REV-like demonstration projects, either
25 within rate case filings or through programs such

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2 as NYSERDA, program opportunity notices, Department
3 of Energy grants, and such.

4 I'll just mention a -- a -- a
5 few. As you point out, we -- we do -- we have seen
6 REV -- or REV-like demonstration projects. For
7 instance, there are proposals by Central Hudson, in
8 Orange and Rockland, in their recent rate case
9 filings, to demonstrate advanced communication
10 systems, advanced automation and metering. In
11 addition, of course, we heard about Con Edison's
12 BQDM, which is a demonstration-type project. We
13 also have National Grid, who has a partnership with
14 EPRI, the University of Buffalo, and Buffalo
15 Niagara Campus, to study the feasibility of a
16 microgrid system in the City of Buffalo, a project
17 that was awarded funding by NYSERDA. So these are
18 just a few examples. There -- there are others.

19 Also underway is the governor's
20 New York Prize initiative. That's a contest that
21 will provide funding toward the development of
22 microgrids. These efforts could be informed by
23 demonstration project criteria that could be
24 adopted when the Commission decides the track one
25 issues. Therefore, this resolution would outline

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2 some of the criteria that the Commission is
3 currently considering as guidance for utilities and
4 third parties, as they begin working to develop
5 potential demonstration projects.

6 The goals of any REV
7 demonstration project should include measuring
8 customer response to various programs, pricing,
9 products, services, and technologies. The project
10 should inform the REV proceeding, including
11 providing information related to the distributed
12 system platform, or DSP. The demonstration project
13 should explore different business models and should
14 test different technologies.

15 The following are suggested REV
16 demonstration criteria for Commission
17 consideration. First and importantly, REV
18 demonstration should include partnerships between
19 utilities and third-party service providers. And
20 also, utilities should endeavor to support
21 demonstration where third parties use their own
22 capital.

23 In designing the demonstration
24 projects, the utilities should identify problems or
25 situations on the grid and allow the market to

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2 respond with solutions, as opposed to the
3 traditional RFP RFI method, where the utility has a
4 pre-diagnosed solution. To this end, data sharing
5 will be essential to enable market participants to
6 propose solutions.

7 Demonstration should delineate
8 how the generate -- how the generated economic
9 value will be divided between the customer,
10 utility, and third-party service providers and
11 should propose how much of the projected capital
12 expense needs to go into rate base versus
13 competitive markets. Demonstration should be
14 designed to help create subsequently competitive
15 mark -- markets. Therefore proponents of
16 demonstration projects should strive for
17 third-party ownership.

18 I'll just note here that there
19 will be a change to the item before you to reflect
20 this previous statement, on page nine, under market
21 solutions. The line beginning also, third-party
22 ownership of DER, will be replaced with the
23 sentence, also proponents of demonstration projects
24 should strive for the third-party ownership of
25 distributed energy resources, keeping in mind that

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2 any regime of third-party ownership must be done in
3 a manner that ensures safety, reliability, and
4 consumer protection.

5 And we'll get that change to you.

6 Demonstration should inform
7 potential pricing and rate design modifications by
8 testing, for example, customer response to demand
9 response programs, or real-time -- or -- or
10 time-of-use pricing. Demonstration should also
11 test how technologies can be used to benefit
12 customers, encourage customer participation, and
13 allow customers to manage their electric bills.

14 Utility and third-party service
15 providers should consider deploying, in their own
16 demonstrations, advanced distribution systems,
17 including two-way communications, real-time
18 operation of dynamic load, and other system
19 technologies that support awareness, flexibility,
20 efficiency, and cost-effectiveness.

21 Utilities should explore
22 opportunities in their demonstrations to work with
23 and include various residential, commercial,
24 institutional, and industrial customer
25 participants.

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2 In conclusion, this item
3 recommends that, in addition to adopting the
4 resolution encouraging utilities and third parties
5 to begin preparing REV demonstration projects, the
6 secretary should also issue a notice communicating
7 the Commission's encouragement of demonstration
8 projects and criteria the Commission is
9 considering.

10 This concludes my presentation.
11 I'm available for any questions.

12 CHAIR ZIBELMAN: Thank you,
13 Tammy.

14 So, you know, since we've --
15 we've begun the REV process, we've had many, many
16 visitors actually come -- come to us and -- and
17 have a number of staff who are actually looking at
18 the various technologies, looking at the
19 opportunities. And the utilities, themselves,
20 have -- have also identified a lot of opportunities
21 that they would like to explore.

22 I think that the -- what's clear
23 to me, as we move forward, is that the pace of
24 change, as well as the way the markets work, are
25 much faster than we do things habituous --

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habitually in -- in the regulatory world that we live in. And also, there's a concern that -- always a concern that if we're not real -- able to receive new kind -- new ideas to do what we do better, these folks will go elsewhere and -- because the fact is -- is that, while regulators can be patient and you can have patient capital in a regulated utility, there's not patient capital elsewhere in the world.

And we need to track these markets -- these invaders in and give them a vehicle so that they can develop projects and -- and move on at a pace that -- that we can get some successes. Not to suggest that we should be driven by the markets alone, but the fact of the matter is -- is that we need to understand it as we're going to bring third parties in and that we're going to ask them to put some capital at risk, we have to find a way to make sure that we can accommodate that through -- through our processes. And I think that identifying this as a matter to -- to -- to move forward on is an important issue.

The other -- the other point, I think, is -- in terms of how we're providing these

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guidelines, it's -- it is very apparent, I think,

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to everyone here, we're going to be taking up these

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issues in -- in the REV proceeding and looking at

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all of these concerns in terms of how do we

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integrate third-market -- third-party players, how

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do we move forward in terms of how to --

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recognizing these things in rates, how do we

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provide the right incentives. So, these issues,

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today, really should be seen as -- as they're

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portrayed as guidelines on demonstrations.

12

One of the things that -- that we

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know is that, several years ago, the federal

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government started with the ARRA and they did a

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series of pilots. And those pilots really did show

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some vantages of technology, but they didn't move.

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They were pilots and nothing got integrated into

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the industry -- or very little things got

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integrated into the industry.

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What we'd like to -- what I think

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the demonstrations, and I think it's an important

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distinction, is not really necessarily

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demonstrating technology because, again, I think

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the technologies are there. It's really

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demonstrating the business models. How do we move

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2 from a full monopoly and integrate it in -- into
3 allowing for these distributed resources and to be
4 integrated into how we manage the system, and what
5 kind of parties will come to the table and what
6 kind of business models we should develop and what
7 kind of pricing schemes make sense.

8 And again, you know, I -- I know
9 for Commissioner Acampora, always mindful of the
10 fact that we as a Commission need to be flexible
11 and be willing to change. It's clear that while we
12 can sit here at 3 Empire Plaza and write the best
13 white papers and really be thoughtful, until we get
14 some demonstrations out there and we get parties
15 into these markets, we'll only be as good as we can
16 think it through, versus getting the real
17 experience and seeing how things work and hearing
18 from the third parties, the larger ecosystem of
19 people who want to be part of this industry,
20 including the customers, themselves.

21 So, I think -- you know,
22 providing these guidelines, moving this forward,
23 getting some -- the innovative juices flowing and
24 having third parties come in is important.

25 One of the things that I think

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2 will be very helpful is something that Commissioner
3 Burman actually mentioned to me yesterday, which is
4 how do people know where to go? And when they go
5 into a company, who do they call and say I have
6 this idea, I'd like to work with you? So, one of
7 the things I'd like to follow up on is that we
8 ought to have a vehicle moving forward, so that the
9 companies can, at least, let us know if people come
10 to us and say we're interested in talking to
11 so-and-so, who should I call, that we have a -- a
12 name and a number. It sounds pretty simple, but
13 it's sometimes hard for people to navigate these
14 large companies and figure out who to call and who
15 to speak to. So I think that would be a -- a good
16 idea.

17 Again, I see these as an
18 opportunity to provide guidelines, provide an
19 opportunity for people to come forward with -- with
20 these projects, as -- as -- Tammy, as you
21 mentioned. There are a number already, but I think
22 there are even more that are sort of waiting.

23 I also want to make it very clear
24 that our purposes today are talking about
25 demonstrations that involve utilities. It does not

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2 prevent anybody from signing up customers. We are
3 an open-market state, so any third party who wants
4 to provide an investment and work with customers
5 and -- you don't need to come to us. We're -- go
6 at it. We're -- we're very happy to see you come
7 into this market, so the -- this isn't just one --
8 one way to get into this door.

9 So, with that, I'm very
10 supportive of the resolution. I think providing
11 guidelines, I would expect that, as we move forward
12 in the REV docket appropriately, we will be looking
13 at making certain that there's mechanisms for cost
14 recovery, that there are mechanisms for approval
15 that allow us to provide the guidance and -- and to
16 allow for approval process that gives everyone
17 confidence so they can work forward -- move forward
18 in a timeframe that makes sense for business.

19 And -- but for now, what I think
20 is important is that we continue to work on these
21 demonstrations and get them announced and get them
22 done. So, I'm -- I'm supportive of the resolution.

23 You want to --?

24 COMMISSIONER BURMAN: Well, thank
25 you very much. I think that this is -- your

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2 presentation was very helpful and Chair Zibelman's
3 comments were also very helpful.

4 For me, I'm going to be
5 abstaining on this order because I do, when I look
6 at it, think that we don't necessarily need to, at
7 this time, issue an order that has guidelines. I
8 think that, from my perspective, the first item
9 that we looked at was one that was able to be done
10 without us being dictatorial, and I'm not saying
11 that we are here, in laying out different
12 guidelines.

13 I know that the process,
14 procedurally, still is working through in terms of
15 the -- the SAPA process on other items. And so,
16 for me, when I look at this, I would rather tackle
17 now, either more directly, some of the specific
18 issues in REV that might then be appropriate,
19 rather than layering on more, you know, guidance to
20 what should be done.

21 And I'd rather open it, really,
22 for folks -- I'm very supportive of demonstration
23 projects. I think that people are already in the
24 midst of them and I don't want to tie anyone's
25 hands or -- or misread too much into a particular

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2 guidance point, as this is what you must do. I'd
3 rather let it happen more holistically, in people
4 coming to us with their best ideas after
5 collaboration, and then having folks comment on
6 that, and -- and then from that perspective, coming
7 up with the best order for each particular
8 demonstration project.

9 And I -- you know, I think what's
10 helpful also is Chair Zibelman talked about other
11 pilots that did not get fully integrated into the
12 system. And I think that that is our job also, is
13 to make sure that what we are doing in
14 demonstration projects, what's brought forward, and
15 we -- we bless, that we then look to those projects
16 and see what is helpful to then fully integrate
17 after we've had experience with that.

18 So I -- I am in support of the
19 demonstration projects. I understand the -- the
20 rationale behind the guidance. But I'm going to be
21 abstaining because I -- I think that I'd rather see
22 it come more from the folks that are putting it
23 together. So, thank you.

24 CHAIR ZIBELMAN: Thank you.

25 Further comments?

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2 COMMISSIONER BROWN: I support
3 this item. I -- I see the demonstration projects
4 as providing us a vehicle to really kind of test a
5 variety of things. One thing I've learned over the
6 years, we have a -- you mentioned all our visitors.
7 Many of our visitors tell us, you should tell the
8 consumers what they want and force it down their
9 throat, regulatorily.

10 What drives change is when people
11 say how come I can't do that and if there's a
12 demonstration program in Syracuse, how come my
13 cousin in Syracuse can use this app that allows
14 them to control their home automation system that I
15 can't use. And we need projects out there, in
16 order to main -- to ensure what does work and what
17 doesn't work.

18 And what I find the guidelines,
19 not as stifling, but as just answering some basic
20 questions that if we don't answer the basic
21 questions, we'll spend the next year arguing over
22 whether a utility should be involved here or a
23 third party should be involved there. And I
24 thought it was just trying to clarify those sort of
25 things that allows us to move forward with the

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2 demonstration projects.

3 So, I'm -- I'm -- I'm hopeful.

4 What I would really encourage the utilities to do
5 is think about which of these demonstration
6 projects can really be growable, applicable, usable
7 in the future. We just don't need another pilot
8 that's been done a hundred and fourteen times
9 before that gets put back on the shelf when we're
10 done, but that we actually learn something and that
11 we can perhaps apply it more broadly in the future,
12 if it really does work.

13 CHAIR ZIBELMAN: Okay. Thank
14 you.

15 Commissioner Acampora?

16 COMMISSIONER ACAMPORA: I so
17 agree what you said, Garry. That was really good.

18 You know, we've been down a road
19 before of the unknown, when we did the EEPS
20 proceeding. And so the chair had mentioned my
21 favorite word, flexibility. But then again, to get
22 on with it, we need to get on with it and then we
23 need to look at what works best. And that's why we
24 need that flexibility. So I think we're heading
25 down the road and -- and we know, there are going

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2 to be bumps in the road, but we're prepared to deal
3 with that, when -- when that occurs.

4 And I'm pleased to see about the
5 consumer protections. We all want our consumers to
6 be involved, but we also want to make sure that our
7 consumers not only gain benefit, but also are
8 protected. So, I appreciate that. Thank you.

9 CHAIR ZIBELMAN: Thank you,
10 Commissioners. Thank you.

11 And I -- I echo Commissioner
12 Acampora. Well, said.

13 These are intended to be broad
14 guidelines to provide guidance on some of the
15 issues that I think people, when they're looking at
16 demonstration projects, are saying well, what is a
17 demonstration project, what are we trying to
18 demonstrate. And that's why I think that the
19 staff, in articulating this, is -- really is
20 looking at this isn't about showing us a particular
21 technology. It really is about how this business
22 model will work, how will customers respond, what
23 kind of things should we be doing.

24 And again, I -- I -- I think
25 getting the experience, one of the things that

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entrepreneurs will tell you is, you know, nine out of the ten ideas fail. And we can't afford to fail big, but taking measured steps, trying things, and then managing them and fixing them is a good way for -- for us all to learn as -- as we move forward. And I think that, for me, that -- getting that experience could be very -- will be very, very valuable. So, I -- I -- I do think I am supportive of it.

With that --.

COMMISSIONER BROWN: Could I just comment on that quickly?

CHAIR ZIBELMAN: Yeah.

COMMISSIONER BROWN: I think that you just raised a very important point. And I hope by telling the utilities to go out and do demonstration projects, if they don't work, a acceptable solution is they don't work.

CHAIR ZIBELMAN: Right, yeah.

COMMISSIONER BROWN: And they will have spent money on it. That's okay. And I think we should all go in with that understanding, that they don't have to come in and prove every demonstration project they spent money on worked in

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2 order to be -- let's use the word prudent. They
3 just have to prove it was a -- a -- a -- a project
4 that was worth attempting and I'm -- you know,
5 we're going to be monitoring that as we go along.

6 But I -- I think it's a very
7 important point, so I just wanted to reiterate it.

8 CHAIR ZIBELMAN: Yeah. Okay.

9 COMMISSIONER BURMAN: And I would
10 just like to comment, if I can, Chair.

11 CHAIR ZIBELMAN: Sure.

12 COMMISSIONER BURMAN: So, I just
13 want to clarify that I am not against demonstration
14 projects. I'm actually very supportive of
15 demonstration projects. But I don't know that we
16 need to direct them to do demonstration projects,
17 following these guidelines.

18 Tammy Mitchell talked about
19 ongoing activities that utilities are working on.
20 Folks have come in and talked about it. So, for
21 me, I just don't want it to somehow hamper the
22 innovation and the ongoing discussions out there
23 with the utilities and others in the market, in
24 terms of putting forth things, trying to fit ideas
25 into what they see as our guidance.

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2 And when I read the guidance
3 principles, my concern is that it will also raise a
4 lot more questions. Well, what do they mean about
5 that? How much do they want this? And I just
6 don't want folks to spend time so focusing on
7 trying to read the tea leaves, that they miss the
8 objective that I think that the chair has, which is
9 bring us very good ideas and show us how you think
10 you can work with them to really do what this --
11 our policy objectives are.

12 CHAIR ZIBELMAN: Okay. Thank
13 you.

14 And I -- I think in all things,
15 it's -- it's a balance. We -- we absolutely want
16 folks to feel like the -- they -- that they should
17 bring forward all good ideas. At the same time, I
18 think it's important that the Commission identify
19 some of the things that they feel are going to be
20 most valuable in the demonstration, so that when
21 they are being designed, we don't have to spend a
22 lot of time on things that we would say well, we're
23 not quite sure why you're doing that. And so this
24 was an -- an attempt to sort of provide an
25 indication of the types of things we'd like to

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2 achieve, without necessarily precluding any good
3 idea that we might not have thought about.

4 But with that, let me -- if
5 there's nothing else, I'll -- we'll move to a vote.
6 All those in favor of the recommendation to adopt a
7 resolution on REV demonstration programs, as
8 described by Ms. Mitchell, please indicate by
9 saying aye.

10 COMMISSIONER BROWN: Aye.

11 COMMISSIONER ACAMPORA: Aye.

12 COMMISSIONER SAYRE: Aye.

13 CHAIR ZIBELMAN: Opposed?

14 Abstain?

15 COMMISSIONER BURMAN: I abstain.

16 CHAIR ZIBELMAN: There being four
17 ayes and one abstention, the recommendation is
18 be -- is adopted.

19 CHAIR ZIBELMAN: Okay. The next
20 item is with -- in connection, Item 302. And
21 that's the matter of developing demand response
22 tariffs for electric distribution utilities,
23 presented by Steve Keller.

24 Welcome.

25 Steve is chief of our special

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2 initiatives in the office of electric, gas, and
3 water, and all things demand response. Not all,
4 but many.

5 MR. KELLER: Not all things. We
6 have a lot of good people working in that area.

7 Good morning, Chair Zibelman,
8 Commissioners.

9 Item 302 is a draft order that
10 would institute a proceeding to begin the
11 development and implementation of distribution
12 level demand response programs and other dynamic
13 load management programs, with the goal of
14 deferring or avoiding the need for distribution or
15 bulk power -- ultimately bulk power, also,
16 infrastructure, improving system efficiency, and
17 providing customers with another set of options for
18 managing their electric bills.

19 The order would direct staff to
20 initiate a cooperative consultive process,
21 involving utilities and other stakeholder parties.
22 The initial goal of the proceeding would be the
23 development of a basic set of demand response
24 tariffs by all jurisdictional electric distribution
25 utilities. Tariffs implementing these programs

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2 would be filed within ninety days of your order
3 being issued.

4 The longer-term goal of this
5 proceeding would be for staff and the stakeholder
6 group to develop other innovative demand dynamic
7 load management program proposals that further
8 address market needs. Ultimately, staff would
9 coordinate its work on dynamic load management with
10 work in related proceedings, including work related
11 to successor tariffs.

12 This proposal stems, in part,
13 from the Commission's 2009 consideration of the
14 value of distribution level demand response
15 programs and, in part, from the staff's
16 straw-proposal on track one issues issued in the
17 REV proceeding.

18 Con Edison has successfully
19 operated distribution level demand response
20 programs since 2009 and revised and expanded them
21 in response to the Commission's directives in case
22 09-E-0115. Consistent with the 2009 orders, the
23 straw proposal recommended state-wide expansion of
24 distribution level demand response programs, as
25 well as other programs that will give utilities the

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2 capability to perform dynamic load management.

3 These programs are generally
4 considered to be no-regrets, cost-effective
5 approaches. And it would be reasonable to begin
6 their development at this time, rather than waiting
7 for the REV proceeding to conclude. Further, by
8 starting now, we can target a summer 2015 startup
9 and begin to accrue their benefits.

10 The goal of this proceeding would
11 also be to ensure as much consistency as possible
12 in the approaches that are taken by our
13 jurisdictional electric utilities. Given that Con
14 Edison has operated successful programs for a good
15 number of years, we recommend that those programs
16 be used as models, and lessons learned from those
17 programs be considered, going forward. This ties
18 in a little bit to what Commissioner Acampora said
19 about, you know, the Brooklyn-Queens program. You
20 know, you try to do it in the hardest possible
21 place, you know, and also the words, if I can make
22 it there, I'll make it anywhere. That's in another
23 world.

24 So, to the extent that there are
25 successful programs operated in other

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2 jurisdictions, aspects of those programs should be
3 considered as well. However, the goal of
4 minimizing program differences should be paramount
5 as variations across utility programs create issues
6 when participants operate in various franchise
7 areas.

8 While the initial goal would
9 involve the development of traditional demand
10 response programs, the longer-term goal would be
11 the development of innovative approaches to demand
12 response needs. The draft order also recommends
13 guidelines for developing these programs. This
14 proceeding does not address demand response
15 programs currently implemented by the New York
16 independent system operator, nor are those programs
17 contemplated by this order intend -- intended as a
18 replacement for those programs.

19 Staff is currently working with
20 the utilities, the New York ISO, and
21 representatives of the demand response community,
22 to ensure that important bulk system benefits
23 provided by the New York ISO demand response
24 programs remain available next summer.

25 With that, I will be happy to

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2 take any questions. Thank you.

3 CHAIR ZIBELMAN: Okay. Yes?

4 COMMISSIONER BROWN: Just the
5 line, between the distribution system and the
6 transmission system, I see Dianne Barney back there
7 and I know we've spent a few moments doing this
8 along the way. But I -- it's certainly not --
9 never clear. And I just want to be sure, one of
10 the things that's not kind of transferable from New
11 York City to Upstate, is we've got a lot of
12 industrial customers Upstate.

13 MR. KELLER: Uh-huh.

14 COMMISSIONER BROWN: Is their
15 status in terms of where they exist, in terms of
16 the distribution versus the bulk power system,
17 related to the voltage where they interconnect, or
18 are there other -- other matters that are going to
19 determine whether they fall under the NYISO program
20 or fall under the utility distribution system
21 program?

22 MR. KELLER: That's a good
23 question. To the extent that it -- a -- a
24 customer -- customers do take, from the
25 high-tension system at different -- from different

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2 utilities. And they would be -- I -- I would think
3 that they would be part of these programs. The ISO
4 currently has their own programs, where they --

5 COMMISSIONER BROWN: Right.

6 MR. KELLER: -- aggregate demands
7 from.

8 COMMISSIONER BROWN: I guess I'm
9 getting to are there going to be some industrial
10 customers that perhaps didn't qualify before that
11 are now going to be able to participate in this
12 because of the -- they just didn't qualify at the
13 bulk power system level? Maybe I'll look at Raj on
14 that.

15 CHAIR ZIBELMAN: I --.

16 MR. ADDEPALLI: Yeah, I think
17 the -- as you said, Commissioner Brown, there are
18 customers today, even Upstate, outside of New York
19 City, who are participating in the ISO, various
20 types of programs, SER, or DADRP, or -- or DADSP.

21 That said, there are no
22 utility -- distribution utility demand response
23 programs in Upstate utilities, whereas Con Ed has
24 at least four or five specific demand --
25 distribution level demand response programs, to

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2 meet their unique needs, either from a reliability
3 perspective or from an economic perspective.

4 What we need to have done right
5 now is for the other utilities -- non-Con Ed
6 utilities to also get into implementing demand
7 response at the distribution level and get some
8 experience on how to -- how to use the demand
9 response to meet their needs.

10 There are needs Upstate, clearly,
11 that can be solved now, today, through some demand
12 response programs, but they're not being taken
13 advantage of. And I think this is an effort to
14 require them to -- to begin offering those tariffs
15 and work with the DER community in developing the
16 programs.

17 Some of the ISO programs are not
18 necessarily as beneficial to some of the customers.
19 The customers can offer different types of products
20 and services. The ISO programs have particular
21 products and services, so -- whereas distribution
22 utilities may have more flexibility in -- in
23 providing different types of product and services
24 that the customers can really offer and take
25 advantage of.

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2 So I think this is going to the
3 next step of trying to get the Upstate utilities to
4 offer programs that really benefit the system and
5 the customers.

6 CHAIR ZIBELMAN: If I can add to
7 that, I -- I -- you know, I know in some parts of
8 the country, you -- you -- we've had industrial
9 customers who have actually opted in and -- and
10 become their own load-serving entity. And those --
11 I don't know if we have those in New York, but I
12 know that there are some in PJM. And so they are
13 just essentially in the bulk-power grid. They're
14 not distribution-level customers at all and they
15 don't pay for distribution system because they are
16 considered bulk power -- their own LSE -- what we
17 call a LSE.

18 COMMISSIONER BROWN: In terms --
19 I'm sorry.

20 CHAIR ZIBELMAN: But -- but I
21 don't know -- but I -- I think our -- our thinking
22 here is that we're going to design programs that
23 are going to be helpful to the utilities from a
24 reliability standpoint, or is it -- are -- the DER,
25 like we do in Con Ed.

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2 MR. KELLER: Right.

3 CHAIR ZIBELMAN: And I would
4 think that we also could develop programs that are
5 easier for load customers to participate in, than
6 the traditional ISO-administered programs because
7 there, they're really focused on a bulk power
8 system and the needs of the bulk power system
9 versus here. We're going to be focusing more on
10 the needs of the distribution system and load
11 shaping, which means we may be able to offer
12 products that are what I would call more friendly,
13 to -- to load, because they may not require the
14 kinds of duration that traditional ISO-administered
15 DER programs do, because they're looking at it in
16 terms of overall system reliability.

17 So, my thinking is -- I look at
18 it as a sort of another arrow in the quiver of --
19 of load, who might want to participate in the
20 markets, may find that the rules at the ISO are
21 not -- provide quick -- impose too much operational
22 risk on them, or economic risk on them, and that by
23 getting both the load customers and the aggregators
24 and other providers, in working with staff, what
25 I'm hoping is -- one is -- is that we'll -- we'll

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2 be able to develop programs that these folks say
3 hey, I can invest in this, I can do this. And
4 also, as -- as -- as Steve said, it'd be -- what --
5 what I think the outcome should be is that we
6 should look for programs that are very similar
7 across the board, so we create the broadest
8 possible market.

9 So, the thought being here is a
10 couple things, Gary, as you mentioned. One is
11 there's a lot of uncertainty right now because of
12 seven forty-five. So there are a number of
13 customers out there saying I don't -- I don't
14 even -- we don't even know if demand response is
15 going to exist, moving forward, at the ISO level.
16 That -- that is really something that the courts
17 are going to be resolving and it's -- it looks like
18 it may even be headed to the Supreme Court.

19 At the same time, we, in New
20 York, can't afford not to have demand response and
21 demand management part of our network because it --
22 it helps reduce price and, frankly, it'll -- it I
23 think will help with congestion and it also will
24 help with reliability.

25 So, this is what I would say

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2 at -- at best is going to be complementary to
3 whatever happens at the ISO markets and, at worst,
4 we'll offer a solution that -- so that we don't
5 have a -- a point where there's a cliff and those
6 programs somehow get ended --

7 COMMISSIONER BROWN: Right.

8 CHAIR ZIBELMAN: -- and we have
9 no place for these load respondents to go. So what
10 I -- what I -- I think is going on, it's a little
11 complicated. On one hand, we're trying to make
12 sure that the ISO programs will continue. And I
13 know we have ongoing efforts in that regard. At
14 the same time, we want to start the -- I think the
15 idea of building up these programs for the retail
16 customers so that the -- we're starting to create
17 these markets is -- is good.

18 COMMISSIONER BROWN: Well, I just
19 want to --

20 CHAIR ZIBELMAN: No, I know. But
21 I --.

22 COMMISSIONER BROWN: -- I wanted
23 to clarify. Besides the existing customers that
24 already play --

25 CHAIR ZIBELMAN: These could be

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2 new customers.

3 COMMISSIONER BROWN: -- the ISO,
4 that have the uncertainty related to the court
5 decisions, I think we're opening up the universe --

6 CHAIR ZIBELMAN: To more.

7 COMMISSIONER BROWN: -- to some
8 smaller industrials or large commercials that may
9 not have qualified. And hopefully, that's an area
10 where we can explore that'll be a little different
11 than New York City because it may be a real
12 win-win, cost-effective for some of the industrial
13 sites to turn down a line at peak times and, at the
14 same time, get paid and make more money --

15 CHAIR ZIBELMAN: Right.

16 COMMISSIONER BROWN: -- not
17 running than they're running. And so I think it
18 helps on both ends of the thing.

19 CHAIR ZIBELMAN: Oh, I -- I do
20 and I think that, you know, something that we can
21 do that the ISO may not do is that if a customer
22 says look, I can participate, but I can only do it
23 at an hour at a time, I can't do it for four hours,
24 this is our opportunity to understand what are the
25 imperfections in the wholesale market that we can

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2 make the retail market work a little easier for
3 customers. So, I -- I -- I knew that was your --
4 your point --

5 COMMISSIONER BROWN: But --.

6 CHAIR ZIBELMAN: -- but I did
7 want to note that, you know, it's -- to me, it's a
8 complementary activity on both --.

9 MR. ADDEPALLI: Let me just
10 say -- add to that. I think recently we are
11 finding out, Commissioner Brown, that as generators
12 that are retiring or some load is growing in
13 certain pockets, Upstate, there's unique needs and
14 demand response could play a big role. Those
15 that's not participating in the ISO and the
16 utilities today are -- are not capable or don't
17 have the tariffs in place even to accommodate that
18 quickly, in a hurry. So, I think it's a good time
19 to get some experience.

20 CHAIR ZIBELMAN: Yes. It's a
21 obviously exciting time.

22 Any further comments?

23 COMMISSIONER SAYRE: I -- I have
24 one comment on the item. And that's that I'm
25 particularly pleased with the amount of

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collaboration that we've agreed to do, going

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forward. And I think that's very important in

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making this work. But -- but I -- on -- on the

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topic of order seven forty-five at FERC and -- and

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the possible cliff if the courts were to divest

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FERC of all demand response authority, does that

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mean it would pour down to us? And do we have some

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contingency planning going on, in case we have to

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pick up that load?

11

MR. ADDEPALLI: Yes. A

12

contingency plan is being developed and we should

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have some -- we are going through a collaborative

14

process, as Steve said, working with the ISO and

15

the demand response community and the utilities.

16

And we should have some results in the coming

17

months. We don't want any gap between the ISO

18

programs falling off and not having a state program

19

in place.

20

CHAIR ZIBELMAN: Commissioner

21

Burman?

22

COMMISSIONER BURMAN: I just want

23

to clarify. This is not -- my understanding, this

24

is not a response to seven forty-five. This is

25

activities -- you know, we had a 2009 order, I

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2 wasn't on the Commission then, that laid out some
3 policies. And this is dealing with that, demand
4 management programs, and looking at what Con Ed
5 currently has, and now looking at it from a
6 state-wide perspective, not locking people into
7 doing exactly what Con Ed does. And that the
8 reason for this is we have summer 2005 (sic) goal
9 in mind for reliability perspective.

10 And so the necessity of doing
11 this item is -- is imperative for us to do that
12 and, you know, sort of dusting off the 2009
13 policies, with some more guidance and letting folks
14 know because they do -- they do need this order to
15 begin that process, but that the ISO programs are
16 sort of on a separate activity track that we are
17 looking at and working with the stakeholders in
18 that process. And it's not meant to replace the
19 ISO programs. Rather, they should be complementary
20 and working with the relevant stakeholders.

21 I do think it's important that
22 when we come back to look at these programs, that
23 we have collaborated with all the relevant
24 stakeholders and it's very important that we get
25 the expertise from the ISO, even though these are

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2 not their programs, to the extent that they can be
3 helpful to us with these, and also looking at the
4 expertise that they can provide overall, because I
5 think it -- you know, it will be very, very
6 valuable to us and the stakeholders.

7 So I -- I am in support of this
8 item to the extent that we are instituting this
9 proceeding and setting forth that we're looking at
10 these. And I -- the one question I am -- that I --
11 that I do have is related to the next steps in the
12 process. So there's a ninety-day window, but then
13 what's the next step after that?

14 MR. ADDEPALLI: So to -- to
15 answer your first question, not only do we need the
16 expertise of the ISO, but we need their cooperation
17 and working together with them. Even at a Con Ed
18 distribution level demand response programs, we
19 have pretty good cooperation and there are overlaps
20 or gaps, we need to make sure that those are
21 addressed, so we will continue to work with ISO as
22 part of this.

23 Within the ninety days, we hope
24 we'll have some good ideas, looking at Con Edison
25 and other jurisdictions' experience and utilities

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2 will take that and file tariffs in ninety days that
3 will be then prepared for comment and then they'll
4 come back to the Commission for action, so that the
5 programs can be implemented in summer 2015. That's
6 the -- that's the goal.

7 COMMISSIONER BURMAN: But people
8 will have an opportunity to comment --

9 MR. ADDEPALLI: If they file --

10 COMMISSIONER BURMAN: -- and --?

11 MR. ADDEPALLI: -- tariffs, yes.

12 COMMISSIONER BURMAN: Okay.

13 Thank you very much. It was helpful.

14 CHAIR ZIBELMAN: And I -- I think
15 that the -- as I understand it, the intent is -- is
16 that this will not be a one-stop activity. The --
17 we are going to have the initial focus for the
18 summer and then continue on. In a way, this is the
19 beginning of a -- a market development. I think it
20 is important that we are doing this in a -- in a
21 collaborative and the collaborative is really
22 focused on how did we develop the products of --
23 one of things that, you know, we talk about, is the
24 day one type markets.

25 The idea is that we do have

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experience with Con Ed -- the Con Ed programs. That's a good place to start. And part of the discussion then will be should these be implemented statewide, should they be modified and then implemented. And of course, with that -- within that context, we would have to address do we change the existing Con Ed programs or just let them continue and have slight variations because we don't want to create disruptions unnecessarily.

So I appreciate the need to get people in a room, to think this through, but it is important, I think, and valuable for the state, that we get moving on these earlier and -- and continue to develop the market as we go.

So I appreciate everyone's comments and recognition to the importance that the -- of the ISO in this process. With that, and there are no further comments, I'd like to take a vote then.

All those in favor of -- of instituting a proceeding to develop a dynamic load management programs and convene a stakeholder group for that purpose, please indicate by saying aye.

COMMISSIONERS: Aye.

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2 CHAIR ZIBELMAN: Opposed?

3 Hearing none, the recommendation is adopted.

4 So our next matter is Item 301, which is regarding
5 our net metering caps. And Tina Palmero is chief
6 of the office of energy efficiency and environment.
7 And Len Van Ryn, a managing attorney, will be
8 presenting that.

9 Good morning, Tina and Len.

10 Please begin.

11 MS. PALMERO: Good morning.

12 Thank you, Chair, and greetings, Commissioners.

13 Item 301, before you, lays out
14 recommendations in response to the petitions and
15 comments filed in case 14-E-0151 and 14-E-0422.
16 The petitioners request that the Commission take
17 action on the net metering minimum purchase caps,
18 under the Commission's jurisdiction.

19 I will address recommendations
20 specific to the cap and also tee up some other
21 issues that are ripe for future collaborative
22 discussions. I will then turn it over to Len Van
23 Ryn to address some specifics net metering
24 interconnection issues that have been raised in
25 comments.

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2 So just by way of background, New
3 York's net metering law allows consumers to install
4 clean, distributed generation systems to reduce
5 their bills and allows them to receive a credit for
6 excess generation, which flows back to the grid.
7 It's available on a first-come, first-served basis
8 to customers of New York's major investor-owned
9 utilities, subject to technology, system size, and
10 aggregate capacity limitations in each service
11 territory.

12 Currently, the minimum purchase
13 caps are set at three percent for all the I.O.U.s.
14 The Commission, in its April 2014 New York Sun
15 Order, recognized that the current three percent
16 caps would not be sufficient to support the
17 significantly expanded solar P.V. energy capacity
18 goals of New York Sun, and requested that the
19 utilities modify their caps if at risk of exceeding
20 it, to avoid any market disruptions.

21 Also, in that order, the
22 Commission acknowledged the new REV proceeding that
23 had been recently launched and it requested that
24 NYSERDA, in consultation with staff, undertake a
25 study to estimate the cost and benefits of net

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2 metering and discuss approaches to valuing solar
3 P.V., to better harmonize with -- with the
4 objectives in the new REV proceeding. And that
5 study is currently underway.

6 The petitioners, however, seeking
7 more market certainty, as they try to ramp up their
8 solar P.V. businesses, requested clarification of
9 the process of ensuring that caps were raised in a
10 timely manner. A request was also made to increase
11 the cap in the Central Hudson territory to twelve
12 percent.

13 Some comments received in
14 response to the petitions supported raising the
15 caps now to ensure the goals of New York Sun could
16 be met. Others cautioned that wholesale increases
17 in the caps for all utilities are premature,
18 considering the work going on in the REV
19 proceeding.

20 Recently, Central Hudson filed
21 notice that its three percent cap will be exceeded
22 in the near future. And staff notes that National
23 Grid will exceed its cap if all projects in its
24 queue are interconnected. However, both utilities
25 are continuing to process interconnection

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2 applications for net metering, per the Commission's
3 guidance in the April New York Sun Order.

4 So, since those utilities are at
5 or near their cap, staff recommends that the
6 Commission increase the caps for all utilities to
7 six percent, effective immediately, to provide
8 sufficient room for growth, while successor tariffs
9 are considered and developed in the REV proceeding.

10 Assuming all additional net
11 metering capacity is solar generation, doubling the
12 caps from three percent to six percent, will likely
13 result in an additional company-wide average
14 delivery impact of between one-half percent and one
15 point three percent, depending on the utility, if
16 the six percent caps were reached.

17 Staff finds that this impact is
18 reasonable and doubling the caps allows sufficient
19 headroom to advance the goals of New York Sun and
20 also development of other net meter distributed
21 energy resources, while these successive measure --
22 measures are developed in the REV proceeding and
23 are ultimately implemented.

24 Staff closely monitors the caps
25 of the IOs -- IOUs and recommends that the

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2 Commission continue to ensure that no gap be
3 allowed to open between the time that caps are
4 fulfilled and any new successor tariffs that may
5 commence.

6 Staff also recommends
7 consideration of a number of other initiatives by
8 seeking stakeholder input to further promote solar
9 and other DER facilities. In particular, there is
10 a strong interest in community net metering, where
11 customers, who are otherwise unable to site
12 facilities on their premises for various reasons,
13 would join in constructing a facility, up to two
14 megawatts, at a location where net metering can
15 take place. An example of how this could
16 potentially play out is included in the draft
17 before you.

18 There is also interest in
19 addressing retail rate credits for all distributed
20 generation resources, including fuel cells, which
21 locate in priority areas. So the same kind of
22 action that the Commission has been asked to take
23 in the preceding presentations on these locational
24 benefits could be extended to all distributed
25 energy resources. And with that, we would ask that

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2 utilities, in this consultative process, identify
3 locations that would have beneficial results for
4 the -- for the grid. And this is, again, something
5 that would be done in a consultative process.

6 Also, as stated earlier, staff
7 and NYSERDA are currently working together to
8 complete a report on net metering and approaches
9 for valuing solar. Staff anticipates that this
10 report will inform a more detailed analysis that
11 will help develop any successor measures and
12 tariffs envisioned in REV. Therefore, it's
13 recommended that staff and NYSERDA continue to work
14 together on approaches for pricing and valuing
15 distributed energy resources in a collaborative
16 process.

17 The draft item before you also
18 addresses some other important issues relating to
19 the implementation of net metered projects,
20 particularly with respect to remote net metering.
21 And with that, I'm going to turn it over to Len Van
22 Ryn, to address these issues. Thank you.

23 CHAIR ZIBELMAN: Thank you.

24 Good morning, Len.

25 MR. VAN RYN: Good morning.

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2 I'm going to address the legal
3 issues that have been raised regarding compliance
4 with a two-megawatt limit that the Public Service
5 Law imposes on the size of net metered facilities,
6 and regarding statutory requirements on the costs
7 of interconnecting those facilities.

8 CHAIR ZIBELMAN: Len, is your mic
9 on?

10 (Off-the-record discussion)

11 MR. VAN RYN: Net metering is
12 intended to foster the development of many small,
13 environmentally beneficial facilities, widely
14 distributed across utility service territories.
15 The two-megawatt requirement is one of the means by
16 which that goal is achieved. Consequently,
17 building a utility scale facility concentrated at
18 one geographic location, and then attempting to
19 divide that larger facility into two-megawatt
20 segments, does not comply with the intent of the
21 two-megawatt requirement and does not fit within
22 the goals that net metering is intended to
23 accomplish.

24 The net metering statute, itself,
25 is written in terms that contemplate that each

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2 two-megawatt facility would be separately located
3 at a separate site. Commission precedent on size
4 limitations in other contexts also supports an
5 interpretation that each two-megawatt facility must
6 be sited independently.

7 The Commission has previously
8 decided, in other contexts, where a two-megawatt
9 requirement has been imposed, that splitting larger
10 sized generators into multiple two-megawatt
11 segments, at the same site, is impermissible
12 because it would fail to satisfy the policies
13 behind establishing a two-megawatt requirement in
14 the first place.

15 Consequently, the Commission
16 should establish standards that must be met, to
17 show that a facility meets the two-megawatt
18 requirement. Compliance with that requirement
19 would be achieved by showing that each two-megawatt
20 facility is separately metered and interconnected
21 to the utility grid, is located at a separate site,
22 and operates independently of other facilities.

23 That the meter and
24 interconnection are separate can be determined by
25 showing that the interconnection is made at a

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2 single point, where no more than two megawatts is
3 connected behind one meter. If any interconnection
4 or other non-utility owned electric equipment or
5 property is shared between facilities, then the two
6 facilities would be deemed combined for purposes of
7 determining compliance with the two-megawatt limit.

8 Each remote net metered facility
9 must also be separately sited. That can be defined
10 through application of well-established property
11 law principles. Consequently, only one
12 two-megawatt facility may be located on a parcel,
13 as described in a properly recorded deed.

14 As the remote net metering
15 statute provides, a customer may then qualify by
16 either leasing or owning that underlying parcel.
17 Owners could also subdivide a larger property into
18 separately deeded parcels where separate facilities
19 would be located, so long as other requirements for
20 determining compliance with the two-megawatt limit
21 are met.

22 Each two-megawatt project must
23 also be operationally separate. While one company
24 may operate a number of facilities that are
25 separately sited, their operation must be

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2 separately directed independently of each other.

3 Successful participants in recent
4 NYSERDA and New York City renewable solicitations,
5 however, may not have been aware of these
6 requirements or their implications. The reasonable
7 expectations of successful participants in those
8 solicitations should not be disrupted if they can
9 show they made a good effort -- good faith effort
10 to comply with the two-megawatt limit. Utilities
11 should be directed to work with those successful
12 solicitation participants who acted in good faith,
13 to interconnect their project proposals.

14 As with other net metering
15 matters, dispute resolution is available through
16 consultation with staff or petition to the
17 Commission. The Public Service Law also
18 establishes the requirements for determining when
19 net metered generators must bear system upgrade
20 costs downstream from the generator's location.

21 Where a net metered generator's
22 capacity exceeds twenty percent of the capacity of
23 the local feeder line to which it is connected, the
24 generator becomes responsible for those downstream
25 upgrades needed to accept delivery of its

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electricity. This includes the costs of any substation upgrades that must be performed because of the generator. However, the twenty percent limitation does not establish a ceiling on the proportion of generator capacity to local feeder line capacity. Rather, the twenty-percent limitation establishes when an analysis of downstream upgrades is needed.

That analysis is directed to determining the upgrades and costs that are reasonably necessary for the safety and reliability of the system. As a result, the proportion of generator capacity to feeder line capacity may be greater than twenty percent if the line can be operated safely and reliably, at the higher proportion, after the needed upgrades are installed.

Finally, I'll address a rate design flaw that has created an arbitrage situation for net metered customers that needs to be corrected.

Remote net metering often takes place at sites where non-demand rates are in place. Those rates consist primarily of a volumetric

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2 component, but remote net metered customers have
3 been permitted to convert the volumetric credits
4 they would otherwise receive, into monetary
5 credits.

6 In comparison, if a non-demand
7 customer were to install net metering at its site,
8 it would not be able to receive monetary credits
9 and, instead, would receive only volumetric credits
10 at that site. In addition, customers net metering
11 on site, at an existing demand-metered location,
12 are credited at the volumetric rate for that demand
13 classification, which is comparatively quite a bit
14 lower than non-demand volumetric rates because of
15 the demand charge.

16 The result is the creation of
17 uneconomic arbitrage opportunities as customers
18 pursue remote net metering, where they can convert
19 comparatively high volumetric credits, into
20 monetary credits, instead of onsite net metering
21 where they can't convert or are credited at lower
22 volumetric amounts. Therefore, electric utilities
23 should be directed to file tariffs that substitute
24 volumetric crediting for monetary crediting at
25 non-demand remote net metered locations. This will

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2 place remote and onsite locations on a more equal
3 footing and discourage uneconomic arbitrage.

4 Again, however, net metering
5 developers that have pursued installation of solar,
6 in good faith, should not find their financial
7 expectations disrupted by this change in policy.

8 As a result, utilities should be
9 required to structure their tariffs such that the
10 successful participants in the NYSERDA and New York
11 City solicitations we've discussed, existing remote
12 net metered facilities, and customers that have
13 been entered into binding interconnection
14 agreements for remote net metering that have been
15 queued by the utilities as of the December 11, 2014
16 date of this session, may continue with monetary
17 crediting.

18 We are available for questions.

19 CHAIR ZIBELMAN: Thank you.

20 Thank you. Well done. Complicated issues.

21 Just a couple questions. When --
22 when we're limit -- putting a limitation on the
23 two-megawatt limit, that is not -- doesn't preclude
24 anyone from participating in the New York Sun; it's
25 just a -- it's really just a limitation on their

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2 entitlement to net metering payments. Is that
3 correct?

4 MR. VAN RYN: That's correct.

5 CHAIR ZIBELMAN: Okay. So, I
6 don't -- I want to be clear on that, so that
7 there's -- and we would expect them to participate
8 in those solicitations.

9 The -- the other element I wanted
10 to talk a little bit about is how we're going to
11 proceed with these two collaboratives that you're
12 recommending because, you know, as you mentioned
13 Tina and I think Steve eluded to, too, I mean these
14 are not only like two sides of one pancake, they're
15 really the same pancake. We're -- we're talking
16 about how do we value load reductions in the
17 market. And so I would expect, as we move forward,
18 both on the demand -- dynamic load management
19 collaboratives and thinking about the successor
20 tariffs, necessarily, we're -- we're going to have
21 to think about them as one and the same because
22 ultimately we're looking at how do you price out
23 load response, load management on the system,
24 and -- and if we move two parallel tracks, we're --
25 we're going to have to bring them back together

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2 in -- at some point.

3 So I would think that, as we
4 move -- as you're moving forward, we think about
5 how we structure this work, so that we get the
6 right people in the room and we can try to work on
7 these simultaneously. Otherwise, I think it's
8 going to be more chaotic than it feels on some
9 days.

10 Is that what you were thinking or
11 were you thinking something else? I -- or haven't
12 we gotten that far?

13 MR. KELLER: I -- I would say,
14 generally speaking, yes. There -- there is a need
15 to -- to reflect certain benefits, certain things
16 that you gain from all these programs. And they
17 all do have to somehow or other come together. So,
18 we -- you know, so whatever we -- we develop is
19 going to have to work across the programs,
20 absolutely. Yes.

21 CHAIR ZIBELMAN: Okay. And I
22 would probably add, as we move forward with REV, we
23 have the overall issues of cost benefit analyses
24 and they all need to be linked to a series of
25 highly interconnected Venn diagrams, I would think.

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2 Okay. With -- with that, I -- I
3 think, from my perspective, a couple things that
4 we're doing today that I think are important are
5 the fact that we're providing some level of market
6 confidence and continuity. There is, I know, an
7 ongoing concern, always, of -- well, if I -- you
8 know, we want to attract people to this market, if
9 they're concerned that we're going to hit caps and
10 therefore maybe I should go elsewhere, we want to
11 provide that assurance that we are moving forward
12 on our -- with the net -- with the net metering
13 program so that the caps are high enough.

14 At the same time, we are, I
15 think, doing two things that are very valuable.
16 One is looking at community solar, an experience
17 that we've learned about in other states. This is
18 very valuable and we've heard, in New York,
19 particularly, that there's so many customers who
20 may live in multi-unit housing, who may be in areas
21 that they really aren't available for solar, or in
22 fact, have economic limitations that aren't able to
23 put full photovoltaic on their homes, but that they
24 can participate in a community-based program and,
25 therefore, get some of the advantages.

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2 So, I -- for all those reasons, I
3 think it's a -- of great value for us to -- to move
4 forward and I highly support that recommendation.

5 And then on the -- the third
6 point, I think, as I mentioned, is it is important
7 that we now, in -- in one hand provide the
8 continuity of the existing programs, and then also
9 start working on well, what's the successor
10 tariffs. So, again, these things are complicated.
11 They take time.

12 We know from -- sort of the
13 literature we get across our -- the board, a lot of
14 states have done this and it's created a huge
15 amount of agitas and uncertainty and problems. And
16 we -- I'd like to think that New York, through this
17 collaborative process, will develop the right path
18 forward and provide, with having the right people
19 in the room, the opportunity to create programs
20 that are economically and environmentally
21 sustainable as we think about distributed energy as
22 a -- as including solar, as a key element to what
23 we are driving as a future of this industry.

24 So, I think -- again, timing is
25 right. We need to get this going. We need to get

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2 the right people in the room. And I leave it to
3 staff, with the support of NYSERDA, to figure out
4 how to orchestrate this so that it's -- it's --
5 these are constructive dialogues that move forward
6 at a pace that allow us to drive to conclusions
7 in -- in reasonable timeframes.

8 So, with that, I am -- am
9 supportive of the recommendations and I would open
10 up for other questions, or -- or comments.

11 COMMISSIONER BURMAN: Thank you.

12 When I look at this, I go back to
13 what is our authority for being able to increase
14 the caps. And the Public Service Law does lay out,
15 very clearly, that the Commission has the authority
16 to increase the net metered minimum purchase cap if
17 it determines that additional net metering -- net
18 energy metering is in the public interest.

19 So, the threshold question, to
20 me, is -- is this in the public interest. And when
21 I look at it, I can see an argument being made that
22 it's in the public interest for the two utilities
23 that are about to reach their cap because of the
24 concerns we have with upsetting things right now
25 and having people to be able to participate in

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2 that.

3 I'm not so sure that we can make
4 a legitimate argument, though I understand that all
5 the cap has to be raised for all utilities. And
6 then for me, I then question if we do that, what
7 then -- when will we start addressing the issues
8 with net metering that we need to look at,
9 especially since this order talks about going to
10 a -- a -- a transition to a value tariff.

11 So I'm concerned that we aren't,
12 sort of, getting to the meat of the -- of -- of the
13 issues and that we are doing this. And maybe it's
14 time, because we have talked about it, throughout
15 the years, about -- you know, really delving in,
16 rolling up our sleeves, and getting to some of the
17 issues with net metering that we -- we need to.
18 I'm more than happy to, you know, do that and to
19 dig down deep.

20 One of the issues for me is this
21 order does talk a lot about the New York Sun order
22 and that that is -- this is a further order in
23 bringing out some of those issues with New York
24 Sun, as it relates to net metering. I completely
25 understand that.

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2 I did abstain from the New York
3 Sun order. And for me, I -- I feel I need to
4 abstain from this, as well, especially because
5 there is an ongoing study that is -- that staff is
6 working with NYSERDA on. And I would rather -- I
7 think it's more prudent for me to wait for that
8 study and to really delve deep into this and deal
9 with it more holistically.

10 I am very happy with this order
11 in that it is trying to look at the transition and
12 dealt -- deal -- dealing with those issues. So, I
13 think ultimately, we're on the same page, but I am
14 uncomfortable with this item to vote yes on it.

15 So, I will be abstaining.

16 CHAIR ZIBELMAN: Okay. Thank --
17 thank you.

18 Just a -- as from a timing
19 perspective, I think that the -- the idea here
20 is -- is that we -- we start with the collaborative
21 so that we're in a position that we have the
22 successor tariff in place well before we hit the
23 caps and so that we can create the path forward, so
24 that there is no -- no market disruption.

25 I think it will be helpful. I'm

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not sure we lay out the timing in this order, but I believe that the next step is really the formation of the collaborative and then coming back to the Commission with an anticipation of the timing of when things will get done, so that we -- we can then start -- not only start the clock, but monitor and make sure that if the collaborative processes get barred -- bog -- bogged down, we can help make sure we unbog them. So -- if that's a word. But that's -- that to me would be a -- you know, a -- the next step in the collaborative, is setting the schedule.

With any other comments?

COMMISSIONER SAYRE: I think this decision, particularly in the intricacies explained by Mr. Van Ryn, sets a good precedent that with our policy changes, we do not intend to strip away the economic benefits of good faith investments in new technology.

We can't decide now what the prospective or retrospective impact of our future decisions is going to be, but I hope this particular technical decision sends a signal that New York is open for innovation and potential

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2 market players should not be looking at REV as --
3 as a chilling overhang.

4 CHAIR ZIBELMAN: Further
5 comments?

6 Okay. Well, then let's move on
7 this. So, item number 301, all those in favor of
8 the recommendation to raise net metering minimum
9 purchase caps for solar and other facilities, as
10 described, please indicate by saying aye?

11 COMMISSIONER BROWN: Aye.

12 COMMISSIONER ACAMPORA: Aye.

13 COMMISSIONER SAYRE: Aye.

14 CHAIR ZIBELMAN: Opposed?

15 Abstain?

16 COMMISSIONER BURMAN: I will be
17 abstaining.

18 CHAIR ZIBELMAN: Okay. Four ayes
19 and one abstention, the recommendation is adopted.
20 Thank you.

21 Let's take a ten-minute break.

22 First of all, I want to thank the
23 panelists today. I do think that these are very
24 complex orders, that they're very well drafted,
25 very thoughtful, and look forward to -- oh, wait.

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2 I do want to do -- I'm the -- I'm
3 sorry guys. I know you got excited. We have one
4 more. CCN, so -- we'll -- let -- let's do -- do
5 the community aggregation, then take a break.

6 (Off-the-record discussion)

7 CHAIR ZIBELMAN: So the fifth
8 item that -- that is -- is in this group is Item
9 203 and that's regarding the matter of -- of
10 enabling community choice aggregation. And that
11 will be presented by Luann Scherer, who's our chief
12 of our consumer advocacy. And Ted Kelly, who's
13 assistant counsel, is also available for questions
14 on this matter.

15 Luann, please begin.

16 MS. SCHERER: So, good afternoon,
17 Chair Zibelman and Commissioners.

18 Item 203 recommends that the
19 Commission initiate a proceeding on community
20 choice aggregation. As we discussed at the July
21 10th technical conference on REV, community choice
22 aggregation, or CCA, is an alternative model for
23 customers to participate in the retail market.

24 CCA involves the aggregation of
25 electricity or gas load by a municipality, on

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behalf of the municipality's residents. The models employed by the states that have implemented CCA vary, but generally the municipality or its consultant receives data from the utility, issues an RFP for an ESCO to serve the load based on the municipality's needs, selects the ESCO, and then provides information to residents regarding the CCA and explains how they can opt out of the CCA program if they are not interested.

Customers are enrolled by the winning ESCO who would be subject to the same uniform business practices that ESCOs -- that all other ESCOs have to abide by with a few exceptions.

In CCA, customer-specific data must be transmitted from the distribution utility to the municipality, which is not currently provided for in the U.B.P. In addition, customer authorization for enrollment in CCA would not be required because it is an opt-out program.

CCA has been implemented in at least six states and is resulted in lower and/or stable prices and attractive terms for customers due to the bargaining power that aggregation provides. CCA can also allow a municipality to set

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2 its own energy goals, which could include price
3 stability, increased reliance on green energy
4 products, or support for local generation.

5 Staff recommends that the
6 Commission initiate a proceeding to explore the
7 possibility of enabling CCA in New York. Staff
8 also recommends that the Commission issue, for
9 comment, a list of questions that are intended to
10 gather information from stakeholders and interested
11 parties, including, for example, the New York
12 Conference of Mayors and Municipal Officials.
13 These questions are designed to obtain information
14 regarding the interest in CCA and the benefits,
15 cost, risks, and necessary protections associated
16 with CCA, including issues such as the appropriate
17 notice to customers and the duration of the opt-out
18 period.

19 After reviewing the comments on
20 these issues, staff may come back to the
21 Commission, with -- with the recommendation in the
22 spring.

23 I also wanted to take a minute to
24 discuss an item on the consent agenda. Item 264
25 recommends adoption of a proposal which would allow

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2 an electric customer to switch to an energy
3 supplier, if the enrollment is received by the
4 utility within five days of the meter read. If
5 adopted, this would -- will significantly reduce
6 the enrollment period for electric customers. We
7 are also recommending a collaborative to develop
8 proposals for accelerated switching for gas
9 enrollments and raw cycle switching.

10 That ends my presentation, and
11 Ted and I are available for questions.

12 CHAIR ZIBELMAN: All right.
13 Thank you.

14 So the -- the matter before us
15 and -- and in the preceding, you've -- you know,
16 I -- I think that staff has done the job in laying
17 out both the legal issues associated with this,
18 plus the pros and cons.

19 I mean, this -- we've had -- from
20 what we've seen and -- is that community
21 aggregation, when done right, can provide a very
22 important benefit where the markets, as we've seen,
23 have been -- not been able to serve residential and
24 small commercial customers. They are providing a
25 vehicle for these customers to get both -- through

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2 the value of aggregation, the ability to get lower
3 prices, or better products, or even green products,
4 in a way that reduces the cost so it is almost like
5 the Brooklyn-Queens concept, the folks working in
6 the commons to provide a good for -- for all. And
7 I think that's -- that -- that it is definitely
8 worth exploring.

9 I want to, in noting this, that
10 we are initiating this proceeding, really recognize
11 the fact that the whole dialogue around community
12 aggregations began last year when Assemblywoman
13 Paulin began looking at this issue and began
14 looking at it in the context of legislative change
15 or developing a demonstration. I applaud the --
16 her leadership in this.

17 And it certainly got us thinking,
18 in the context of REV, about why shouldn't we do
19 this since. It's -- it's a great way to get local
20 units in government engaged with their customers.
21 It's a great way to get customers an opportunity to
22 work -- individual customers to work in a community
23 setting, but that there -- like every other things,
24 there are pros and there are cons and that we need
25 to make sure in designing what we do in this state,

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2 if we move forward, our -- take advantage of the
3 experiences elsewhere and get all these advantages
4 in New York.

5 Again, I think that by opening
6 this proceeding, we're opening the dialogue, we're
7 providing comments. We have an opportunity now to
8 think about how we will design such a program going
9 forward and then move forward with it. So, I -- I
10 look at this as a further development, another
11 vehicle to get consumers engaged. And our
12 experience in New York is -- particularly after
13 Sandy and what we saw in New York rising,
14 communities are very anxious to think about how
15 they can help themselves. And giving them an
16 opportunity in municipalities to work to get with
17 their residents and provide a value, I think, in
18 the energy sectors, is a good thing.

19 So with that, I'm -- I'm looking
20 forward to the comments. I would be -- I'm
21 prepared to open this proceeding. And again, thank
22 you staff for a very thoughtful approach and very
23 careful elucidation of the issues and a way to move
24 this forward.

25 With that, I'll open it for any

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2 other comments.

3 COMMISSIONER BURMAN: Thank you.

4 Community choice aggregation is
5 something that we can take very seriously. I
6 think, as Chair Zibelman said, Assemblywoman Paulin
7 took a leadership role in this and both the Senate
8 and the Assembly really looked at the issues and
9 stepped up on what, you know, might be able to be
10 done. And this is a -- an item that attempts to
11 take it further and look at it from a statewide
12 perspective.

13 Some of my concerns are that the
14 devils are in the details with community choice
15 aggregation and really needing to do a significant
16 deep dive into the issues. Six states have adopted
17 it. I've looked at those six states and I -- I
18 know that there needs to be a lot more analysis
19 done.

20 The six states that have adopted
21 it have adopted it through legislation and it has
22 changed in each state. It is -- it is not a
23 one-size-fits-all. There are differences. There
24 are successes, but there are also some huge
25 pitfalls. And not all states have been successful.

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2 And even the ones that may have some successful
3 programs have experienced some problems with it.

4 So I think that staff has done a
5 very, very good job here in laying out the issues,
6 issuing the staff white paper as part of this
7 order.

8 I am going to abstain on this
9 because I really do think that it's very important
10 that we go very, very carefully. And I will be
11 very much -- assuming that it -- this passes, that
12 we really have a very much, you know, focus on
13 making sure that we look at the pros and the cons
14 and work through all of the issues and even the
15 unintended consequences, so that we are not, after
16 the fact, saying well, we didn't, you know, think
17 about that.

18 So that -- it's very, very
19 important especially because, you know,
20 municipalities will be involved in this and they
21 are each -- you know, it's not a one-size-fits-all
22 for each municipality and, again, the type of
23 programs that -- that are there. I think it's
24 really with -- with extreme caution, in -- in doing
25 this and focusing on it from our perspective as

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2 really being the ones to help in these issues.

3 So -- I just really can't
4 over-emphasize that enough, so I will be
5 abstaining, but I look forward to working with
6 folks on this issue.

7 CHAIR ZIBELMAN: Further
8 questions, comments?

9 COMMISSIONER ACAMPORA: Well,
10 I -- I've read where some of the other states have
11 had problems. But here again, this is New York and
12 if we work hard at giving benefit and giving the
13 consumer another good tool to put in their toolbox,
14 that's not a bad thing.

15 So I think it's good to institute
16 the proceeding. I will be very interested in
17 seeing the comments and let's see where we go from
18 there. Thank you.

19 CHAIR ZIBELMAN: Yeah. So I --
20 I -- I mean, to me, I -- I -- it's -- I don't know
21 how we move forward without moving forward, so
22 while I recognize there are challenges when you're
23 trying to do something new, our way of looking at
24 things is to open proceedings, open dockets, so
25 that we can examine the issues. And I think that,

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2 you know, it -- it's -- it's a necessary first
3 step, as to the inquiry, to make -- making sure we
4 get the comments in and look at it. So with that,
5 I would like to take this to a vote.

6 So all those in favor of Item
7 number 203, which is the matter of enabling
8 community choice aggregation, please indicate --
9 institute a proceeding to examine enabling
10 community choice aggregation programs and solicit
11 comments as described, please indicate by saying
12 aye?

13 COMMISSIONER BROWN: Aye.

14 COMMISSIONER ACAMPORA: Aye.

15 COMMISSIONER SAYRE: Aye.

16 CHAIR ZIBELMAN: Opposed?

17 Abstain?

18 COMMISSIONER BURMAN: I will be
19 abstaining.

20 CHAIR ZIBELMAN: Four ayes and
21 one abstention, we will move forward.

22 Thank you.

23 So now, we will take a ten-minute
24 break.

25 (Off the record)

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2 CHAIR ZIBELMAN: All right. So
3 we are now moving into Item six on the agenda,
4 which is Item 303. And that's our proceeding to
5 examine alternating current transmission upgrades.

6 Dave Drexler, Assistant General
7 Counsel -- oh no -- Assistant Counsel will be
8 presenting that.

9 Good morning, Dave.

10 MR. DREXLER: Good morning.
11 Thank you Chair and Commissioners.

12 This is not the first time this
13 proceeding has been before you and nor will it be
14 the last, but because it's been a while since
15 you've addressed these matters, allow me to give
16 you a little bit of the background how we got here.

17 In November of 2012, the
18 Commission initiated this proceeding to investigate
19 potential solutions to the transmission congestion
20 that's persistent between upstate and downstate.
21 This is commonly referred to as the Central East
22 and Upstate New York, Southeast New York, or
23 UPNY-SENY electrical interfaces.

24 As the Commission recognized at
25 that time, upgrades to those sections of the

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2 transmission system could produce various benefits
3 to New York, including enhancing system
4 reliability, flexibility, and efficiency, reducing
5 environmental health -- environmental and health
6 impacts, increasing diversity and supply, promoting
7 job growth in the development of new, efficient
8 generation resources Upstate, and mitigating
9 reliability problems that may arise with expected
10 generation retirements.

11 In response to the Commission's
12 inquiry, several interested developers submitted
13 convening -- competing proposals for consideration.
14 In the course of reviewing those projects, parties
15 requested clarification as to the process the
16 Commission would use in determining which project
17 or portfolio of the projects best achieves the
18 Commission's objectives.

19 Parties also sought clarification
20 as to how the projects would be coordinated with
21 the New York Independent System Operators' public
22 policy planning process and how the costs
23 associated with the projects would be allocated and
24 recovered.

25 To address the requests for

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2 clarification, advisory staff proposed that trial
3 staff develop a report for the Commission's
4 consideration that includes a comparative
5 evaluation of the proposed projects. Trial staff's
6 evaluation would consider various criteria, such as
7 the cost of the projects, the associated
8 reliability and economic benefits, electrical
9 system impacts, and environmental impacts,
10 including but not limited to visual impacts.

11 Based on this evaluation, the
12 Commission would identify a preferred project or
13 portfolio projects that should proceed through the
14 siting process under Article 7 of the Public
15 Service Law.

16 Advisory staff also recommended
17 that the projects be evaluated under the NYISO's
18 public policy planning process, which provides an
19 opportunity for developers to recover their costs
20 pursuant to tariffs approved by the Federal Energy
21 Regulatory Commission. A methodology for
22 allocating costs was also proposed, whereby the
23 primary beneficiaries of the projects, which are
24 expected to be downstate, would be allocated ninety
25 percent of the costs. And the remaining ten

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2 percent of the costs would be allocated to
3 ratepayers upstate.

4 Lastly, advisory staff suggested
5 a mechanism for sharing the -- the risks of cost
6 overruns, whereby a developer would bear twenty
7 percent of the cost overruns and ratepayers would
8 bear the other eighty percent of those costs. This
9 would also be accompanied by other provisions, such
10 as conditions on incentive returns sought from
11 FERC.

12 On August 13th of this year, the
13 Commission sought comments on the advisory staff
14 recommendations that I just mentioned. Several
15 parties raised concerns with respect to the need
16 for additional transmission facilities to relieve
17 congestion, given other initiatives such as REV.
18 Other comments indicated that the proposed projects
19 will cost too much in relation to alternative
20 technologies or resources. Parties also raised
21 concerns with the environmental impact of the
22 additional facilities, particularly visual impacts
23 and the impact on property values and agricultural
24 lands.

25 With respect to the process

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2 recommended by advisory staff, parties generally
3 sought additional transparency and opportunities to
4 participate and provide comments. With some
5 exceptions, parties generally supported a cost
6 recovery mechanism through FERC tariffs and the
7 concept of beneficiaries pay.

8 The item being presented for your
9 consideration today seeks to respond to the
10 parties' comments by addressing, upfront, the basis
11 of the need for these projects. The project
12 proponents would be expected to submit information
13 necessary to assess the project's benefits and
14 costs.

15 Based on this information and its
16 own analysis, trial staff would evaluate the
17 relative merits of the projects and would provide
18 an overall assessment of the benefits and costs of
19 the various projects. Trial staff would present
20 its findings at a technical conference open to all
21 parties, which would be able to submit comments
22 thereafter.

23 The process would also seek to
24 align these proceedings with the NYISO's public
25 policy planning process. Public comments are

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currently being solicited in case 14-E-0454 on

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several proposed public policy requirements,

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including the A.C. transmission upgrades under

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consideration in these proceedings. This approach

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would also provide a mechanism, if necessary, for

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projects to recover their costs under a

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FERC-approved tariff. The proposed item would

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adopt the cost allocation and risk-sharing

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methodologies in the advisory staff recommendations

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that I noted earlier.

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In the event that the siting

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process results in a developer incurring additional

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costs that are material but could not have been

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reasonably foreseeable at the time that they

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formulated their initial bid price, then the

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risk-sharing mechanism would provide for recovery

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of those expenses.

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This concludes my presentation.

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Staff is available to answer questions that you may

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have and thank you for your consideration.

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CHAIR ZIBELMAN: Thank you.

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I think that the -- this

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proceeding, as -- as you mentioned, Dave, has been

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complex. It's been in front of us several times.

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2 And we -- and -- and I think -- and as expected,
3 because we're plowing new ground in a lot of
4 different areas. It's looking at the process,
5 making sure it -- it works has been a -- something
6 that we've been working on for the last year. And
7 I think at this point, we are in a -- in a good
8 point to move forward and -- and start making
9 some -- some decisions, so that we can start seeing
10 some conclusion here in -- in terms of where we're
11 headed.

12 With that, I think why I'm
13 supportive of this is -- is that I do recognize
14 that in looking at the construction of -- of the
15 transmission, there's been this considerable
16 concern that the Commission has not paid enough
17 attention to the question of need, and in general,
18 and that we needed to build in the opportunity to
19 present information and to really consider is our
20 moving forward with building transmission something
21 that is of benefit to -- to this state and are
22 there other alternatives.

23 So rather than waiting until the
24 Article 7 proceeding and Part B, I do think it
25 makes sense to have this technical conference, to

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2 get the issues aired out, and see and -- and give
3 people an opportunity to present the information.
4 And I would expect that that would come back to us
5 as some sort of interim decision. And that will
6 allow for folks to move forward in -- with
7 confidence, one way or another.

8 So I -- I do think that this is a
9 value, something we hadn't contemplated originally,
10 but I -- but given what we've learned about -- not
11 just the visual impact, but actually the impairment
12 on property value just because of the uncertainty
13 and people trying to understand what we're doing, I
14 think it'll -- it'll be a -- a value-add to get the
15 record, to get the technical conference, and get
16 the information out there.

17 Same time, is the challenge that
18 we've been having with -- with the -- with the
19 developers. Again, life would have been easy if we
20 simply said to the transmission owners, go out and
21 build transmission and come and we'll talk about
22 cost allocation. But we did want the advantage of
23 looking at multiple players, which means that we
24 need to start a process now of figuring out -- of
25 deciding if there is a single project or multiple

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2 projects that seem to make the most sense. We make
3 some early decisions, because again, people are
4 putting a lot of money in -- into this and it's
5 different than when you just use regulated
6 utilities because these are people who are putting
7 their own money in. And if they're not selected,
8 there is really no opportunity for them to get
9 recovery. So the -- the faster for them we can
10 make a decision, so they could put their best case
11 forward and then we can move on, it --I think is
12 important. So I think that's value.

13 The other thing that's novel here
14 and I -- and I appreciate staff's thoughtfulness
15 and -- and appreciate -- in this and the comments
16 we received, is the issue of -- of price. I mean,
17 if -- again, our typical way of doing things with
18 cost of service, would mean that we would look at
19 the prudence of the expenses, we would monitor it,
20 we would look at the capital, we would make
21 adjustments if we felt that the companies were not
22 being prudent. But here, you -- you know, we are
23 going to be looking at multiple providers.

24 And so the question then becomes,
25 let's say we pick somebody and they gave us a price

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2 and then they go to build it and it's three times
3 more expensive than the next person, and they say
4 oops. Well, we can't take and oops here, so this
5 is putting more risk. And that's why I think it's
6 important that we balance because at that point
7 they need to know enough about what they're
8 building so that they can give us bids with a great
9 deal confidence and we can do an apples-to-apples
10 comparison.

11 So, it -- I think this need to --
12 puts more risk on the developer than traditionally
13 we do, in the sense of they -- they will have to
14 stick by their bid now. And I think there --
15 again, there's always the balance, is -- and I
16 don't want to sound like we're -- is that if in
17 fact, something truly materializes that couldn't
18 have been anticipated, we have to be somewhat
19 realistic, but the proper -- but that would have to
20 be, I think, a fairly heavy burden to -- to prove
21 because we don't want people putting in bids that
22 are necessarily biased towards being very, I would
23 say, optimistic and then suddenly say oh, I didn't
24 think about the fact that I'm actually going to
25 have to buy equipment, I forgot that in my bid.

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2 So -- so that -- so I think this
3 is a good -- good way of approaching it. The --
4 to -- the -- to me, then what -- what we're going
5 to see then and just to be clear on it,
6 procedurally, the staff is expecting that the
7 technical conference will happen sometime in the
8 spring. Is that correct?

9 MR. DREXLER: That's right. In
10 the mid-June timeframe.

11 CHAIR ZIBELMAN: Okay. I think
12 that, you know, this makes sense. It's a good path
13 forward. Also takes advantage of the ISO public
14 policy practice in a -- in a good way to get the
15 cost allocation. And I know that there were many,
16 many heads being knocked together as we tried to go
17 through this. And I appreciate all the work that
18 the staff and the parties have done in trying to
19 figure out how to navigate these -- these issues.
20 And I believe we've -- we've ended up in a good
21 spot. So I am very supportive of the
22 recommendation.

23 Any further comments or
24 questions?

25 Okay. It's just you spend

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2 enough -- long enough, so good. Let's -- let's
3 move. This is a complex matter and I -- and I know
4 we'll move forward.

5 The other -- the other thing that
6 I would say is, in looking at these issues, we've
7 talked before about this and I do want to make
8 clear that the issue of visual impact, if we decide
9 to move ahead with transmission, continues to be a
10 major issue. And I know the parties have looked at
11 it, but I again, want to urge everyone, in looking
12 at their proposals, that they think about how
13 technology can be used to either eliminate or
14 certainly minimize the impact on the local
15 community. It is always a difficult issue and
16 hopefully we will find a good way forward.

17 So with that, let's take a vote
18 and I need to find my notes.

19 So this is Item 303 and with --
20 all those in favor of the recommendations of staff
21 to adopt a comparative evaluation process and the
22 modified procedural schedule, please indicate by
23 saying aye?

24 COMMISSIONERS: Aye.

25 CHAIR ZIBELMAN: Opposed?

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2 There being no opposition, the recommendation is
3 adopted. Thank you very much.

4 The next item for discussion Item
5 101. That is the petition of KeySpan Gas East
6 Corporation, National Grid, for authority to defer
7 costs associated with incremental capital
8 expenditure and other related relief.

9 Cindy McCarran, who's deputy
10 director of our office of electric gas and water,
11 and Jeff Hogan, chief of our office of accounting
12 audits and finance, will be presenting this.

13 Cindy, please begin.

14 MS. McCARRAN: Sure. Good
15 afternoon Chair Zibelman and Commissioners.

16 The company filed a petition
17 requesting authority to establish a mechanism to
18 allow a three-year, seven-hundred-million-dollar
19 capital investment program. Their proposal
20 featured replacement of over two hundred and fifty
21 miles a leak-prone pipe, the installation of over
22 one hundred and eighty miles of new gas main
23 associated with customer growth, the addition of
24 more than thirty-three thousand new gas customers,
25 and other benefits, while proposing to maintain

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2 current base rates.

3 The other benefits that the
4 company included are things such as reduced methane
5 leakage, translating to reduced greenhouse gas
6 emissions, as well as economic development
7 associated with construction activity, and energy
8 cost reductions for consumers.

9 Replacement of leak-prone pipe
10 and distribution network improvement and
11 development are both policy initiatives that the
12 Commission has advocated. The draft order before
13 you recommends directing the company to replace
14 seventy-seven point five miles of leak-prone pipe
15 in calendar year 2015 and ninety-five miles in
16 calendar year 2016.

17 It also recommends, for calendar
18 year 2017, that the company propose to replace one
19 hundred and fifteen miles of leak-prone pipe. That
20 would be done either through a rate-case filing if
21 the company does that, or if they decline to file
22 for rates by then, they should make another filing
23 to implement this increased ramp up of leak-prone
24 pipe replacement.

25 COMMISSIONER BROWN: Could I just

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2 get clarification? Could you define quickly for
3 us, leak-prone pipe?

4 MS. McCARRAN: Sure.

5 COMMISSIONER BROWN: Because it
6 sounds like its pipe that's maybe leaking.

7 MS. McCARRAN: And it -- it is
8 not necessarily pipe that is leaking right now. It
9 is very clearly defined as pipe that is either cast
10 iron pipe, bare steel or unprotected steel, or a
11 certain type of plastic pipe which is of an older
12 vintage. So very specific and it -- that's a good
13 point. It is not necessarily leaking right now,
14 but it is prone to it, more so than current pipe.

15 COMMISSIONER BROWN: Thank you.

16 MS. McCARRAN: You're welcome.

17 CHAIR ZIBELMAN: We -- this -- we
18 can say older infrastructure.

19 MS. McCARRAN: Yeah.

20 So the -- in staff's proposal
21 before you, this would be a total of two hundred
22 and eighty-seven point five miles of leak-prone
23 pipe replacement in three years, compared to the
24 company's proposal of two hundred and fifty miles.

25 The company would incur, under

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2 staff's proposal before you, a negative revenue
3 adjustment of approximately nine hundred and sixty
4 thousand dollars in any year that it fails to
5 achieve these goals. Staff also recommends that
6 the company be directed to update its gas safety
7 performance metrics, including institution of a
8 violations performance measure, which both of its
9 sister companies already have, being -- those being
10 Niagara Mohawk, upstate, and KeySpan Energy
11 Delivery New York, otherwise known as KEDNY.

12 It is recommended in the draft
13 order that the company be allowed to defer carrying
14 charges associated with attaching almost eleven
15 thousand accounts in calendar year 2015 and almost
16 twelve thousand new accounts in calendar year 2016.
17 If the company does not meet that new account goal
18 each year, staff recommends that the allowed
19 carrying charges should be reduced proportionately
20 by the number of accounts under the target.

21 The cost of the leak-prone pipe
22 replacement program recommended by staff is about
23 two hundred and twelve million dollars over the
24 two-year period. The cost of the distribution
25 network development program, approximately two

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2 hundred and three million dollars over the two-year
3 period.

4 And I'm going to turn it over to
5 Jeff Hogan now, who's going to talk about the
6 accounting and ratemaking treatments associated
7 with staff's recommendations.

8 CHAIR ZIBELMAN: Thank you.

9 Go ahead, Jeff.

10 MR. HOGAN: Good afternoon,
11 Chair, Commissioners.

12 Ordinarily the cost recovery of
13 the projects Cindy outlined would be dealt with in
14 a full rate case. However, the unique
15 circumstances we face with -- with KEDLI (phonetic
16 spelling) means that an alternative rate --
17 ratemaking mechanism is needed.

18 Because what we are proposing is
19 for the Commission to order the replacement of
20 specific amounts of leak-prone pipe and the -- the
21 further development of KEDLI's distribution
22 network, the exogenous clause of their current rate
23 plan is triggered. This clause allows the company
24 to -- to defer for future recovery from customers
25 any expense associated with legislative or

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2 Commission mandates. The cost will -- they will be
3 able to defer include a return on the capital
4 expenditures that they are making, as well as the
5 depreciation costs on that new plan.

6 If the capital expenditure
7 forecasts are accurate, then there will
8 approximately fifty million dollars of deferrals
9 related to the two programs that would come about
10 due to this draft order. About twenty-three point
11 six million dollars of that cost is related to the
12 leak-prone pipe replacement. About twenty-six
13 point five million dollars is for the development
14 of the company's distribution network.

15 If no surcharge was to be
16 allowed, then on the next rate plan, customers
17 would pay for all of those costs. This would be
18 collected at the same time that all the new rate
19 base that we would be putting in, through the
20 leak-prone pipe, as well as the distribution
21 network improvements, would also be going to the
22 revenue requirement.

23 If the fifty million dollars of
24 deferred costs were collected over three years, the
25 bill impact of that amortization, along with a new

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2

plan related to the deferral, would be about three

3

point three percent. This is a little under four

4

dollars per month per residential customer. This

5

would be coming at the same time all of the other

6

costs that I mentioned regarding plan are also

7

hitting customers, along with the reset of some

8

costs that are currently higher than ordinary

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rates, such as property taxes and pension expenses.

10

In addition, a plan put in place in 2013 and 2014

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would be being -- be part of the revenue

12

requirement calculation for the first time, as

13

well.

14

We have a concern that the

15

rate-driver pressures could lead to rate shock.

16

The draft order would allow the company to

17

surcharge customers for the leak-prone pipe

18

replacement costs. The surcharge would collect

19

about twenty-three point four millions dollars,

20

over the 2000 -- April 2015 to December 2016 time

21

period.

22

Since the staff on this case did

23

not cover a surcharge, the draft order directs the

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company to file tariffs to collect such a

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surcharge. And after the comment period, the

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2 Commission could -- could -- could then implement
3 that charge. The surcharge would have a bill
4 impact of about one point two percent or about a
5 dollar thirty-seven per month per residential
6 customer.

7 When the surcharge is over, at
8 the end of 2016, it is anticipated that a new rate
9 plan will be about to take effect for the company.
10 The amortization of the deferred costs related to
11 KEDLI developing its distribution network and the
12 new plan and base rates will increase bills.
13 If the deferred amount is collected from customers
14 or amortized over three years, then there will be
15 approximately a one point five percent increase
16 over what customers have been paying with the
17 surcharge in place, for a total increase over bills
18 today of about two point seven percent. This
19 amount ignores all the other rate drivers, other
20 than construction costs that you would be approving
21 in this draft order.

22 The only other party filing
23 comments in the case was New York City. While they
24 also agree that generally a rate case would be the
25 proper venue for addressing these planned

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2 additions, they recognize that the situation is
3 unique and are supportive of both the increased
4 leak-prone pipe replacement and the development of
5 the distribution network within the territory.

6 New York City felt that a
7 surcharge should only be in place about eighteen
8 months to two years and that a full reconciliation
9 should occur. The draft order is in line with
10 those recommendations. Staff will review the
11 capital expenditure spending and the draft order
12 has a full reconciliation of the costs up to
13 certain caps.

14 The proposed order -- order also
15 has a limitation to stop the deferrals, should the
16 company earn more than nine percent on its return
17 in equity. Earning at that level is not expected,
18 as even with a deferral, the company is forecasted
19 to earn about seven percent per year.

20 Advisory staff believes that the proposed order
21 balances the advancement of important policy
22 objectives along with ratepayer bill impacts.

23 I would like to thank all the
24 staff who have worked on this unique case and if
25 you have any questions, Cindy or I are available to

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2 answer them.

3 CHAIR ZIBELMAN: All right.

4 Thank you very much.

5 When was the last time that they
6 filed a rate case?

7 MR. HOGAN: The last case was
8 decided in December 2007. It was a five-year rate
9 plan. So about -- it was seven years ago, this
10 month.

11 CHAIR ZIBELMAN: So we would've
12 expected them to come in, in 2013, typically?

13 MR. HOGAN: In February '12, we
14 would have expected a filing, normally, and in --
15 in January 2013, they would have been eligible
16 for new rates to go in to effect.

17 CHAIR ZIBELMAN: All right. I --
18 you know, this is -- it's -- I guess it's because
19 it's the season, it's a little bit of like a
20 Christmas story. It's the best of times and worst
21 of times.

22 Clearly, our preference would be
23 not to do single issue ratemaking when you have a
24 company that's been out for this period of time.
25 But the accounting circumstances really are

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2 affecting their ability to provide the information
3 necessary to do a full-blown rate case. And we --
4 we under way -- while we don't appreciate that, we
5 certainly recognize that or I -- and we've had --
6 well, I recognize -- we recognize that. I would
7 say we all do.

8 But the -- at the same time, I
9 think it is very critical that we do not slow down
10 and, in fact, as we're doing -- suggesting here,
11 accelerate the pace of replacement of -- of older
12 pipe. That is a significant safety concern.

13 And I think that, no question,
14 we -- we -- the last thing we want is to allow a
15 company's accounting program -- problems get in the
16 way of where we need to go, but plus we have the
17 advantage here is that as were both developing --
18 addressing safety issues, we're also looking at the
19 development of a distribution plan, which I assume
20 will allow for -- and we have goals associated with
21 adding new customers and that, in turn, will have
22 the impact of mitigating rate impacts because we'll
23 have a larger customer group by which this capital
24 investment will be spread over.

25 So I think that in that context,

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2 you know, it is a great outcome from the
3 perspective of, one, we do -- what we should be
4 doing is looking at ways to replace older pipe that
5 both addresses safety issues and also reduces
6 methane production, which I think is very
7 important.

8 The other piece is -- is that the
9 amount of jobs associated with this construction,
10 obviously, provide a value to the community. And
11 then we also have the -- the potential for new gas
12 compass -- customers who are able to switch from
13 oil or propane, to have a significant reduction in
14 their overall energy bills.

15 So for all of that, the -- the
16 outcome is right. I think that the approach of
17 taking two years with the expectation that the
18 company will be coming in for a full rate case this
19 is -- is the right time period. And so for that --
20 for those reasons, I am supportive of us moving
21 forward in this way.

22 Any other comments on this
23 matter? Questions?

24 COMMISSIONER BURMAN: Thank you.

25 Thank you first, Staff, for all

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2 your hard work.

3 For me, when I look at this
4 issue -- and I'm very, very supportive of -- of
5 this item and will be voting in the affirmative.
6 It really comes down to the integrity and
7 reliability of the gas system as paramount. In New
8 York, we're focused on ensuring, one, that we have
9 a safe, two, reliable, and three, clean natural gas
10 system. So the three prongs, reliability, safety,
11 and a clean natural gas system is very, very
12 important.

13 We have several gas initiatives
14 that we're actively engaged in to achieve all three
15 of these prongs, but we need to also look. And
16 this item does look at that in a reasonable,
17 balanced approach to that. You know, for -- one,
18 for the industry, they need balance. They want to
19 participate and have an opportunity with their
20 natural gas initiatives, but they -- we also need
21 balance for the ratepayer who wants to have safe,
22 reliable, and clean energy but at reasonable costs.
23 And then really it's also about balance for the
24 regulator in all these things, because we need to
25 be fair and reasonable in understanding how this

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2 all works in real-life application.

3 So for me, when we look at
4 this -- and nationally it is being looked at, about
5 how do you replace your leak-prone pipe in a way
6 that is balanced and really make sure that we do
7 have safe and reliable natural gas. And one of the
8 things is to achieve this better compliance with
9 safety is positive incentives, which could be
10 through rates or charges or other mechanisms that
11 really promote the replacement of aging pipelines.

12 Many states also do have,
13 currently, infrastructure investment replacement
14 incentives. And here for -- for me, this is a very
15 good opportunity for us, outside the rate case, to
16 really be going towards a replacement of the
17 leak-prone pipe in a cost-efficient way and finding
18 innovative ways to finance the replacement of
19 leak-prone pipe is critically important throughout
20 the state.

21 So I look forward to voting yes
22 on this item and also continuing the dialogue on
23 how we do this throughout the state. So thank you.

24 CHAIR ZIBELMAN: Any further
25 comments? Thank you.

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2 And I -- so just to sort of add a
3 slight addendum, Commissioner Burman, I think your
4 observation is -- is correct. A lot of states are
5 looking at various mechanisms to allow for
6 continued replacement of pipe.

7 I think in this particular
8 context, the -- to me, the -- the fact matters are
9 really predicated on the fact that we needed an
10 exogenous recovery, rather than a broad policy, but
11 I do take your point that it is something we, as a
12 Commission, should -- should be looking at. And I
13 would -- we will, I think, encourage the staff to
14 come back with a recommendation along those lines.

15 So with that, in -- we will then
16 take a vote in the matter -- let's see. This is in
17 the matter of Item 101, the petition of KeySpan Gas
18 Corporation, with a petition for authority to defer
19 costs associated with the incremental capital
20 expenditures. All those in favor, please indicate
21 by saying aye.

22 COMMISSIONERS: Aye.

23 CHAIR ZIBELMAN: No -- hearing
24 any opposition? No opposition, the recommendation
25 is adopted.

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2 Our last item is -- on the
3 regular agenda is Item 102. And this is actually
4 an item that we're just going to have a discussion
5 about. It's regarding our -- the proceeding that
6 we started to revise our New York safety gas
7 regulations to ensure that we have a consistency
8 with the federal gas safety standards.

9 Kevin Speicher is chief of gas
10 safety is going to be presenting this, with Kim
11 Harriman available for questions.

12 And so Kevin, just if you can
13 really give us a status update and where -- where
14 we are on this process.

15 MR. SPEICHER: I will. Good
16 afternoon, Chair, Commissioners.

17 In September, the -- the
18 Commission issued a notice of proposed rulemaking
19 that was intended to align several portions in the
20 New York State gas safety codes with their
21 counterpart, federal regulations. These changes
22 dealt with several topics, including the method in
23 which a maximum allowable operating pressure is
24 maintained for pipelines that were built prior to
25 the implementation of gas regulations, odorization

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2 of pipelines going into storage, requirements of
3 leakage surveys, and a change in the definition of
4 service line.

5 As part of this rulemaking, staff
6 held stakeholder meetings in New York City and
7 Albany. During these meetings, it became apparent
8 that the change in service line definition was much
9 more complex than originally anticipated. Quickly,
10 New York's definition of service line ends at the
11 building wall, regardless of the meter location.
12 Under the federal rule, a service line ends at the
13 outlets of -- outlet of a meter, regardless of
14 where that meter is located, or at the connection
15 to a customer piping, if there is no meter.

16 Under the federal definition,
17 three similar buildings could have very different
18 jurisdictional service lines, based solely on where
19 the meter is located or even if there is a meter.

20 A change in New York's definition
21 would have a significant impact on New York City,
22 where piping inside a building has been and is
23 required to be installed by licensed master
24 plumbers.

25 Prior to these stakeholder

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2 meetings, we anticipated potential adequacy of
3 qualification issues for people working on the
4 portion of gas lines inside buildings that have
5 traditionally been considered customer-owned piping
6 and would be considered service lines under the
7 definition change. This work is sometimes done by
8 plumbers with the quality of work verified by the
9 LECs through inspection and testing.

10 In New York City, this work was
11 required to be Completed by licensed master
12 plumbers. During the stakeholder meetings, it
13 became apparent that these licensed master plumbers
14 had the training and licensing requirements that
15 verify they had the knowledge, skills, and
16 abilities to complete the work in this space and,
17 thus, met or even exceeded qualification
18 requirements. This was confirmed during the
19 commenting period after reviewing documentation
20 submitted by various plumber groups that detailed
21 their licensing requirements.

22 At this time, we will proceed on
23 two separate paths. For the first path, we plan on
24 returning to the Commission, soon, at a future
25 session, to recommend adoption of the changes that

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2 are not controversial, such as dealing with the
3 odorization and cycling of pressure to maintain
4 an -- an MAOP.

5 Second, we would like to meet
6 with USDOT Pipeline and Hazardous Material Safety
7 Administration, to discuss the issues surrounding
8 any changes to the definition of New York serve --
9 service line definition. These meetings will take
10 place over the next few months. At the conclusion
11 of this process, we will report to the Commission.

12 In summary, we believe that, as
13 verified through the stakeholder meeting process
14 and comment period, work being completed inside
15 buildings is being done by qualified and
16 experienced people. We will work with our federal
17 counterparts on the definition of service line and
18 come up with needed revisions. At this time, the
19 Commission is not being asked to take any action.

20 And this concludes my
21 presentation.

22 CHAIR ZIBELMAN: Okay. Thank
23 you, Kevin.

24 First of all, I -- I -- you know,
25 on this -- on this matter, we were asked by the

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2 Department of Transportation to make sure that
3 our -- our rules and regulations, as part of the
4 safety program, adhered to the federal rules and
5 guidelines. And this was a matter that really is
6 sort of a longstanding issue be given -- given by
7 the complexity of -- particularly the building
8 stock in New York City.

9 And it was revealed again last
10 year and -- and -- and we were asked by the
11 Department of Transportation, who develop -- who
12 actively helps fund our financing, our safety
13 programs, to make sure that our rules were aligned
14 with theirs. I think that -- so the process was
15 begun with that intent in mind.

16 The stakeholder process that
17 ensued afterwards was very informative because, as
18 Kevin mentioned, I think that the plumbers were
19 highly participatory. We recognize that, number
20 one, is -- is that the qualifications were there,
21 but that secondly with assumptions we had going in
22 were factually not correct in terms of the way --
23 when they work on consumer pipes -- customer pipes.
24 So I think that was a helpful dialogue and -- and
25 was informative to everybody.

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2 The next step for us, really,
3 then, as -- as Kevin said, is to start looking at
4 the guidelines. One of the things that I was
5 appreciative of in the conversations we had with
6 the Department of Transportation and PHMSA is that
7 they recognize that their definition may be overly
8 rigid in the sense that in application it may not
9 be adhered to what their intent is, and that their
10 intent is really around making sure that utilities
11 are overseeing the safety of pipe at the pressure
12 level of utility -- of higher pressure, and when it
13 moves to lower and typical customer pressure, that
14 that they recognize is -- you don't have the same
15 risk of -- of leaks that are dangerous and that,
16 therefore, that that management as has always
17 traditionally been done, really should be part of
18 what the customer looks at.

19 The challenge is -- is coming up
20 with the right definitions, the way -- right way of
21 approaching that because in both instances, both on
22 the part of the Department of Transportation and
23 this Commission, our utmost concern is -- is
24 safety. And we want to make sure that, as we take
25 a look at the roles and the responsibilities of the

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2 local distribution company, versus the roles of the
3 individual customer, that we're defining this very
4 clearly and the approaches are there.

5 In many respects, I'm aware of
6 the fact that our own rules are necessarily and, I
7 think, appropriately more conservative than some of
8 the federal laws because of the complexity of these
9 issues and the complexities of these buildings.
10 And, you know, in that sense I think is -- is a
11 good thing.

12 One of the things I will remark
13 is that when we are -- were in discussion with the
14 Department of Transportation about this issue and
15 the need to take a look at how to get both in
16 compliance and substance, but get the language
17 right, one of the things they mentioned -- and I --
18 and I don't want to embarrass you, Kevin, but in --
19 in all sincerity, they -- their willingness to --
20 to trust us to do the right thing was very much
21 predicated on the aggressiveness of our staff and
22 the capability and competency of our gas safety
23 staff in getting the right work done.

24 And so they were very --
25 specifically said -- and I would guess -- I would

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2 surmise that other states may have not gotten such
3 a warm welcome as our state and they -- in -- in
4 terms of listening to us and saying their
5 willingness to work with us because they know that
6 our commitment by this agency to gas safety is
7 there. And we -- we talk, not just saying it, but
8 we do it based on the professionalism of our staff.
9 So, with that, thank you, because --

10 MR. SPEICHER: Thank -- thank
11 you.

12 CHAIR ZIBELMAN: -- I think that
13 that's great public service.

14 So, with -- we don't have any
15 to -- thing to vote, but are there any further
16 comments on this?

17 COMMISSIONER BURMAN: Thank you
18 very much.

19 I also just want to echo the
20 kudos to staff and Kevin, in particular. I think
21 what was really very good for us is the
22 collaborative process, not only internally between
23 our gas safety staff, but also working with our
24 counsel's office on the issues and really then,
25 externally, reaching out to the relevant

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2 stakeholders.

3 I think it's the first time I've
4 seen a notice on a stakeholder conference that
5 really does try to reach out to as many
6 stakeholders by name that might be affected as
7 possible. And I think that was really very, very
8 helpful. And I know that the stakeholder
9 conferences and the comments really gave us an
10 opportunity to see the challenges in trying to
11 implement something so that we could be in
12 alignment with the federal regs and also having a
13 recognition that there is a -- a really good
14 opportunity for us to continue the dialogue and
15 improve on our -- our systems, not only on this but
16 on other things, too, so thank you.

17 CHAIR ZIBELMAN: Thank you.

18 So, we'll now move to the consent
19 agenda. I know -- note that the Commissioner Sayre
20 is recusing himself from Item 561.

21 Is anyone -- any other recusals?

22 Any other -- any comments on the consent agenda?

23 COMMISSIONER BURMAN: Yes. I
24 just have two quick comments on Item 263, which is
25 the matter of the review of existing Commission

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2 rules and regulations pursuant to SAPA.

3 I just wanted to highlight that
4 in December of 2013, we looked at a similar item
5 where we were looking at our statutory requirements
6 to review certain rules that are enacted on a
7 five-year cycle and to determine whether they are
8 still relevant. And my comments are similar to
9 what I said in -- in December of 2013 -- is that I
10 am very much in support of a review and meeting our
11 statutory obligation, but it does go, you know,
12 beyond that for me, in that this is just one prong
13 in our extent of our review efforts and that we
14 really do need to continually look at our
15 regulations and make improvements to them or
16 streamline them or get rid of them if they are not
17 necessary.

18 And so I know that staff is
19 looking at that, but really it's not just these
20 items that we should be looking at them, but really
21 on an ongoing basis, continuing to look at our
22 regulations. And I know that -- that folks are
23 focused on that, but I just really wanted to
24 highlight that for me.

25 The other item that I'd like to

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2 just, you know, highlight, is Item 563, which is
3 the new star area code in -- on Long Island, 631.
4 And there is -- it is very clear language in our
5 order on -- the requirements order in clause one
6 and two, in filing plans within thirty days of the
7 date of this order, that out -- that outlines the
8 implementation for the new code as an overlay and
9 also requiring plans on outreach and education.

10 And I know the other
11 Commissioners share with me that that outreach and
12 education is very important. And we'll look
13 forward to reviewing those.

14 CHAIR ZIBELMAN: Any other
15 comments on the consent agenda?

16 All those in favor, then, of the
17 consent agenda with the notation that Commissioner
18 Sayre is recusing himself from 561, please indicate
19 by saying aye.

20 COMMISSIONERS: Aye.

21 CHAIR ZIBELMAN: Opposed --
22 opposition?

23 There being no opposition, the
24 recommendations are adopted. Thank you all very
25 much, and we wish you all a good holiday.

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Secretary Burgess, is there anything in front of us today, more?

SECRETARY BURGESS: There are no other matters today and the next scheduled Commission session is January 8th, at ten thirty, in Albany.

CHAIR ZIBELMAN: Thank you.

(The meeting concluded at 1:27 p.m.)

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December 11, 2014

STATE OF NEW YORK

I, Howard Hubbard, 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 141, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 16th day of December, 2014.

Howard Hubbard, Reporter

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