STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, June 12, 2014
10:32 a.m.
19th Floor Board Room
Three Empire State Plaza
Albany, New York 12223-1350

COMMISSIONERS:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Garry A. Brown
Diane X. Burman
Meeting - 6-12-2014

CHAIR ZIBELMAN: I'd like to call the Commission's Meeting to order.

Secretary Burgess, are there any changes to the agenda for today?

MS. BURGESS: Good morning Chair and Commissioners. There's no changes to the agenda this morning.

CHAIR ZIBELMAN: Thank you. So we're going to move to the regular agenda. We have, actually, two items for the discussion. The first item is 30 -- let me put my glasses back on. 301, which is case number E -- 12-E-0577, which is the proceeding to examine the repowering alternatives to utility transmission reinforcements, with Elizabeth Grisaru, who's our Deputy Director of Policy for the Office of Electric, Gas and Water and Kim Harriman, are going to be presenting, our general counsel. And then Raj Addepalli, who's the Director of Office of Electric, Gas and Water will be available for questions. So let's begin. Hi, Liz.

MS. GRISARU: Good morning. Thank you commissioners. And I'll just add that Kim and I are also available for questions if you
Meeting - 6-12-2014

want to ask us and not Raj.

CHAIR ZIBELMAN: That was -- that

was assumed.

Kim was hoping, not but --.

MS. GRISARU: What I'd like to do

first is to address, in brief terms, the history of
the proceeding to date as well as the bases for the
conclusions that are represented in the order
that's before you today.

Ms. Harriman will then discuss
some procedural rulings that are also involved in
the case.

As you know, N.R.G. Energy is the
indirect owner of the Dunkirk Power Station in
notified the Commission in accordance with your
existing retirement policies, that it intended to
mothball the plant and take it out-of-service.

The NYISO and the connecting
utility, National Grid, thereafter conducted
reliability studies of the mothballing decision.

Grid identified local reliability
issues associated with the shutdown of the plant
and proposed several transmission upgrades, in
response to those reliability concerns.

Since that time N.R.G. has continued to keep the facility available under reliability-service agreements, initially as two units and currently only one, as it continues to be needed for reliability.

The present R.S.S. arrangement expires next year, at the beginning of June 2015.

In January of 2013, this Commission directed National Grid to evaluate the potential costs and benefits of repowering Dunkirk to run on gas, as compared to the costs and benefits of the company's proposed grids, proposed transmission reinforcements.

The Commission at the time recognized several potential sources of value that could be achieved through a repowering project: Reliability, environmental enhancements, economic development, electric-market competitiveness and economic benefits to ratepayers.

Subsequently, the New York legislature endorsed the Commission's approach and enacted a law requiring the Commission to consider these benefits when determining whether a
Meeting - 6-12-2014

repowering might be in the public interest.

Thereafter in April and May of 2013, the parties made their cases for the proposed solutions. National Grid filed a report supporting its transmission alternative and N.R.G. offered several options for repowering the Dunkirk plant.

We had extensive public interaction around this -- this evaluation in July. Staff hosted a very widely-attended public information forum in Fredonia, New York to get public input on the options that had so far been presented.

Staff later also convened a technical conference here in October to review new information and analyses that National Grid, the NYISO and N.R.G. had submitted over the summer. N.R.G. and Grid subsequently negotiated a proposal for modifying the Dunkirk plant to run on gas and they memorialized that proposal in a term sheet that was filed here in February of 2014.

National Grid and N.R.G. also submitted statements supporting the refueling proposal and various public comments were filed in
response to the term sheet.

Those commentators included multiple interveners, Earthjustice, the Sierra Club, and numerous state and local elected representatives and many, many, members of the public. Staff then evaluated the arguments and the estimates of value that were offered by N.R.G. and National Grid.

Staff's assessment is included in a report that staff issued for public comment last month. That report provides the basis for the recommendation that we are making here that the Commission approve the proposal to refuel Dunkirk and authorize National Grid to recover the costs associated with implementing that project.

To begin with, Staff agrees with National Grid and N.R.G. with the identification of the attributes of generation at Dunkirk that provide value to ratepayers. These are also consistent with the benefits that the Commission and the Legislature earlier identified as appropriate for the assessment of a potential repowering.

The term sheet and the supporting
comments focus appropriately on reliability, economic development, economic impact, and environmental factors.

First, the term sheet contemplates Grid paying about twenty million a year to N.R.G. for the availability of the plant, for a cost of about one hundred and forty million dollars on a net present-value basis for ten years. N.R.G., under this agreement, will share capacity revenues with Grid, if capacity prices exceed a certain market level. Hence, it is likely that the net cost to ratepayers may be under that one hundred and forty million dollar figure. That is for the cost.

In terms of the benefits, staff evaluated the proposal in terms of its reliability, economic development, economic and environmental aspects. Some of these benefits, I know, are quantifiable at least within some kind of reasonable range and we have quantified those. Others are expressed qualitatively, as they are not amenable to precise quantification.

Overall, staff concludes that the benefits of the project exceed the cost to
ratepayers and hence, Grid should be allowed the
associated cost recovery.

Staff agrees with Grid and N.R.G.
that the reliability benefits of maintaining
generation at Dunkirk here are significant. Some
of these benefits can be estimated, as I noted.
The availability of the plant over the next ten
years gives National Grid certain flexibility in
planning its system and allows it to defer some
transmission investments that might otherwise be
necessary. Grid estimated the range of avoided
transmission costs could be between approximately
thirty-seven point seven million to seventy-six
point four million.

The project will also void the
need for any R.S.S. payments that may be needed to
address reliability between September 2015, when
the refueled units would come online, and the end
of the summer of 2017, when Grid's transmission
projects would have come online.

Staff estimates these savings at
a net present value of approximately fifty million
dollars.

However, other reliability
benefits fall more in the qualitative category and these are laid out for you in the staff report, but I would like to mention in particular, that keeping Dunkirk in service mitigates other risks that could arise with other generation retirements in this region, provide some increased flexibility for the system operator, and increases the NYISO's ability to call on the hydro resources at NYPA's Niagara plant and imports from Ontario resources during high load conditions.

In addition, the plant will now be dual-fueled, hence it provides additional fuel-diversity reliability benefit in periods when natural gas shortages may occur.

Turning from the reliability benefits, we note also that the economic development benefits are significant. Staff recognizes that the town of Dunkirk is extremely dependent on this plant for employment and tax revenue. Staff recommends under the circumstances, that the Commission recognize those tax benefits and the direct employment benefits that the plant provides to the community.

We estimate these benefits to
represent a range of value between twenty-one
million and thirty-four million dollars, again, on
a net present-value basis.

There are certainly other
economic benefits that accrue to electric
customers. For example, both Grid and N.R.G.
projected economic price benefits to customers.
However, staff is uncertain as to the duration of
these benefits and proposes instead that you
utilize a different metric for this factor.

Staff recognizes that Dunkirk
provides congestion relief at certain periods and
recommends using a production cost savings metric.
Staff has estimated the production cost savings
associated with Dunkirk to range from thirty-one
million dollars to eighty-one million dollars on a
ten year M.P.V.

Finally, staff recommends that
the Commission give some weight to the
environmental benefit that Dunkirk provides in
reducing limits on power output at Niagara, a major
source of renewable power in the State. The
refueling proposal also provides some benefit over
the present R.S.S. arrangement from an
environmental perspective in that it allows us to
capture all of the benefits of maintaining
generation at this location, using a less-polluting
fuel than coal.

For all of these reasons, we
believe the term sheet proposal to refuel Dunkirk
under a ten-year agreement is consistent with the
public interests and will provide benefits to
ratepayers.

We also recommend that the
Commission approve the recovery of the costs in
implementing the term-sheet proposal. National
Grid suggested allocating and recovering these
costs through the existing R.S.S. agreement
surcharge mechanism and staff agrees that this
approach is appropriate here.

Thank you. I'll now turn to Ms.
Harriman.

MS. HARRIMAN: Good morning Chair
and Commissioners. We have several procedural
motions and substantive point to raise this
morning.

First, with respect to one of the
procedural motions, Earthjustice filed a request
Meeting - 6-12-2014

for evidentiary hearings in this case.

The standard to grant an evidentiary hearing is first found in law and second a matter of discretion for the Commission.

The points raised by Earthjustice to support a statutory requirement for the evidentiary hearing is found in Public Service Law 66(12)(f) and that pertains to a major rate increase.

As noted, both in the draft order and then in the presentation by Ms. Grisaru, the impact of the cost for the term sheet in the contract, falls below the threshold for a major rate increase, which is two and-a-half percent of aggregate revenues of the company.

In this case, the annual cost of the contract is approximately twenty million dollars. For National Grid a two and-a-half percent increase in aggregate revenues would equate to about sixty-three million dollars. So as a matter of law, an evidentiary hearing is not required.

With respect to a hearing being required for the discretion of the Commission,
Earthjustice raises several points.  

One, being that the hearing is required -- or a hearing is required in order to ensure an open and transparent process. They also raise the point that there's conflicting information in the record and that the environmental impacts could only be explored through an evidentiary hearing. 

I think that through reading the staff report, which reads as an in-depth novel of what's been going on as well as the draft order before you, you can see that there has been tremendous process afforded to this case. And I'd like to specifically point out that the Staff report was issued for comment which really gave the insight into the rationale and the thought process that went on to get to the staff recommendation. 

Moreover, having conflicting information in the record doesn't necessitate an evidentiary hearing. There is always differences of opinion. 

And lastly, the environmental impact has been raised and has been noted in the draft order and as I will talk in a minute, for the
SEQRA analysis here, it's, in fact, having an
environmental benefit, when you look at what we're
doing as far as repowering a coal fuel plant to
natural gas.

With that said, the evidence
before you is ample, it's complete, and an
evidentiary hearing would not require -- or would
not provide any additional certainty in the
decision that we're asking you to make today.

And therefore, the draft order
before you denies the motion for evidentiary
hearing.

The second point this morning is
with respect to the State Environmental Quality
Review Act. In taking the vote today, you're
actually taking two actions. One is to approve the
term sheet that was filed by National Grid with
Dunkirk for the repowering of the Dunkirk facility
and the second is the authorization for allocation
and cost recovery as noted by Ms. Grisaru.

And as the lead agency in this
case because no other entity is going to be
required to issue a permit, we will address the
first action under SEQRA and that is an unlisted
action, which is the approval of the term sheet. Dunkirk submitted in long form, environmental assessment form and it points out in that form as well as articulated in the draft order before you, that the changes that are necessitated by refueling are really within the envelope of the building.

There will be no significant or material land-use changes, as well as the environmental benefits will be noted in the reduction of air emissions through the removal of coal as the primary fuel source for this unit. Therefore, what you have in front of you as attached to the draft order, is a determination of non-significance and a negative declaration by the Commission.

The second action with respect to cost recovery and allocation of those costs, is what we call a type-two action and that is not an action for purposes of SEQRA that necessitates an environmental review.

So when you take your vote today, you'll be taking two votes that will be indicated by the Chair.
Meeting - 6-12-2014

Thank you. We're available for questions.

CHAIR ZIBELMAN: Thank you. And I would note in addition to the three esteemed colleagues I mentioned, we also have Warren Myers and Jeff Hogan and Tom D'Ambrosia, who I assume also were part of this analysis, and would be available to question.

So, let me just start and first of all, you know, I appreciate the fact that the way we've processed this, is that we were having the ability to both see the analyses done by, initially, Grid and then N.R.G. as well as others. And then staff's work, which I know also reflected a lot of the work that came off out of the technical session. So, you know, from my perspective, I feel very comfortable that all of the salient information has been placed into the record. And, that, it just seems to me, in reading all the briefings and all the information in the analysis, the issue is not whether or not there's a net present-value benefit, but what is the level of the benefit and, you know, reasonable minds will differ. But, clearly, whichever way you look at
Meeting - 6-12-2014

it, whatever numbers you look at, you're going to find that there's a net present-value benefit. And so I feel very comfortable that the record is certainly there to support moving forward with this.

The second piece though is, you know, I'm struck by the fact that, you know, we often look for a trifecta of benefits around costs, reliability and the environmental benefits.

In this case, and I don't even know if there's a word for it, but it's like a quadfecta, because we'll also have local economic benefits that are clearly associated with retaining the jobs and creating construction jobs at the plant. As well as the local economic benefits that the plant provides in the form of tax revenue to the community.

And, you know, frequently the issues concerned, we primarily have around the impact on consumers' ability to create and maintain a resilient and reliable system and as well as protect the environment, we weigh very heavily, but the fact that in this case we can also consider positive economic benefits, really makes this not
only a win for consumers, but a win for the community.

And in that light, you know, I congratulate Grid who certainly had every interest to say, well, our preference would be to build transmission to actually work with N.R.G. and construct an agreement that provides the same reliability benefits that the transmission would, but additional system benefits, in particularly the ability to convert a coal plant to natural gas. And, also the fact that we now have the ability to -- the flexibility of the system to make sure we're maximizing the availability of hydro from Ontario and also NYPA's units in Niagara.

I think, you know, for us, maintaining fuel diversity and not artificially constraining hydropower, because we simply don't have enough sufficient system in the western part of New York, would be not only harmful to local consumers, but, you know, also deters -- is an adverse effect from the rest of the state because that means we have to use fossil fuel rather than hydro to potentially meet the instantaneous demand of the system.
So, I think, you know, looking at all of this, I appreciate Grid's work, I think I know, you know, these are always hard-fought negotiations. I'm sure that there was, from N.R.G.'s perspective, lots of give and take, maybe more give than take. And, I appreciate that as well. I think moving forward for my purposes, the ability to repower a coal plant to natural gas, reduce prices to consumer, get an environmental advantage by making sure we're getting better use of our hydroplants, as well as avoid, you know, risks that another plant retires, and then provide local economic benefits on top of that.

You sort of look at it and say, why would we ever do anything but say yes and thank you to the parties for getting -- being involved and being creative in finding this solution.

So with that, you know, I'm certainly prepared to vote in favor of this. I congratulate also staff. I think your analysis really helped make it clear that we were looking at this as a local-reliability benefit. It also reduces production costs, which, of course, then results in reduction of prices to retail consumers,
which is always a primary concern for this Commissioner.

So thank you and I'm prepared to vote in favor. With that, let me open it up to my fellow commissioners for any questions or comments.

Commissioner Brown?

COMMISSIONER BROWN: Just one quick question. The western New York transmission upgrades envisioned by Grid, how does this affect that status?

MR. ADDEPALLI: I think clearly this is going to solve certain reliability concerns. There may be other reliability benefits with other transmission upgrades that will need to be pursued. So this is not end-all. This is one step. There will be other developments to the coming years.

CHAIR ZIBELMAN: Further questions or comments? Commission Sayre?

COMMISSIONER SAYRE: I attended the public statement hearing in Fredonia last year and I knew it was going to be something special when I saw the flashing sign pointing the way to the P.S.C. hearing as soon as I pulled off of the
I wasn't disappointed. I was moved and impressed by the strength of the community support for keeping this station open. Economic development and local economic issues are important factors, although, of course, not the only factors in our decision. But, I'm extremely happy to be able to conclude from the record that keeping this plant open is in the public interest.

CHAIR ZIBELMAN: Commissioner Burman? You're good. Okay.

So with respect to that as our counsel said there are two votes that we need to take with respect to this matter. The first one is all those in favor -- related to the SEQRA, in favor of the recommendation to adopt a resolution and issue a negative declaration in accordance with the State Environment Quality Review Act, please say aye.

COMMISSIONERS: Aye.

CHAIR ZIBELMAN: Opposed.

Hearing no opposition, the recommendation is adopted.

The second vote is with respect
Meeting - 6-12-2014

to the contract itself. And that -- with regard to that everyone and all of those in favor with the recommendation to adopt or approve Nation Grid's proposed allocation and the recovery of its costs associated with implementing the term sheet for refueling the Dunkirk generating facility, please indicate by saying aye.

COMMISSIONERS: Aye.

CHAIR ZIBELMAN: Proposed.

Hearing no opposition, the recommendation is adopted. Thank you very much.

Okay. The second item for discussion is actually only for discussion only or -- and information. There's no vote. It's item Number 501, which is the update on Fire Island and Mike Rowley, the chief of the utility operations for the Office of Telecom is going to be presenting.

And I see that Chad is also here. So, Mike, you want to proceed?

MR. ROWLEY: Sure. Good morning Chair and Commissioners.

Item 501 is an informational item to update you on the status of telecommunication
services on Fire Island and to discuss Verizon's recent action to remove Voice Link as a tariff service on western Fire Island.

To recap, large portions of Verizon's landline copper network on Fire Island were significantly damaged or destroyed as a result of Super Storm Sandy in October 2012.

Verizon determined that Voice Link, a new wireless based voice-only service would be the most efficient, reliable and cost-effective way to restore services in time for last year's summer season.

In May 2013, the Commission authorized Verizon to offer Voice Link as an alternative to basic landline service on a temporary basis, limited to western Fire Island, pending public comment and further review.

The approved tariff required Verizon to offer Voice Link according to the existing rules and regulations for basic local telephone service and specified that Verizon would need to seek further approval to offer the service in other areas of the State as a sole offering.

As you know, Verizon's decision
not to rebuild the landline network raised many concerns. The proceeding generated over seventeen hundred public comments from Fire Island residents, as well as interested parties from across the State, elected officials, and other interested parties from across the State.

The comments covered a wide range of issues associated with the restoration and replacement of copper networks and alternative telephone technologies, including voice quality, reliability, feature limitations, compatibility with E911 and copper-based applications, such as faxing and D.S.L. service.

Last August the Commission conducted an informational forum and public statement hearing in Ocean Beach. Approximately two hundred people attended, including about fifty speakers.

The general tone during the public statements was similar to that of the comments. One of the main points that came out of the gathering was that while reliable telephone service is critical, customers rely on their telephone lines for more than just voice services,
especially in areas where competitive choices are lacking. The company heard that message as well.

On September 11, 2013, Verizon informed the Commission that it decided to rebuild its wire line network on western Fire Island with a state of the art fiber to the premises or F.T.T.P. network, capable of providing voice services and broadband and they were going to have it built by May 2014.

As determined by the Commission in its October 24, 2013 order, the decision to build a fiber network and the removal of tariff language regarding the possible expansion of Voice Link as a sole offering elsewhere in the state, rendered many of the concerns regarding the feasibility of Voice Link as an alternative to wire line service moot.

Thus the requirement for a comprehensive report by Verizon on voicing service was cancelled.

The item before you summarize events since the issuance of the order in October and recommends that the case and all-related complaints be closed. Staff is pleased to report
Meeting - 6-12-2014

to you that on April 17, 2014, Verizon informed us that telephone service over its completed fiber network was now generally available to all residents of western Fire Island. And, the company filed additional amendments to the tariff to remove that portion of the tariff, related to Voice Link, which became effective May 1st, 2014 by operation of law.

Since October 2013, staff has been monitoring construction progress on Fire Island and conducted several inspections of the serving central office and outside plant.

Prior to making-fiber services generally available, Verizon sent mail notices to residents informing them of the rebuild and the availability of voice and data services.

As a result of these mailings, the company was successful in pre-positioning necessary equipment and cabling at the vast majority of storm-affected residential and business locations.

Verizon also developed a web page dedicated to Fire Island residents to inform customers of all of their service options. The
Meeting - 6-12-2014

company states that its pre-positioning efforts were successful and now allow them to efficiently provision customers -- provision services, as more customers return to the island for the summer season.

Nearly all of the pre-orders received are now complete and customers are receiving fiber-based services. Currently there are three service offerings generally available to western Fire Island residents. They include traditional T.D.M. based voice service over the F.T.T.P. network, pursuant to tariff, untariffed Voice Link service as an option, and FiOS digital voice service and bundled with FiOS Internet, which is unregulated.

The company states that there is no plan to offer FiOS video service on Fire Island at this time. The company also advises staff that for at least this season, customers with voice and/or D.S.L. services provided on the surviving copper facility, will continue to be served on copper until those facilities require replacement and/or a fiber migration occurs.

Copper loops will eventually be
We note that Verizon has constructed fiber networks in other areas of the State for over a decade now and those networks have shown to be both reliable and resilient over time. Accordingly, staff believes that further investigation of Verizon’s service quality performance and network conditions on Fire Island prior to Super Storm Sandy, is unnecessary, as an upgrade to fiber would likely have been the most beneficial remedy to address findings that network repair was warranted.

It is also important to note that the standard voice-only telephone service on Fire Island provided over copper or their new fiber network, will continue to be subject to the Commission’s service-quality reporting metrics and other applicable regulations.

While Verizon will continue to offer Voice Link as an optional service or on an interim basis to address cable failures throughout the state, staff will continue to monitor its use and report to the Commission accordingly.
Meeting - 6-12-2014

However, staff believes there is no longer reason for this proceeding, which was limited to the specific offering of Voice Link service on western Fire Island to remain open.

A large volume of the comments raised concerns about the general deployment of Voice Link. Staff believes the immediate concerns of those comments were addressed when language that could've facilitated the expansion of Voice Link in other areas of the State was removed from the tariff last September.

Staff will, however, continue to monitor Verizon's use of Voice Link in New York State in the context of our existing service quality proceedings, especially how its deployment relates to making timely repairs to its existing wire line network. Interested parties are welcome to comment there or file additional complaints as necessary.

Staff believes that Verizon has met its obligations with regard to repairing damaged facilities on western Fire Island and providing wire-line telephone service subject to its tariff and applicable law. We believe the new
fiber network will be more reliable and resilient to weather conditions on Fire Island than the legacy copper network that existed prior to Super Storm Sandy.

We can expect an immediate and long-term improvement in telephone service quality for both year-round and seasonal customers on Fire Island. Residents will also benefit from the expanded availability of broadband services through the FiOS platform.

In conclusion, we recommend that this case and all other petitions regarding the conditions of the pre-Sandy network on Fire Island be closed.

Staff believes this action can be accomplished procedurally, so this report is for informational purposes only and no Commission action is required.

I'd like to end my report with a graphic that represents the areas of the Metropolitan area which experienced the most severe damage to communications, infrastructure and long-term outages following Sandy.

The shaded areas you see are
where Verizon had replaced damaged copper with fiber in either the entire wire center or significant portions of it. And, while those areas look small on that map, that's a considerable amount of the population in the metropolitan New York area.

I'm happy to report that with the Fire Island build complete, the restoration of wire telecom networks following Sandy, is now complete.

That concludes my report on the status of telephone service on Fire Island and I am happy to entertain any questions you may have.

CHAIR ZIBELMAN: Thank you, Michael. I appreciate the report. I also appreciate the color scheme. You know, I actually, I think this is terrific and I'm glad that we're at the end of this chapter in terms of the restoration and particularly the fact that as I was coming on board last year, was just after I think Commissioner Acampora came, had attended the hearings on Fire Island and I appreciate the fact that we are now -- have fiber and that people are restored.

So it's good to close this
Meeting - 6-12-2014

chapter.

Any other questions, comments?

None. Commissioner Acampora?

COMMISSIONER ACAMPORA: As the Chair said, I did attend the public statement hearings. And, it was a lively group and they made a lot of very good points. What a lot of this boiled down to was public-safety issues, people who had lifeline devices could not use their devices with Voice Link and the police department that was there, did get me on the side to say that they had a problem with it.

So we're happy that this has worked out and I really want to thank firstly, Mike Rowley, for, you know, you've been very tenacious in making sure that things have been done right, paying attention to consumers who have extra concern. And, that's really appreciated. And to Sandra Sloane and the group at the call center who really helped keep us up to date on the phone calls that were coming in and the concern that was exhibited by the residents of Fire Island. So as the Chair said, we hope that this page is now finished and not to really speak in a negative way
Meeting - 6-12-2014

with regard to Voice Link, but Voice Link was not
the answer for Fire Island.

So we're happy that the FiOS will
bring peace and calmness to some of the residents
and I just have one question, Mike. How many
people are still on Voice Link?

MR. ROWLEY: I don't have that
information, but there will be people coming onto
the island now or pretty much that should be over
at this point. But from the take rates, I would --
the take rates on the fiber, the bundle package and
just the plain basic telephone service, I would say
very little.

COMMISSIONER ACAMPORA: Right.

So is, you know, I hate to put you on the spot, but
here again, FiOS, Voice Link, is that how we kind
of measure that? I mean, how many people are going
to stay with Voice Link when they have, you know,
FiOS remedy?

MR. ROWLEY: I'd say that's
pretty accurate.

COMMISSIONER ACAMPORA: Okay.

MR. ROWLEY: But, again it's a --
right now it's an optional service and it's on
Meeting - 6-12-2014

COMMISSIONER ACAMPORA: Right.

MR. ROWLEY: So there's no obligation for us to -- for them to provide info on that. I'm sure they would if we asked, but --.

COMMISSIONER ACAMPORA: Yeah.

I'd be interested to know. We'll talk about that offline. Thank you.

CHAIR ZIBELMAN: Just one question or one comment. I know that there's a study going on actually and I think it'll be important for us and to understanding the impacts on. A couple of pilots for people who are using Voice Link to see how -- if it can provide secure services.

I think there in the south -- one in the south; is that right, Chad -- do you --

MR. HUME: Yeah. A.T. and T is doing some pilots down south with respect with, you know, replacing wire line telephone with wireless-based services. Yeah. We do intend to be informed through those pilots that are being done underneath the auspices of the F.C.C.

CHAIR ZIBELMAN: Good. I think
Meeting - 6-12-2014

that would be helpful for us to understand what
their findings are. Any other comments,

Commissioner Sayre?

COMMISSIONER SAYRE: I'd just
like to commend Verizon for doing the right thing
here for its customers and the community by
bringing fiber all the way to customers' homes and
businesses. And I'd like to add to the Chair's and
Commissioner Acampora's commendation of staff for
keeping the pressure on.

CHAIR ZIBELMAN: Okay. Thank
you. Great that was -- we'll move now, since there
was a discussion only, to the consent agenda and I
know, Commissioner Sayre, you are recusing yourself
from item Number 566, is that correct?

COMMISSIONER SAYRE: That's
correct.

CHAIR ZIBELMAN: Okay. So now
you have to close your ears because I'm going to
talk about item 566.

Actually it's with pleasure.

This item is with respect to a commendation with, I
think, fifty -- is it fifty-four companies,
fifty-one companies. I have to get my notes.
MR. HUME: Yeah. It's actually fifty-three of the I-LECs out of seventy-four companies.

CHAIR ZIBELMAN: Do you want -- would you mind, Chad, just taking a couple of minutes and summarizing, or Michael, just what this is about because I think, you know, it's rare that we get to do this and it's a pleasure to be able to do it today.

MR. HUME: Yeah. Essentially we go through every year and make a determination as to whether or not the I-LECs and the C-LECS have number one, met their obligations underneath our various service-quality metrics. And secondly, take a look and see if they have exceeded our expectations.

And in the case of what you have before you, is the 2013 service-quality commendations for the incumbent local exchange carriers and the competitive local exchange carriers, for those carriers that meet our metrics ninety-five percent of the time. I mean, the required is a minimum to meet them eighty-five percent of the time. In order to be commendated,
they're required to meet them ninety-five percent of the time.

There are seventy-four companies in total that are looked at. They include the fifty-three I-LECs and twenty-one competitive local exchange carriers. Of those seventy-four, we are recommending that we provide commendations to fifty-one of them this year.

That includes thirty-one of the I-LECs or fifty-eight percent of the I-LECs and twenty of the competitive exchange carriers, which is ninety-five percent of the competitive exchange carriers.

It also includes the Frontier companies and the report before you also does provide the annual report for Frontier service quality and again Frontier has met our requirements for service quality for the year 2013 and some of their divisions are also receiving commendations.

I would add that for these companies, they look upon the commendations as an accomplishment. And it's something that they're proud of every year when the Commission grants these commendations. And they even include them as
part of their F.C.C. filings with respect to
service quality to indicate that they have been
commended for, want of a better term, exemplary
customer service here in New York State.

So, you know, it's a good news item. It's consistent with respect to the
performance in the past and I think, you know, that they set a goal to get the commendations and we're pleased this year to recommend again granting them to the companies before you.

CHAIR ZIBELMAN: Thank you. What I mean, is by the way, my comment was not that we don't have companies that outperform. We have a lot of companies that outperform, but frequently when we have matters before us, it's to -- where we're talking about opportunities for improvement.

It's nice sometimes to be able to take a moment and say we've got companies who are doing a great job. They're focused on providing customer service. And, so, I'm very pleased to be able to note that and we will be sending letters to each of them soon. So thank you.

Then I have one other item I just wanted to bring out that's on the consent agenda.
We have an -- with the change in the 18(a) assessments from this past winter, we know are going to be working with each of the utilities to implement the new rates that they will be implementing in order to reflect the reduction in the 18(a) collections.

We want to note that this staff has done a great job. There's a lot of work to try to figure out exactly where each of the companies -- it's electric, gas, and water companies are, to be able to first figure out where they are and then to determine what's the right path forward, so that we can as quickly and accurately as possible, make certain that we're on the right track in reflecting a reduction in 18(a) collections.

So with that, I just wanted to express my appreciation to Jeff Hogan and his team, that I know they have been working very hard on looking at a lot of numbers and trying to get it right and we'll be moving forward with that.

Any other comments on the consent agenda?

Commissioner Burman?
Meeting - 6-12-2014

COMMISSIONER BURMAN: Thank you Madam Chair. And thank you for allowing me to speak. I'd like to speak on item 261, which you were just talking about.

Unfortunately, it's not an item that I can look at as a good news item. In fact, based on the SAPA notice, the published session agenda and this item not being on the discussion agenda, but rather only on the consent agenda.

At first blush, it may inadvertently appear as nothing more than merely implementing what was done in the 2014 budget, which is accelerating the elimination of the 18(a) surcharge. That's part of our administrative regulatory obligation under the law. And if that was all it was, I would not have anything else to add today on the item.

But this item also deals with, to me, a much thornier and more complicated issue that dates back to 2009.

We are implicitly being asked to address the inherent and catastrophic problems with the 2009 legislatively mandated 18(a) collections that occurred between 2009 and now.
Meeting - 6-12-2014

For point of historical reference, on April 7th, 2009, New York State enacted the State budget for 2009 and 2010, which in part required the Department of Public Service to collect a temporary state energy and utility service conservation assessment, commonly referred to as the 18(a) T.S.A., by others as a regressive energy tax.

The T.S.A. is applicable to electric, gas, steam and water corporations, municipal and gas corporations subject to the Commission jurisdiction and for purposes of 18(a), also the Long Island Power Authority.

The T.S.A. was expected to generate an estimated five hundred and forty million in additional revenue during the 2009-2010 State fiscal year for the support of the State's general fund.

The actual way to recover the funds looks somewhat complicated under the law and required the Commission to direct the utilities to implement the law.

The Commission did what it was required to do. It did so in June of 2009 by
ordering subjected utilities to establish and 
collect a surcharge from customers. This 2009 
imposed surcharge hits every single business and 
resident in our State. And between 2009 and March 
2014, approximately two point nine billion dollars 
was collected by the State.

Every year the Department, 
because of the imposition of the law on behalf of 
the State, sent a letter to the utilities telling 
them how much they owed and every year the 
utilities wrote a check and it went to the general 
fund.

Ironically, the collections went 
to the general fund and never actually helped with 
any energy savings or energy programs. Albeit, the 
stated purpose of the T.S.A. was to help with 
energy conservation. Every year the utilities 
filed with the department what their collections 
were and every year this went on.

In August of 2013, a letter was 
sent to the utilities by the department seeking 
information to reconcile the collections and get 
things in order for the Commission action today.

What I find disturbing is we're
having now to revisit just how awful the 2009 law was and the devastating effects the collections can have on New Yorkers. We are now first addressing, that in some cases, the collections may have been significantly over collected to the tune of close to two hundred and fifty million dollars and that does not necessarily include LIPA. Yet the over collections are apparently limited in time and to a few companies.

Most over collections may have happened only recently. And, yes, we do have a plan that this order is immediately going to put in place to get in a just and fair ways, the monies over collected back to the customers who paid them.

I appreciate that this surcharge was not in the control of the utilities. This surcharge was imposed upon them by the State and they were directed to turn the money over in full to the State in the first fiscal year 2009 and 2010, which immediately set up a significant cash-flow issue from the get-go. Moreover, they did every year, inform the Department and the State of their collections.

I continue to remain concerned on
our over reliance on energy tax surcharges which extend beyond just the 18(a) surcharge, as there are other non-legislatively imposed surcharges that we need to look at.

The way surcharges -- I continue to remain concerned the way surcharges are being collected and allowed to build-up and are setting us up for more problems and complications.

The imposition in collections of surcharges are in the control of the State. High energy costs in New York State are a key impediment to the State's economic growth.

Our focus must remain on easing the high energy bills our families and businesses shoulder. These are office work cooler and kitchen table issues.

Accelerating the phase out of the 18(a) assessment is not enough. What this item shows to me is that we as a State, and more specifically in my role as a regulator, I need to make sure that we are properly accounting for ratepayer funds.

The 2009 law was destined from the get-go with problems in collections. I'm glad
we have now and are reviewing the records and ensuring the collections going forward are appropriate. Because we are in this order looking at getting back immediately in a fair way to the ratepayers, the over collections and doing it through tariffs, they're going to come back before us before they're permanent to the Commission and we're going to be able to look at that before we approve them on a permanent basis.

I'm going to be voting yes, because I don't want to harm the ratepayers and when I look at the order, I see that we're going to be doing this in a just way. And I also see that we're going to do this in an immediate way.

I do note that we're going to need to have some consumer outreach on exactly what the plan will be. I do note that I expect that we're going to fairly quickly get a detailed accounting on all of the companies, including LIPA on what exactly all the collections have been from 2009 to 2014 and I also note that we have set up now, on a going-forward basis, that the collections that will be going forward, are going to be done differently, so that this won't happen again.
For me, what's important is that we do have other ongoing proceedings and I think that what's significant is that as we look at those proceedings and look at how we're focused on ratepayer funds and the cost-benefit analysis that gets done, with looking at the issues that are coming before us, it's very important that we look at all that has to happen in the energy of the future and the different things that we're tasked with and concerned about. So that we make sure that we holistically address all that we want to do, all that we need to do to ensure that we have safe and reliable energy at reasonable prices for folks. So thank you.

CHAIR ZIBELMAN: Any further comments?

Let me just reflect on just one point. And, you know, we live in an extraordinary complex world and one of the things that we know in this country in the last ten years, we've had a lot of economics ups-and-downs and there were periods of doubt. And we've -- while I wish we could live in a bubble, we don't. And we are part of a sort of greater economy. It's not necessarily, I
believe, the appropriate role for the Commission to
debate issues that are decided amongst other bodies
who also have the interests of the State at hand
and our role is to implement.

So with respect to that, I don't
think it's appropriate for us to debate tax policy
here. But, at the same time, we do have an overall
interest in maintaining the electric bills and
looking at ways to maintain affordability, which is
a good portion of what we are focused on and are
revved up in our water dockets, when we do rate
cases. And, you know, I do think it's important
when we look at these, we consider all of the
effects, things we can control and things we can't
control in making a determination of what's the
best for consumers.

But with that, you know, our
action here today is really to address a -- is to
make sure moving forward and any time there are
charges there is going to be reconciliations that
need to occur, that we do the reconciliations
accurately and we get the levels of the surcharge
accurate. And, I again, appreciate the work of
staff in what I think is a tremendous effort in a
short period of time to get us on that track.

So if there are no further comments on the consent agenda, I'll move the consent agenda. All those in favor?

COMMISSIONERS: Aye.

CHAIR ZIBELMAN: Opposed?

Hearing none and we will then -- the consent agenda is approved.

Commissioner Burgess are there any -- or Commissioner -- Secretary Burgess -- she has a promotion. No maybe it's not a promotion.

Any other matters before us today?

MS. BURGESS: There are no other matters today and the next Commission session is June 26 at ten-thirty here in Albany.

CHAIR ZIBELMAN: The Commission stands adjourned.

Thank you.
STATE OF NEW YORK

I, Jamie-Lee Greene, 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 48, is a true record of all proceedings had at the hearing.

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

Jamie-Lee Greene, Reporter