

1 Monthly meeting - Public Service Commission - 3-15-18

2 STATE OF NEW YORK  
3 PUBLIC SERVICE COMMISSION

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MEETING OF THE PUBLIC SERVICE COMMISSION

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Thursday, March 15, 2018  
10:28 a.m.

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Three Empire State Plaza  
Agency Building 3, 19th Floor  
Albany, New York

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COMMISSIONERS:

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JOHN B. RHODES, Chair

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GREGG C. SAYRE

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DIANE X. BURMAN

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JAMES S. ALESI

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2 CHAIR JOHN RHODES: Good morning. We're  
3 just at time. Let's get started and before we begin this  
4 session, I'd like to ask Michael Worden, Director of the  
5 Office of Electric, Gas, and Water to provide a brief  
6 update on the recent storms that we're all extremely aware  
7 of. Mike?

8 MR. MICHAEL WORDEN: Good morning, Chairman  
9 Rhodes, Commissioners. On March 2nd, winter storm Riley  
10 brought accumulations of heavy wet snow, over two feet in  
11 many areas, and high winds that resulted in widespread  
12 extensive damage to utility, transmission, and  
13 distribution systems resulting in hundreds of thousands of  
14 electric outages to much of New York state.

15 Five days later on March 7th, winter storm  
16 Quinn brought more snow and wind to the state which  
17 hindered completion of the remaining additional Riley  
18 outages and caused further system damage and customer  
19 outages. Statewide for the two storms combined there were  
20 a total of approximately five hundred and ninety thousand  
21 customer outages. The longest of these outages lasted up  
22 to ten days in Westchester and Sullivan counties.

23 As you know, if you're in the Capital  
24 region, on Tuesday and Wednesday of this week, winter  
25 storm Skylar, the third nor-easter in eleven days,

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2 impacted the states, but thankfully did not cause  
3 significant or prolonged outages. Just to give you a  
4 sense of the footprint for Riley, it affected all  
5 utilities in New York state, caused extensive damage to  
6 electric utility infrastructure including hundreds of  
7 broken poles, heavy damage in remote, hard to reach  
8 locations and numerous road closures.

9 The governor declared states of emergency  
10 in Dutchess, Putnam, Sullivan, and Westchester counties on  
11 March 4th where approximately seventy-five percent of the  
12 outages occurred.

13 Quinn happened as restoration was nearing  
14 completion for the Riley storm outages and mostly affected  
15 Hudson Valley and Long Island areas. So it affected in  
16 large part the same footprint that was still out from  
17 storm Riley. Peak wide -- peak wide -- peak -- statewide  
18 outages, excuse me, for Riley were approximately four  
19 hundred and twenty-four thousand customers and for Quinn  
20 was approximately a hundred and ninety-three thousand  
21 customers. So the hundred and ninety-three thousand, not  
22 to get into -- too deep into numbers, included about  
23 twenty-six thousand that were still out from Riley, so as  
24 we moved forward, we had to continue to monitor the  
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2 restoration for Riley, those customers that have been out  
3 the longest with the new customer outages that came along.

4 New York utilities have approximately  
5 thirty-six hundred FTEs dedicated to restorations  
6 throughout the state. These FTEs represent lineman, tree  
7 trimmers, and servicemen, the people that actually are on  
8 the street doing the work. During restoration, that  
9 number rose to about forty-nine hundred FTEs and  
10 continuing on through Quinn, it actually got up to  
11 approximately fifty-four hundred FTEs on the street doing  
12 restoration activities.

13 These numbers include about fourteen  
14 hundred out of state line and tree workers from places  
15 including Michigan, Texas, Ohio, Missouri, North Carolina,  
16 Louisiana, Iowa, Wisconsin, Vermont, Connecticut, Maine,  
17 Quebec, and Ontario. So as you can see, it was a  
18 widespread request for resources. We got a lot of  
19 resources from a lot of areas, but I would point out that  
20 the footprint of this while I've been talking about New  
21 York state really affected from Virginia up through Maine.

22 For mutual assistance, utilities belong --  
23 utilities in New York state belong to the North Atlantic  
24 Mutual Assistance Group or NAMAG as its referred to.  
25 NAMAG is a group of utilities from Maryland up through

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2 Maine and Canada that work together to pool resources so  
3 that when we have a large event like this, they can reach  
4 out to each other and ask for additional assistance.

5 We also work with the New York Public  
6 Private Utilities Association whereby the IOUs and PSEG  
7 reach out to the MUNYS in New York state and beyond even  
8 to get additional resources to assist. You know early on  
9 in the Riley event, the MUNYS much like the New York  
10 utilities were fully engaged in their own operations, but  
11 as time moved on and they completed that work, they became  
12 available and helped assist restoration for the downstate  
13 utilities.

14 Resources were also sought from what's  
15 called the Great Lakes Mutual Assistance Group and the  
16 Southeast Electric Exchange, so NAMAG is what is referred  
17 to as a regional mutual assistance group, so it covers the  
18 Northeast region. Those other two as the name suggests  
19 cover regions that are just beyond New York state. In the  
20 early days of this restoration activity, those mutual  
21 assistance groups had no crews or no line workers  
22 available to assist NAMAG or the New York utilities  
23 because they were experiencing outage events of their own.  
24 So it was a -- an extremely large footprint for this  
25 event. I would note that National Guard personnel were

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2 deployed by the governor to assist counties with recovery  
3 efforts. This included assisting counties and utilities  
4 with road-clearing efforts and providing road security  
5 near downed wires.

6 So regarding restoration and activities  
7 during restoration, state representatives were dispatched  
8 to Dutchess, Putnam, Sullivan, and Westchester counties to  
9 provide recovery support and resources to local government  
10 stakeholders. Department staff were also on the ground in  
11 Westchester, Putnam, Dutchess, Sullivan, and Rockland  
12 counties monitoring the utility restoration efforts and as  
13 I think you're all aware, the utilities do municipal  
14 assistance calls, staff monitors those calls, and we'll be  
15 doing evaluation of those as we go forward. So all  
16 customers affected by Riley were restored by Monday, March  
17 12th, and then all customers on Quinn were also restored  
18 by Monday, March 12<sup>th</sup>. So there was a small pocket of  
19 customers in Sullivan county in particular that extended  
20 out into the March 12th timeframe. It was an area where  
21 there's -- it's very rural, a lot of customer -- a lot of  
22 wire mileage to restore a small group of customers and  
23 that took extensive rebuilding of some distribution  
24 circuits.

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2 On March 6th, the governor called for the  
3 Department of Public Service to conduct a comprehensive  
4 investigation of each of the New York utilities'  
5 preparation and response to storms Riley and Quinn. To  
6 that end, Chair Rhodes, as CEO of the Department, sent  
7 letters to the CEOs of the New York utilities yesterday  
8 advising them that the Department had commenced its  
9 investigation under matter number 18-00618. The utilities  
10 must also file their full performance assessment reports  
11 as required by commission rule sixteen NYCRR part 105.  
12 Those reports have to be filed within sixty days. The  
13 letter also directed utilities to file emergency response  
14 score card reports in thirty days in accordance with the  
15 commission ordering case 13-E-0140.

16 I would note that there was a wide range of  
17 performance amongst the utilities with some utilities  
18 providing accurate ETRs and relatively timely restoration  
19 while other utilities lagged.

20 We will, of course, review the factors that  
21 led to the different experiences by utility. I would also  
22 note that we heard complaints and concerns throughout the  
23 event from local officials about some utilities not  
24 providing accurate or useful information about restoration  
25 times, communication breakdowns with county officials, and

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2 critical infrastructure customers, and an inability to  
3 effectively coordinate road clearance activities.

4 Finally, several utilities experienced IT  
5 system malfunctions thereby providing erroneous  
6 information on their websites and further frustrating  
7 customers.

8 My experience has been that while no  
9 customer wants to be without power for an extended period  
10 of time, it is vitally important that utilities provide  
11 good information regarding ETRs so that individuals can  
12 plan accordingly. Each of these issues, the length of  
13 time to restore power and contributing factors,  
14 timeliness, and reliability of information to customers,  
15 and the effectiveness of coordination with local and other  
16 officials engaged in response to these storms, each of  
17 these is important and will be a focus of our  
18 investigation.

19 That completes my report. Thank you.

20 CHAIR RHODES: Thank you, Mike. We'll look  
21 -- we'll expect to hear more about the storm and our  
22 understanding of what took place as your investigation  
23 moves forward.

24 Thank you again.

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2 With that, I'd like to call the session --  
3 this session of the Public Service Commission to order.  
4 Secretary Burgess, are there any changes to the final  
5 agenda?

6 MS. KATHLEEN BURGESS: Good morning, Chair  
7 and commissioners. There are no changes to this morning's  
8 agenda.

9 CHAIR RHODES: Thank you. So with that,  
10 let's begin with Item 201, case 17-E-0238 et al which is  
11 the petition by Niagara Mohawk Power to increase delivery  
12 rates presented by Jim Costello, Administrative Law Judge,  
13 Dakin LeCakes, Administrative Law Judge, Tammy Mitchell,  
14 sorry -- Dakin LeCakes, Tammy Mitches, Deputy Director of  
15 Electric, and Denise Gerbsch, Chief Accountant Office of  
16 Accounting Audits and Finance, are available for  
17 questions.

18 Jim, please begin.

19 MR. JAMES COSTELLO: Good morning, Chair  
20 Rhodes and commissioners. You have before you a draft  
21 order proposing adoption of the terms of a joint proposal  
22 that would establish a three-year rate plan for Niagara  
23 Mohawk's electric and gas businesses.

24 The proposed rate plan would run from April  
25 1st, 2018 through March 31st, 2021. In evaluating the

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2 terms of the joint proposal, the commission must determine  
3 whether the joint proposal considered as a whole produces  
4 a result that is in the public interest.

5 In doing that, the commission considers  
6 whether the terms of the joint proposal are consistent  
7 with the environmental, social, and economic policies of  
8 the commission and the state, whether they produce results  
9 within the range of outcomes that might result if the  
10 issues in the case were fully litigated and whether they  
11 appropriately balanced the interests of the utilities,  
12 ratepayers, and investors, and the long-term viability of  
13 the utility. The commission also looks at whether the  
14 record is complete and the extent to which the settlement  
15 is contested.

16 Here, the parties had full notice and  
17 opportunity to make their views known in both litigated  
18 and settlement tracks of the proceeding and we have a full  
19 record with testimony and exhibits submitted by various  
20 parties.

21 The joint proposal was entered into on  
22 January 19, 2018 by nineteen parties with varied interests  
23 including the company, trial staff of the Department of  
24 Public Service, representatives of large commercial  
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2 customers, environmental groups and labor, and the three  
3 largest cities in the company's service territory.

4 Statements in opposition to the joint  
5 proposal were filed by a small number of parties and were  
6 limited to discrete areas. Based upon the testimony filed  
7 by the parties, the terms of the proposed rate plan could  
8 reasonably have been expected to result from the parties'  
9 litigated positions.

10 The draft order before you provides the  
11 company with revenues needed for the company to maintain  
12 and upgrade its electric and gas infrastructure and  
13 information systems, fund additional energy efficiency  
14 expenses, and significantly expand its low income customer  
15 discount programs.

16 The proposed revenue increases are modest  
17 compared to what the company originally requested and are  
18 further moderated by application of deferred credits so  
19 that net revenues to be collected from electric customers  
20 are increasing by only one point seven percent in rate  
21 year one, three point four percent in rate year two, and  
22 three point four percent in rate year three. Net revenues  
23 to be collected from gas customers are increasing by only  
24 two point four percent in rate year one, three point five  
25

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2 percent in rate year two, and three point five percent in  
3 rate year three.

4 The proposed revenue increases incorporate  
5 estimated benefits resulting from the new federal tax  
6 laws. For rate year one, approximately sixty-one million  
7 dollars in net benefits are being recognized for the  
8 benefit of electric customers and approximately fourteen  
9 and a half million dollars net benefits are being  
10 recognized for the benefit of gas customers. The draft  
11 order contains provision to ensure that all of the actual  
12 benefits resulting from the tax changes will be calculated  
13 at a later date and used for the benefit of ratepayers.

14 The draft order establishes rates based on  
15 return on equity of nine percent and a 48 percent common  
16 equity ratio. The nine percent return on equity includes  
17 the normal stay out premium and reflects additional risks  
18 to the company for additional imputed productivity  
19 savings.

20 The proposed order before you resolves  
21 several contested issues and two cases that pre-date the  
22 rate filings by establishing a new electric deferral  
23 credit of 44.9 million dollars and a new gas deferral  
24 credit of 28.4 million dollars and the company will reduce  
25

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2 by seven million dollars the level of its pension internal  
3 reserve.

4 A portion of that money will be used to  
5 fund gas safety programs including a program involving the  
6 installation of residential methane detectors targeted  
7 towards low income, multi-use residences. The company  
8 will reconcile all rate plan deferral credit expenditures  
9 during the rate plan and any underspending will be  
10 deferred. If any money remains after that, the money will  
11 be used for future rate mitigation.

12 The proposed rate plan also advances  
13 important policy goals. It effectuates implementation of  
14 the commission's low-income customer program policies by  
15 instituting tiered discount levels based on customer's  
16 need. It significantly increases funding for those  
17 programs from approximately 11 million dollars to 56  
18 million dollars for the electric program and from  
19 approximately nine million dollars to 15 million dollars  
20 for the gas program.

21 The company expects enrollment in these  
22 programs to increase significantly by as much as  
23 approximately 55 thousand customers. The company would  
24 review the program yearly and make any necessary  
25 modifications to discount levels.

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2 The draft order also contains a number of  
3 provisions designed to curb greenhouse gas emissions and  
4 improve energy efficiency. Energy efficiency targets are  
5 being increased dramatically by 45 percent for the  
6 electric energy efficiency targets and a 110 percent for  
7 the gas targets while funding is being increased for such  
8 programs by approximately 21 percent for the electric  
9 business and 33 percent for the gas business.

10 The proposed rate plan contains several  
11 provisions that address street lighting which are strongly  
12 supported by the cities of Buffalo, Albany, and Syracuse  
13 and by the New York Power Authority. Resolving a long-  
14 stand issue on costs, the company agrees to sell street  
15 lighting assets at their net book value to any municipal  
16 customer that agrees to purchase all street light assets  
17 within the municipalities taxing jurisdiction.

18 The proposed rate plan also provides for an  
19 annual rate allowance of 1.6 million dollars to support  
20 energy efficiency conversions of both company-owned and  
21 municipally-owned street light to light emitting diode  
22 luminaires.

23 In addition, the proposed rate plan  
24 provides for incentives for the company to seek out non-  
25 wires alternatives that would have environmental benefits

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2 while resulting in cost savings for customers. The  
3 proposed rate plan establishes earning adjustment  
4 mechanisms related to energy efficiency, system  
5 efficiency, and beneficial electrification. The rate plan  
6 also includes an electric vehicle program to promote  
7 installation of electric vehicle charging stations at  
8 commercial properties.

9 With respect to advanced metering  
10 infrastructure, the company will participate in a  
11 collaborative to update its advanced metering  
12 infrastructure business plan and will provide the  
13 commission with a report on AMI by October 1, 2018.

14 The draft order includes funding for the  
15 replacement of 150 miles of leak prone pipe and requires  
16 the company to advance methane reduction efforts in its  
17 service territory and to work with the environmental  
18 defense fund in implementing best practices for  
19 identifying and abating high volume leaks. Gas safety  
20 performance metrics are updated and with the company being  
21 at risk for a total of 150 pre-tax basis points annually.

22 The plan also provides for positive  
23 incentives up to a total of 37 basis points to encourage  
24 further improvements in the company's performance.

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2 The draft order includes several provisions  
3 that benefit customers including an annual termination in  
4 uncollectable expense metric, an electronic deferred  
5 payment -- it provides for electronic deferred payment  
6 agreements, enhanced customer service messaging to ensure  
7 that customers know their options if they are behind on  
8 their utility bills, updated training materials for  
9 customer service representatives, and offers to customers  
10 a written confirmation of non-deferred payment collection  
11 agreements.

12 Customers currently pay a per transaction  
13 fee when they pay their bills at authorized walk-in  
14 payment locations. Under the proposed rate plan, those  
15 fees will be included in rates to cover the cost of the  
16 per transaction fee for such customers. The annual rate  
17 allowance proposed for those fees is approximately 1.5  
18 million dollars which is subject to full reconciliation  
19 each rate year. The J.P. -- I'm sorry, the proposed rate  
20 plan would update existing customer service metrics to  
21 make the metric regarding the rate of public service  
22 commission complaints more strict.

23 The total negative revenue adjustments to  
24 which Niagara Mohawk would be exposed for the customer  
25 service measures would remain at 19.8 million dollars each

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2 rate year. Customer charges for residential electric and  
3 gas customers would remain at current levels. The  
4 customer charge issue is being addressed in a Department  
5 led rate design working group.

6 The draft order also includes several  
7 provisions to protect ratepayers. Ratepayers are  
8 protected by an earning sharing threshold which is  
9 triggered once the company's actual return on equity  
10 exceeds 9.5 percent. They're also protected by a downward  
11 only true-up for the carrying costs associated with under  
12 target plant and service and both the company and the  
13 ratepayers benefit from the predictability of a three-year  
14 rate plan. Finally, the proposed rate plan recognizes  
15 that the commission has ongoing policy proceedings and  
16 nothing in the rate plan prevents the commission from  
17 making changes to the rate plan based on those  
18 proceedings.

19 Viewed as a whole, the provisions of the  
20 proposed rate plan are in the public interest and we  
21 recommend that they be adopted without modification. This  
22 concludes my presentation. Advisory staff, Judge LeCakes,  
23 and I are available for any questions you may have.

24 CHAIR RHODES: Thank you, Jim. I find this  
25 is a much-improved plan over what was initially submitted

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2 and there's much to like here. I think the reduction in  
3 rate increases is an important benefit to consumers and I  
4 think the affordability policy as implemented in the plan  
5 is an important step forward. I find the cost  
6 effectiveness generally of the plan is good. I like the  
7 prudence on the approach to advanced metering  
8 infrastructure. I highly endorse the gas safety focus. I  
9 approve of the emphasis on energy efficiency as an  
10 effective resource and I approve of the scope in this plan  
11 for non-wires alternatives and other especially cost-  
12 effective ways to achieve our system and policy goals. So  
13 against the -- the standard of public interest, I will  
14 vote in favor of this.

15 Commissioner Sayre?

16 COMMISSIONER GREGG SAYRE: I have long  
17 supported multiparty hotly contested, but carefully  
18 negotiated and multiyear rate settlements arrived at only  
19 after staff has taken a full look all the way into the  
20 heart of the issues of the case and as long as we at the  
21 commission level take a good hard look at every -- every  
22 issue to make sure that the settlement is in the public  
23 interest. This case in my view does meet the test.

24 I am particularly pleased by the full  
25 implementation of our low-income policy and by the

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2 improvements to gas safety and methane emission detection  
3 and reduction. I support the item.

4 CHAIR RHODES: Thank you. Commissioner  
5 Burman?

6 COMMISSIONER DIANE BURMAN: Thank you. I  
7 have been very focused on looking at the entire record and  
8 trying to grapple with if this is in the best interest of  
9 the ratepayers. I do think that overall there are some  
10 positives within the joint proposal and I do think that as  
11 a whole, it is in the best interest of the ratepayers.  
12 From a legal standard, I did ask our counsel the -- what  
13 the parameters were, so that we were all on the same page  
14 for the review process from the legal standard, the rate  
15 cases in terms of making sure that we were carefully  
16 reviewing it and from the utility service application, the  
17 first prong really is the utilities must provide service  
18 that is safe and adequate and is all -- in all respects  
19 just and reasonable and does this do that and I think it  
20 does.

21 The second from the revenue requirement,  
22 all utility charges must be just and reasonable and not  
23 more than allowed by law or by order of the commission and  
24 I think that does that and then the third, all utilities  
25 must charge and provide to similarly-situated customers,

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2 the same charge for the same service without any undue or  
3 unreasonable preference or advantage or any undue or  
4 unreasonable prejudice or disadvantage.

5 What gave me pause in reviewing this  
6 frankly was the concern I had that from the joint proposal  
7 in that this was really the first rate case that had taken  
8 a very broad degree of looking at the open REV proceedings  
9 and saying that to the extent that there are these open  
10 REV proceedings that may impact, we're not going to  
11 resolve in our joint proposal those outstanding issues and  
12 recognizing that those outstanding issues will be decided  
13 later, not necessarily saying we're not deciding them  
14 here, but that we're agreeing that they're important and  
15 we're resolving and we're coming together and putting it  
16 into -- we put it into the order.

17 And so that open-endedness caused me to  
18 have a concern because I was fearful that -- that open-  
19 endedness might in fact trip us up from the perspective  
20 that now we have in an order a sort of outstanding  
21 potential major rate case that from a National Grid  
22 footprint makes us have to look at what that means from  
23 all of our different open proceedings and might not only  
24 procedurally cause us problems, but might not have  
25 necessarily the right parties in the room or might

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2 actually not have had the right parties in the room with  
3 the joint proposal.

4 And so I -- I found myself really spinning  
5 myself up into a frenzy of trying to figure out what the  
6 right situation was and coming to a difficult time and  
7 then really going back to what the record was and not  
8 having been the person in the room with the -- the parties  
9 in the joint proposal, not really having the -- the full  
10 breadth of understanding of why they came to the decisions  
11 that they did or on some of their discussions around the  
12 issues that they may have decided to what I would see as  
13 saying okay to, but -- right? But we're going to look to  
14 that for the next issue. And my worry that maybe they  
15 didn't have enough information or maybe they felt  
16 pressured to say okay to or maybe it was just a  
17 recognition that that was important, so they were just  
18 putting a placeholder.

19 So all of those things could have been  
20 appropriate or inappropriate depending on the situation,  
21 So for me, it was a recognition that really I needed to  
22 look at how we're doing rate cases overall and from a  
23 going forward perspective, one of the things that I have  
24 struggled with is in all of our rate cases, it really is a  
25 case by case situation in do we have the right tools and

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2 the resources going into major rate cases and from a  
3 threshold perspective, maybe we need to take a pause  
4 before we start and make sure that the staff and the  
5 parties have the proper structure and have the proper  
6 issues before them, rather than sort of walking into the  
7 room somewhat cold and then sort of whatever parties are  
8 in there, they get to sort of define for themselves maybe  
9 properly, maybe improperly what issues are on the table  
10 and maybe give a little bit more structure to that  
11 process.

12 At times, it's helpful, especially if you  
13 have an evidentiary hearings that get into more direct  
14 testimony before you go into settlement negotiations that  
15 you can really have parties positions really to have more  
16 meat on the bones for lack of a better phrase for the ALJs  
17 also to see and understand, but also for those parties  
18 that go into the settlement discussions to really know  
19 where folks are. However, taking a step back on some of  
20 the issues that came out through this particular  
21 proceeding, I don't know that we would have gotten to some  
22 settlement but for the joint proposal for -- so for  
23 example the street lighting in particular, that has been  
24 an ongoing debate and an ongoing struggle and so the  
25

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2 resolution that is now at least happening to -- in this  
3 rate case is giving somewhat closure to those issues.

4 It doesn't mean that street lighting issues  
5 won't continue to be a challenge and we have to work  
6 through that. And that will continue to be I think a  
7 focus for the commission in general and the state in  
8 general that we'll have to grapple with, but at least in -  
9 - in my opinion, that was a positive from the -- the  
10 settlement discussions. And I'm glad to see that that  
11 resolution especially for the communities that have  
12 blessed that and supported that is -- is a positive. And  
13 again, I understand that there are also going to be some  
14 side issues that we'll have to address and holistically  
15 look at.

16 The other issue that I see that is  
17 important is the tax law issue. To the degree that these  
18 parties went into it to the extent that they said, we are  
19 resolving the issues that we can around the tax law issue,  
20 but we understand that there's a separate proceeding  
21 that's addressing in a more granular and technical way  
22 that's outside of our expertise here.

23 We're going to look to that proceeding to  
24 address those issues. I see that as appropriate. I see  
25 that as -- as a specific proceeding with a finite end date

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2 and a finite issue that they'll be addressing. And so  
3 that one doesn't give me concern or pause and so that  
4 makes sense and I know that the staff is working hard on  
5 those issues as well as the parties involved in it and I  
6 look forward to the resolution on that.

7 One of the things that I -- I will address  
8 is the low-income affordability aspect of this program.  
9 As many of you are aware, when we brought forward the  
10 generic proceeding on the low-income affordability, I  
11 voted no on that.

12 One of my issues with that was that I was  
13 concerned not only about the cost aspect of it, but I was  
14 also concerned about the accountability aspect and how  
15 that would fold into actually what it would mean with  
16 actual customers and then into applying it into rate  
17 cases.

18 On the positive side, in this rate case,  
19 going into this rate case, there was an actual standard  
20 for the company and the parties to look at. So while I  
21 voted no on the generic proceeding, there was actually  
22 something that the company and the party had a standard  
23 with to look at and to see and to understand.

24 Now, it was a significant amount of dollars  
25 and so that in and of itself had to be grappled with and

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2 dealt with; however, it was something that gave the  
3 standard and set the bar for the people -- for the parties  
4 and -- and folks going into that and the settlement  
5 discussions to -- to know and to see and to conceptualize  
6 and to -- to work around. And I think that that -- that  
7 helped and one of the things for me now as -- sitting here  
8 is to see in the implementation of that, is the  
9 accountability and to see from where we sit the  
10 implementation perspective in the number of customers, how  
11 effective is the program, what things need to be done to  
12 make changes if -- if the policies that are -- that we've  
13 adopted are not working, working with the company and the  
14 customers, so that we are providing the value that was  
15 from the front end, the point of the generic proceeding to  
16 give value to putting it into the rate cases from that.

17 For me, when I look at it, with the open-  
18 endedness of the rate case as it relates to the key  
19 initiatives for the other aspects of the -- the  
20 initiatives that are other proceedings whether it's the  
21 value D or the energy efficiency or the DSIPs or the -- I  
22 say twenty-five, somehow that became the number that we  
23 talk about, you know, maybe I should have said a higher  
24 number because, you know, that would be the number, but  
25

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2 we'll say twenty-five, the twenty-five proceedings plus  
3 that are out there.

4 What I think is important and what I think  
5 the connection is between it in this order and in the  
6 proceedings is that the connection that we're showcasing  
7 is that we care about the cost effectiveness, so it is not  
8 that we're trying to focus on that these are related and  
9 so that our policy objectives have to align with what it  
10 means to our role as economic regulators and our role as  
11 providing value to the customers and our role as providing  
12 safe and reliable service.

13 So, to the connection for the parties and  
14 the company and to staff, we need to make sure that folks  
15 are looking at it in looking forward so that the takeaway  
16 should be that as we move forward in all of these  
17 proceedings, we should not shy away from looking very  
18 clearly how it will match up to that cost effectiveness  
19 and the impact not just on the policy objectives, but  
20 clearly very concretely on the rate impacts and the cost  
21 impacts on the customers and if we can tie those together,  
22 I think that that will help us and not shy away from it.

23 And so it is not just on the obligation of  
24 the company though this order clearly says to the company  
25 please you must speak, you must very clearly look at that,

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2 but it also is an obligation on all of the parties in all  
3 of those proceedings and on staff and on the commission to  
4 be very mindful of those issues and to try to figure out  
5 solutions so that we can work together. And so since it  
6 comes from the joint proposal, it's really about us  
7 collaborating together and I think that to me is what  
8 resonated ultimately with me in being supportive of this  
9 and trying to work together in sort of moving the ball  
10 forward in a positive way and the interconnection here in  
11 the electric and the gas system working together  
12 seamlessly and so to the extent that all of it is tied  
13 together, we cannot look at all of these in silos and  
14 together we need to figure out the solutions. Because one  
15 cannot survive without the other and we have to figure out  
16 how to seamlessly deal with these issues together. So I  
17 am supportive and I thank everyone for their hard work, so  
18 thank you.

19 CHAIR RHODES: Thank you very much -- thank  
20 you very much, Commissioner Burman. Commissioner Alesi?

21 COMMISSIONER JAMES ALESI: Thank you, Mr.  
22 Chairman. Clearly the results of some hard work and  
23 dedicated effort, we're seeing some moderate increases,  
24 improved efficiencies, street lighting, the methane et  
25 cetera all the way down the line, a solid three years of

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2 predictability done without the burden of litigation. A  
3 strong focus on ratepayers especially low income and I  
4 think it's all done within the realm of the public  
5 interest and I'll be voting yes.

6 CHAIR RHODES: Thank you very much. So  
7 with that, I will proceed to call for a vote on item 201.  
8 My vote is in favor of the recommendation to approve the  
9 joint proposal as described. Commissioner Sayre, how do  
10 you vote?

11 COMMISSIONER SAYRE: Aye.

12 CHAIR RHODES: Commissioner Burman, how do  
13 you vote?

14 COMMISSIONER BURMAN: I concur.

15 CHAIR RHODES: Commissioner Alesi, how do  
16 you vote?

17 COMMISSIONER ALESI: Yes.

18 CHAIR RHODES: The item is approved, and  
19 the recommendation is adopted. We will move to item 202,  
20 case 14-M-0224 et al, which is a petition by Joule Assets  
21 to create a community choice aggregation program presented  
22 by Kelly Strait, Utility Analyst, Bruce Alch, Chief Retail  
23 Access and Economic Development, and Ted Kelly, Assistant  
24 Counsel, are available for questions.

25 Kelly, please begin.

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2 MS. KELLY STRAIT: Good morning, Chair  
3 Rhodes and commissioners. Item 202 addresses the petition  
4 filed by Joule Assets to serve as a CCA administrator.  
5 This is the third CCA petition to come before the  
6 commission since the sustainable Westchester PILOT and the  
7 CCA framework order.

8 By way of background, on April 21, 2016,  
9 the commission established the framework for the  
10 development of CCA programs which aims to increase  
11 consumer choice and participation while also supporting  
12 local energy planning and deployment of DERs. The CCA  
13 framework order authorized interested municipalities on  
14 their own or through their selected CCA administrator to  
15 make a series of filings as has been done by Joule Assets  
16 for commission consideration.

17 After review, staff finds that with modest  
18 modifications, Joule's proposed CCA program complies with  
19 the commission's framework order and meets the general  
20 requirements laid out in the framework order.

21 In addition, Joule's petition includes some  
22 novel requests that have not been proposed or addressed in  
23 previous CCA programs. Joule proposes that CCA customers  
24 become community distributed generation CDG members. For  
25 example, a member in a community solar project, these

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2 members would be enrolled on an opt-out or an opt-up basis  
3 as part of their participation in the CCA program. As  
4 proposed, the CDG subscription fee will be a percentage of  
5 the CDG credit value in that month such that in any given  
6 month the savings on the customer's utility bill will  
7 exceed the CDG subscription fee.

8 Joule is also proposing a single  
9 consolidated bill format that would include the CDG  
10 subscription fee along with the CDG credits on the  
11 utility's bill. Joule states that a single bill would  
12 present a clear and transparent value proposition to  
13 program customers in a familiar format. Joule is also  
14 requesting additional data sets that were not included in  
15 the CCA framework order.

16 I'll now go over staff's recommendations.  
17 Because consolidated billing for CDG and other DERs is  
18 under consideration in the VDER proceeding and  
19 the fact that significant technical work is still  
20 needed to make consolidated billing a possibility  
21 and utility billing systems, consolidated billing will not  
22 be available to the Joule CCA programs at this time.

23 Joule's proposal to offer customers the  
24 benefit of CDG while guaranteeing that each month the  
25 monetary value billed of the CDG credits is greater than

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2 the monthly CDG subscription fee is appealing; however,  
3 the detail surrounding CDG projects and offerings are not  
4 yet known. Further, if consolidated billing is not  
5 available, customer outreach must be carefully conducted  
6 to avoid confusion for customers who are in the CDG via  
7 the opt-out process.

8 Before integrating CDG, Joule would be  
9 required to submit a CDG implementation plan for staff  
10 review and approval explaining the magnitude of  
11 participating CDG projects, the target subscription class,  
12 the scope and structure of the guarantee savings, the  
13 billing arrangement, and the additional outreach and  
14 education Joule must provide.

15 Once implemented, for each CDG project,  
16 Joule must make quarterly filings demonstrating that CDG  
17 credits provided in that quarter exceeded CDG subscription  
18 fees charged in that quarter. Customers must be permitted  
19 to opt-out or cancel their CDG membership at any time  
20 without penalty. Additional annual reporting will also be  
21 required for the CDG portion.

22 In regard to additional data sets, the cost  
23 of fulfilling requests for additional data sets not  
24 included in the CCA framework order should be worked out  
25

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2 on a case by case basis between the CCA administrator and  
3 the utility, based on the time needed and labor costs.

4 Finally, to the extent that Joule intends  
5 to offer green energy, it must ensure that such energy is  
6 generated by a biomass, biogas, hydropower, solar energy  
7 or wind energy as defined in and subject to the  
8 environmental attributes and delivery rules of the  
9 commission's environmental disclosure program.

10 That concludes my presentation. I'm  
11 available for questions. Thank you.

12 CHAIR RHODES: Thank you, Kelly. Community  
13 Choice Aggregation provides New York consumers and small  
14 businesses with greater control over their energy bills  
15 and over their energy choices and basically takes  
16 advantage of the power of bulk purchasing. This is an  
17 arrangement that we've considered in the past. We've,  
18 excuse me, we've evolved some standards. This proposal  
19 both comports with those standards as well as presents  
20 some interesting innovations on the renewable side.

21 I appreciate the work that has been done in  
22 order to get us to this point and I'm also mindful of the  
23 work that remains to be done in order to make this a  
24 reality for New Yorkers. I will be voting in favor of  
25 this item.

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2 Commissioner Sayre?

3 COMMISSIONER SAYRE: This item, I see as a  
4 -- an incremental and beneficial step to advance our REV  
5 market development and clean energy goals by adding  
6 provisions for Community Distributed Generation to  
7 Community Choice Aggregation programs. I support both CDG  
8 and CCA, both of which offer opportunities for ratepayers  
9 to save themselves money and I'm happy to see REV market  
10 development moving forward.

11 I support the item.

12 CHAIR RHODES: Thank you. Commissioner  
13 Burman?

14 COMMISSIONER BURMAN: Thank you. So just a  
15 couple of things, the order states that it's important to  
16 note that while the municipalities can outsource  
17 requirements to vendors that the municipality is  
18 ultimately the one responsible for ensuring its compliance  
19 with all portions of the commission orders.

20 It's very important to me that we make sure  
21 that we are working very carefully with the municipalities  
22 because that aspect of that can be difficult, especially  
23 if we're putting an obligation on the municipalities and  
24 there is a lot of things that can trip up the municipality  
25 in this especially working with a number of folks. So I

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2 just really want to be very careful in -- in that and the  
3 roll out of this communicatory choice segregation in a --  
4 in a -- in a careful roll out can be a really good thing,  
5 but we really need to be as -- Kelly, as the report that  
6 you helped work on laid out, there are a number of  
7 different challenges as well as opportunities and so I  
8 just really want to be extra careful on that.

9 As -- as folks know, I have consistently  
10 been focused on making sure that we are working with all  
11 stakeholders on these issues, so that we're bringing the  
12 full benefits and to the extent that there are challenges  
13 in the programs that we are carefully doing our due  
14 diligence and overseeing it in the way that we need to --  
15 to do -- have corrective actions as appropriate.

16 As we move forward, there are a number of  
17 Community Choice Aggregation programs already outstanding  
18 that are coming up for review after the two year pilots or  
19 about to end and we need to do a critical review that is  
20 not focused on anything but a true analysis and review  
21 that gives us information that is helpful to the parties  
22 that are involved in it, but also to the greater statewide  
23 audience that may benefit from that critical review, the  
24 positive as well as lessons that can be learned for things  
25

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2 that might be able to be changed. It's not a one size  
3 fits all.

4 Everyone is going to make -- have to make  
5 their own decisions on it. So I want us to really do that  
6 and also focus on when may it might be appropriate for the  
7 state to sort of start removing itself from what I see as  
8 maybe getting out of the business of marketing of it and  
9 maybe a more -- allowing the Community Choice Aggregators  
10 themselves to take on more of the role of, you know,  
11 stepping in as appropriate, so as the -- as the -- it  
12 starts to develop in a more concrete way, we don't  
13 necessarily need to expend as much energy on the -- that  
14 aspect of it and rather more on the oversight role that is  
15 maybe more appropriate and more resources devoted at the  
16 Department rather than maybe at some of our sister  
17 agencies.

18 I'd like to focus on that, so that's all.  
19 Thanks.

20 CHAIR RHODES: Thank you very much.  
21 Commissioner Alesi?

22 COMMISSIONER ALESI: I can be succinct on  
23 this one. I think that this will just enhance our efforts  
24 as we transition to renewable and clean energy and I'll be  
25 voting yes.

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2 CHAIR RHODES: Thank you. I will now  
3 proceed to call for a vote on item 202. My vote is in  
4 favor of the recommendation to approve Joule Asset Inc.'s  
5 Community Choice Aggregation Implementation Plan and Data  
6 Protection Plan as described.

7 Commissioner Sayre, how do you vote?

8 COMMISSIONER SAYRE: Aye.

9 CHAIR RHODES: Commissioner Burman, how do  
10 you vote?

11 COMMISSIONER BURMAN: I concur.

12 CHAIR RHODES: Commissioner Alesi, how do  
13 you vote?

14 COMMISSIONER ALESI: Yes.

15 CHAIR RHODES: The item is approved, and  
16 the recommendation is adopted. We'll move now to item  
17 203, case M, sorry excuse me, 15-M-0252 which is a  
18 proposed 2019/2020 budgets and targets for utility energy  
19 efficiency programs presented by Peggy Neville, Deputy  
20 Director Office of Clean Energy, Ted Kelly, Assistant  
21 Counsel, and Kevin Manz, Chief Utility Energy Efficiency  
22 and Demand Response Programs, are available for questions.

23 Peggy, please begin.

24 MS. PEGGY NEVILLE: Good morning, Chair  
25 Rhodes and commissioners. Today, I will be presenting

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2 item 203, Utility Administered Energy Efficiency Portfolio  
3 Budgets and Targets for 2019 and 2020 in case 15-M-0252.

4 On June 1, 2017, the major gas and electric  
5 utilities filed budget and metric plans proposing budgets  
6 and metrics for calendar years 2019 and 2020 for their  
7 electric and gas energy efficiency portfolios. They also  
8 filed companion documents, the Energy Efficiency  
9 Transition Implementation Plans, referred to as ETIPs on  
10 June 1st and revised on December 22, 2017.

11 The ETIPs provide additional information  
12 regarding the initiatives that make up each of their  
13 respective portfolios.

14 The draft item before you establishes  
15 budgets and targets for all utilities with the exception  
16 of Niagara Mohawk. Niagara Mohawk's energy efficiency  
17 budgets and targets are being authorized in the Niagara  
18 Mohawk rate order as presented earlier in this session.

19 With regard to all other utilities, all  
20 with the exception of National Fuel, proposed flat funding  
21 for 2019 and 2020 as compared to their currently  
22 authorized annual budgets. National Fuel proposed a  
23 decrease in their annual budget. All utilities with the  
24 exception of Central Hudson and National Fuel propose flat  
25 targets as compared to their currently authorized targets.

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2 Central Hudson proposed a reduction and National Fuel  
3 proposed an increase in their energy savings targets.

4 Staff recommends the commission reject  
5 Central Hudson's proposal for reduced targets and National  
6 Fuel's proposal for reduced budgets. Staff recommends the  
7 commission approve National Fuel's proposal for an  
8 increased target and establish flat budgets and targets  
9 for all other utilities as compared to their currently  
10 authorized levels.

11 Collectively, the recommended annual  
12 budgets total 128.5 million dollars in electric funds and  
13 50.6 million dollars in gas funds with corresponding  
14 grossed first year annual targets of approximately 353  
15 thousand megawatt hours and 1.4 MMBTU. Approval of these  
16 budgets and targets today will provide certainty to the  
17 utility's energy service providers and other market actors  
18 as to base level of program activity for 2019 and 2020.

19 In addition to the approval of budgets and  
20 targets, the draft item includes directional guidance  
21 related to a number of other elements of the utility's  
22 current and future energy efficiency initiatives. These  
23 elements include transitioning of utility energy  
24 efficiency funding to base rates, clarification of funding  
25 cycles and reconciliation and reporting processes, and

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2 increased emphasis on verified gross energy savings, a  
3 more nimble approach to stakeholder and market engagement  
4 as well as improvements to the maintenance and  
5 implementation of the technical resource manual and  
6 consistent application and presentation of the benefit  
7 cost analysis across the utilities.

8 This concludes my remark. We, on the team  
9 here, are all happy to answer any questions that you may  
10 have.

11 CHAIR RHODES: Thank you, Peggy. I find  
12 that this item is well done and timely. I think the  
13 timing is right. There's a need with these programs to  
14 maintain stability and clarity for all actors as the state  
15 considers potentially new directions for energy  
16 efficiency. This achieves this in a pragmatic and prudent  
17 way. I will be voting to support -- in favor of this  
18 item.

19 Commissioner Sayre?

20 COMMISSIONER SAYRE: I'm also in favor of  
21 the item. It implements our policy to hold ratepayer  
22 contributions steady and it pushes the utilities and --  
23 and the parties toward further energy efficiency  
24 improvements through the use of incentives in rate cases  
25

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2 which I think is a more efficient way of getting the  
3 utility behavior and the programs that we need.

4 CHAIR RHODES: Thank you, Commissioner  
5 Sayre.

6 Commissioner Burman?

7 COMMISSIONER BURMAN: Thank you. Sorry.  
8 So I'm going to have a couple of questions first. I'm  
9 sorry.

10 I want to remind folks in November 2017 we  
11 concluded the EEPS program and since this order does a  
12 little history of the energy efficiency and the EEPS  
13 program, I thought it was helpful to read what I said at  
14 that time. So I'm just going to read what I said at the  
15 time because I do think it sort of sets the stage for some  
16 of my comments today.

17 I was not a member of the commission when  
18 the EEPS process was rolled out, but I do know that the  
19 process was undertaken under an imperative to get the many  
20 energy efficiency programs up and running in an extremely  
21 tight and probably unreasonable time frame.

22 I do believe that there have been many  
23 lessons learned from the EEPS initiative including the  
24 need to be more prudent and measured in making our  
25 demands, the need to be more realistic and thoughtful

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2 ahead of time about how quickly goals would be  
3 accomplished and the need to truly understand what the  
4 financial implications may be to run the programs and to  
5 prepare in case programs are more in demand than  
6 anticipated, that way we can truly issue orders that  
7 properly authorize programs that can be implemented  
8 effectively and stay within the bounds of the commission  
9 orders.

10 Those lessons are especially important when  
11 the programs will affect varied types of customers in ways  
12 that we likely may not be able to anticipate what we  
13 should try to plan for, so while there were some successes  
14 in the EEPS program and I do acknowledge that that is from  
15 the hard, hard work of many of the utilities and the  
16 commission staff. Colleen and her folks have spent an  
17 enormous time and I do think that we need to recognize  
18 there were many flaws and there were many trip-ups along  
19 the way.

20 When the commission issues an order  
21 establishing a maximum budget for a program, the utility  
22 or other entities responsible for administering that  
23 program including NYSERDA needs to respect the commission  
24 order.

25

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2 I do have a concern when we overspend doing  
3 retroactive authorizations. It does not go unnoticed and  
4 I was not here when major reauthorizations -- retroactive  
5 authorizations of overspending was done and I was not  
6 here, you know, that goes into something else. I'm sorry.

7 Bottom line, I think going forward, we want  
8 to ensure that we as a commission again properly set  
9 goals, targets, timing, and funding in our orders that  
10 account for the real-life design and implementation of  
11 programs. We need to do a better job at the front end  
12 when we establish programs rather than as in this case  
13 with EEPS, the commission in furtherance of its energy  
14 efficiency policy objectives inappropriately rushed  
15 through and rolled out a flawed EEPS programs. And while  
16 we did make course corrections, we didn't necessarily do  
17 it without significant delay and we didn't do it fast  
18 enough.

19 We owe it to the ratepayers to get it right  
20 at the outset and I'd like to make sure that we take  
21 careful note of the lessons from EEPS and we do a better  
22 job continually and not just say it's behind us. We must  
23 make sure we continually take note of the lessons learned,  
24 the good, the bad, and the ugly. So I say that because  
25 that was in November of 2017. I do think that this order

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2 and since November 2017, and frankly as a credit to Chair  
3 Rhodes, I do think that there has been an ongoing effort  
4 to try to figure out a way to be carefully focused on  
5 taking ownership of some ways that we can do a better job  
6 and work in -- in prudently laying out the next steps and  
7 taking into consideration how we move forward.

8 I think that we are trying to look at the  
9 roll-out and carefully figure out what we're doing in a  
10 careful and thoughtful way. I am a little concerned in --  
11 in -- in this order in that we are rushing through right  
12 now putting into place budget targets here that I'm not  
13 sure exactly why at this -- today and really it's a  
14 question, why now?

15 The order doesn't really explain why except  
16 to the extent that we want to tee it up for the energy  
17 efficiency targets for Earth Day and that's got to be in  
18 the staff white paper. And I'm trying to figure out what  
19 the -- what the rationale is that makes us have to do it  
20 for the staff white paper that locks us in in setting it  
21 in this order, rather than helping formulate some concepts  
22 that will protect -- perhaps give us food for thought to  
23 be SAPA'd for people to give us comments rather than  
24 locking us in, so it's really a question for why now?

25 MS. NEVILLE: Sure. I can address that.

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2 So I would kind of put this in the category  
3 as -- as you suggested some of the lessons learned from  
4 the EEPS era. In a couple of instances during EEPS, we  
5 had what we called the cliff year where we didn't take  
6 authorization for the next phase of funding until very  
7 late in the calendar year before the next program was  
8 supposed to start.

9 We heard very loud and clear from both  
10 utilities as well as, in my opinion almost more  
11 importantly, market actors, energy service providers.  
12 These programs don't just turn on a dime. There's a lot  
13 of planning that goes into them. There's marketing  
14 material. There's kind of getting the whole machine up  
15 and running.

16 And so what we were trying to do is prevent  
17 those types of cliff years going forward with how we moved  
18 into the ETIP phase, so in this particular order, as you  
19 mentioned, the energy efficiency proposal that the staff  
20 is working with NYSERDA on, that will be issued and that  
21 will go through its formal process of SAPA comments and  
22 ultimately an order on the other end.

23 Our feeling was that at a minimum, this  
24 would be a base level of activity, that if we could handle  
25 now, we could give that level of certainty going into

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2 calendar year 2019 without having -- producing some  
3 anxiety that that might not be approved until much later  
4 in this year and again creating that cliff year dynamic  
5 that was so problematic in the past.

6 COMMISSIONER BURMAN: Uh-huh. Okay. Okay.  
7 Great. Thank you. That -- that is helpful.

8 The other question I have and really it's  
9 just questions to help elicit for me the whys. Here it's  
10 the getting rid of the Energy Efficiency Surcharge and  
11 trying to figure out from that perspective, I know there -  
12 - there's -- some folks look at it from a baking it into  
13 the rates and that's a lack of transparency and others  
14 looking at it from the perspective of it's helpful because  
15 utilities now have to look at it from a more holistic  
16 perspective. It's part of their core business. But how  
17 do you get around the fact that it's, you know, it's --  
18 it's -- it's now potentially seen as being baked in and  
19 there is a lack of transparency?

20 MS. NEVILLE: Uh-huh. So I think it's a  
21 couple of things. I think it -- as the REV order spoke to  
22 on track one or two, I don't recall which one it was, that  
23 laid out this concept that it is kind of underscores the  
24 desire to build energy efficiency into the core business  
25 of the utilities, so that's one of the driving forces

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2 behind that. The reason we didn't take those steps  
3 immediately in the first kind of rate case that came from  
4 it is we did have some concerns of whether we could still  
5 implement some of the programs such as the Self Direct  
6 Program. Since then, the staff teams worked with the  
7 utilities and others and has figured out a way to do that.  
8 So that ability to now move it fully into rates as was  
9 seen in the Niagara Mohawk rate order that just was  
10 discussed allows us to do that.

11 What I would say as far as transparency, as  
12 you see with the NiMo order, the J.P. clearly lays out  
13 budgets and targets so even though the cost recovery is  
14 coming through rates, there's still full transparency over  
15 what is the budget that is going into that program, what  
16 is the expectation coming out of that program.

17 So my belief and I'll let the others speak  
18 to this too that there's still that level that  
19 stakeholders are accustomed to and so I think that that's  
20 helpful.

21 COMMISSIONER BURMAN: Uh-huh.

22 MS. COLLEEN GERWITZ: The only thing I'd  
23 add Commissioner is there is still a requirement to have  
24 the document now called an ETIP, the planned document  
25 that's going to become the new acronym, the -- the System

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2 Energy Efficiency Plan, the SEEP document, so that will  
3 lay out transparently everything that the utilities are  
4 doing and there's required reporting as well that'll do  
5 the same thing so -- so hopefully those -- those documents  
6 are meant to provide complete visibility into all the  
7 energy efficiency efforts that the utilities are doing in  
8 support of their systems.

9 COMMISSIONER BURMAN: Okay. But moving  
10 away from the energy efficiency track or surcharge, this  
11 is a question really for Doris, does that have an effect  
12 on, you know, Wall Street in terms of going from a tracker  
13 to -- to -- into the rates?

14 MS. DORIS STOUT: I wouldn't think that  
15 there would be an impact as long as we're providing for  
16 recovery from ratepayers, it shouldn't have an impact on  
17 how Wall Street views the recovery mechanism.

18 COMMISSIONER BURMAN: Okay. All right.  
19 Thanks. The other question I have really and -- and  
20 Peggy, you mentioned the Self Direct Program, I was really  
21 disappointed with the order in that it seemed like, you  
22 know, the program was successful in ConEd's territory, but  
23 it was not successful in other utilities, National Grid,  
24 territory for one and the order, you know, is -- is -- is  
25 allowing that utility time for consideration to decide

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2 whether or not to get rid of the program and so for me  
3 being disappointed frankly in the uptick of that program  
4 especially because I think it gets to the heart of for  
5 those folks who -- and customers who would like to take  
6 advantage of the Self Direct Program primarily the  
7 businesses who would feel that it's unfair to have energy  
8 efficiency in the -- the -- the -- baked into the rates.

9 I'd like to see and -- and really make sure  
10 that we are, you know, pushing the utilities, but frankly  
11 making sure that the customers who might take advantage of  
12 the Self Direct Program, this is really a transitional  
13 period and an opportunity for the -- those folks  
14 especially the advocates for those folks to really make  
15 sure their -- their base is aware and those customers to  
16 work with the utilities and the utilities really to work  
17 with those customers so that if this program is a viable  
18 one and it may not be, what are -- we -- I need to hear  
19 the -- I don't want it to be that it's not viable because  
20 of the way the program is structured or it's not viable  
21 because it's something that the commission is not  
22 allowing.

23 So I want to make sure that, you know,  
24 we're doing all we can that's appropriate to foster what  
25 is potentially a good program and maybe take a look at

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2 what, you know, what worked in ConEd's territory that's  
3 not working in others and if there's a connection, there  
4 may not be, but if there's a connection that can be made  
5 to make it a viable program and if not, you know, then  
6 we've tried, that would be helpful from where I sit. The  
7 other issue is -- could explain -- the online dashboard  
8 and the status of that and the process with that.

9 MS. NEVILLE: Sure. The Clean Energy Fund  
10 order that was issued in January of 2016 and at the same  
11 session we approved the original ETIP utility energy  
12 efficiency programs. In those orders, we spoke to the  
13 need to have an online dashboard and the commission tasked  
14 NYSERDA with the development of that dashboard, And in  
15 part it was a recognition that the current reporting that  
16 just goes into DMM and certainly is, you know, builds the  
17 record for the case and all of that, but it isn't always  
18 user friendly and we were looking for a way to look  
19 collectively at all ratepayer funded energy efficiency  
20 programs kind of in one place and so NYSERDA has been  
21 tasked with developing that dashboard.

22 They had to submit a plan which they've  
23 done and staff is working very closely as well as a team  
24 of representatives from each of the utilities who meet  
25 regularly to kind of keep that process moving so that

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2 we're aligning not just the build-out of the technical  
3 capabilities of the dashboard, but also as this order  
4 speaks to too is making sure that we're all aligned with  
5 common definitions for metrics when someone is reporting  
6 something, everyone has kind of defined it the same way.  
7 So that is very much continuing on and we would expect the  
8 dashboard to go live I believe at the end of this year,  
9 2018, or early 2019.

10 COMMISSIONER BURMAN: Okay. That's  
11 something I'd like more hands-on information on. Okay.  
12 And now getting to the Clean Energy Advisory Council, as -  
13 - as folks know, I have been from the very beginning I am  
14 -- I've been concerned when we have formed different  
15 working groups, different councils and what the roles are  
16 and responsibilities of these different councils and  
17 working groups. And the role of the commission in  
18 formulating these and then the follow-up, so in here, the  
19 Clean Energy Advisory Council is -- is being disbanded  
20 except for one working group of the -- of the Clean Energy  
21 Advisory Council.

22 In -- in some ways, it may be odd to you  
23 that I am concerned about that and I will explain. So  
24 from my perspective, one of the concerns that I have is  
25 that part of the difficulty is that -- and this I've

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2 expressed is that I think that the working groups  
3 throughout and -- and councils and different things  
4 throughout there've been so many since I've been here in  
5 2013 that I've frankly lost track of the number of them.

6 We have a Consumer Advisory Council. We  
7 have numbers somehow they're connected to the commission,  
8 maybe they're connected to other agencies, and frankly I  
9 don't have a real good handle on it, but the Clean Energy  
10 Advisory Council does have -- we have a number of  
11 different case numbers for them and I have been following  
12 the -- the proceedings and the different reports that come  
13 out and it does seem like it has been a lot of work.

14 I'm not necessarily sure in the way the  
15 order is written, the order talks about it as being very  
16 positive and that we should rely on it. I just want to  
17 caution that to the extent that we -- we're not  
18 necessarily adopting it, positive or negative. The  
19 commission itself in this order really can't say it's all  
20 good or it's all bad or some is good, some is bad because  
21 we haven't really weighed in or reviewed it as a body.  
22 And to the extent that we rely on it, we can't really rely  
23 on it. This order can't mean that we're adopting any one  
24 particular report or any one particular sentence in a  
25 report. So it's really just information the way you'd

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2 pull up, you know, a newspaper clipping frankly or  
3 something that someone is submitting as a comment.

4 It's information that it falls -- if it  
5 falls later into a record, it has to go in as its own  
6 separate comment or report, but it doesn't mean that it is  
7 now something that because it was -- comes from a report,  
8 it now has some higher weight, so I just need to raise  
9 that for at least where I see it and -- and feel so as it  
10 is in this order and the language, I just want to make  
11 clear that that's how I am interpreting that. Because I  
12 haven't blessed anything and that's been sort of part of  
13 my concern is that a lot of these working groups and  
14 councils may be doing really good work, but I'm not  
15 necessarily sure, you know, that that work is necessarily  
16 getting to anything. And so now that they're -- they're  
17 going away, while I think that that may be appropriate,  
18 it's not necessarily that now we're going to take it and  
19 now it's -- it's now -- we're going to use it in any  
20 fashion. And it's unfortunate, but that's the nature of  
21 that which is why I'm from the very beginning was  
22 concerned about sort of all of it so I share that.

23 To the extent that we need to carefully  
24 look at all of these different working groups and make  
25 some determinations as a body, I think it is important

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2 that we do that because again, the commission itself needs  
3 to look at that.

4 In here, the other piece of the order  
5 talked about forums and topical energy efficiency forums.  
6 I did have a chance to see some of the energy efficiency  
7 forums from -- I didn't participate in person, but I did  
8 participate in web conference and in seeing -- getting  
9 feedback on the energy efficiency forums that were in the  
10 other case. And I thought from my viewpoint that they  
11 were actually much of it was very well done and helpful,  
12 so from my perspective, I would say if we could try to  
13 focus on having substantive forums that are helpful that  
14 would be a good thing.

15 We need to start focusing on -- on things  
16 that add value and get input on what doesn't and so the  
17 fact that the Clean Energy Advisory Council is going away  
18 may be a positive to the extent that we're now having  
19 another topical energy efficiency forum.

20 While the last ones were -- seemed to be  
21 good, if these aren't, that doesn't mean that we can  
22 continue because it worked well in the last round. If  
23 these don't, then we need to reevaluate. So I just don't  
24 want us to now start thinking that forums are good because  
25

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2 it worked for three -- three of them, so that's just my  
3 two cents. Okay.

4 Overall, I -- I -- I do think that this  
5 next step in looking at energy efficiency is very helpful.  
6 I look forward to where we are going, but I'm looking for  
7 more drill-down of what we are doing in clear specifics in  
8 energy efficiency. I am looking for being a part of that  
9 rather than a directive on what, you know, is -- is being  
10 given to me. So I am not necessarily going to be  
11 supportive of this order at this point because I want to  
12 see and be a part of the energy efficiency goal setting  
13 that we will do as a commission and work through on what  
14 that is.

15 Since this came out of, you know, the state  
16 of the state, it also is a part of, you know, sort of also  
17 going through the budget process as well. So since for  
18 me, we still have more opportunity, I'm not sure that we  
19 need to do it at this session. I do recognize and I do  
20 think you added value on why it may be important, so I'm  
21 going to vote no without prejudice to revisit once I see  
22 more information on that, but I'm -- I'm not comfortable  
23 locking in at this time. But I do think overall, I thank  
24 you because I do think that we are trying to take lessons  
25 learned, lessons learning from, you know, past issues with

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2 the EEPS program and others and I appreciate that under  
3 Chair Rhodes's leadership that folks are incorporating  
4 that, so thank you.

5 CHAIR RHODES: Thank you, Commissioner  
6 Burman.

7 Commissioner Alesi?

8 COMMISSIONER ALESI: I have nothing to add.  
9 Thank you.

10 CHAIR RHODES: With that, I will proceed to  
11 call for a vote. My vote is in favor of the  
12 recommendation be approved with modifications to the 2019  
13 and 2020 budgets and targets for utility energy efficiency  
14 programs as described.

15 Commissioner Sayre, how do you vote?

16 COMMISSIONER SAYRE: Aye.

17 CHAIR RHODES: Commissioner Burman, how do  
18 you vote?

19 COMMISSIONER BURMAN: No, without  
20 prejudice.

21 CHAIR RHODES: Commissioner Alesi, how do  
22 you vote?

23 COMMISSIONER ALESI: Yes.

24 CHAIR RHODES: The item is approved, and  
25 the recommendation is adopted.

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2 We move now to the fourth item for  
3 discussion, item 302, case 18-E-0126, which is the  
4 petition by the New York Municipal Power Agency to  
5 implement Rider A to its generic tariff schedule presented  
6 by Mary Ann Sorrentino, Utility Supervisor, Mike Twergo,  
7 Chief Electric Rates and Tariffs, Joe Dowling, Assistant  
8 Counsel, and Mike Worden, Director of Electric Gas and  
9 Water, are available for questions. Mary Ann, please  
10 begin.

11 MS. MARY ANN SORRENTINO: Good morning,  
12 Chairman and commissioners. Item 302 is a draft order  
13 addressing a tariff filing made by the New York Municipal  
14 Power Agency or NYMPA. NYMPA is an organization of 36  
15 municipal utility members. In the tariff filing, NYMPA  
16 proposes to implement Rider A for high density load  
17 customers. High density load customers would be defined  
18 as customers with energy intensive loads coupled with high  
19 demands. If these customers do not qualify for the NYPA  
20 Municipal and Rural Cooperative Economic Development  
21 Program, they would be served under Rider A.

22 NYMPA states these customers are generally  
23 involved in high volume data processing for  
24 cryptocurrencies and they are attracted to municipal  
25 systems due to their low energy costs. NYMPA members

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2 receive low energy costs from NYPA. Power needs beyond  
3 the amounts they receive from NYPA are purchased in the  
4 open market which tends to be more expensive. Under the  
5 Rider, incremental power costs associated with serving  
6 these high-density load customers would be the cost  
7 responsibility of those customers. The Village of Akron  
8 received a request to serve a five-megawatt high density  
9 load customer. NYMPA indicates this would increase the  
10 power supply costs by fifty-four percent. This equates to  
11 a total bill increase for existing customers of thirty  
12 percent. To mitigate this adverse impact, NYMPA proposes  
13 to apply a separate purchase power adjustment to Rider A  
14 customers.

15 NYMPA proposes additional protections in  
16 their filing including a requirement for Rider A customers  
17 to provide up-front funding for one hundred percent of  
18 required infrastructure investment costs as well as a  
19 security deposit to protect existing customers in the  
20 event a Rider A customer does not pay their final bill.  
21 NYMPA proposes these safeguards indicating that  
22 cryptocurrency companies are highly mobile. They can  
23 operate in existing buildings and can pack up their  
24 equipment easily. Without these safeguards, existing  
25 customers would be at risk. The draft order largely

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2 adopts Rider A as proposed by NYMPA. The draft order also  
3 requires NYMPA members to defer incremental net delivery  
4 service revenues resulting from providing service to Rider  
5 A customers.

6 This concludes my presentation of item 302  
7 and we are available for questions.

8 CHAIR RHODES: Thank you, Mary Ann. I find  
9 this item timely and well done. I think these high  
10 density load customers are a swiftly emerging phenomenon  
11 and I think they can -- and I see that they can clearly  
12 have consequences for neighboring customers both  
13 residential and business and I think it's important to  
14 address this phenomenon in a way that's fair and  
15 reasonable and I also want to note with approval, my  
16 awareness of the close interaction that the staff has had  
17 with NYPA which also has dealings with these same  
18 customers as you noted. I would vote to approve this  
19 item.

20 Commissioner Sayre?

21 COMMISSIONER SAYRE: I don't have any  
22 problems with cryptocurrency matters and I don't have any  
23 problems with them getting good rates for the power they  
24 need for their operation, but where there are problems is  
25 when the rate design of the municipal utility that they

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2 want to locate in is insufficient and inadequate in such a  
3 way that their operations impose potentially huge purchase  
4 power costs on everybody else who takes service from that  
5 municipality.

6 The answer is simple, fix the rate design  
7 and that's what this item does. In the absence of this  
8 item, we'd have large increases as you've said to  
9 everybody else in quite a number of municipal utilities  
10 and on behalf of operations that as you say are highly  
11 mobile can relocate very quickly and have made no long-  
12 term commitments to the economic development of the area.  
13 This is, as the Chair said, a very timely problem. It's a  
14 very urgent problem.

15 I support the item and I support the  
16 declaration of an emergency.

17 CHAIR RHODES: Commissioner Burman?

18 COMMISSIONER BURMAN: Thank you. So, you  
19 know, I had concerns just because from my perspective  
20 looking at it and I think the petition really highlighted  
21 to me that it was important that we look at this and grant  
22 this petition because of the issues that really the  
23 petition spoke to in the issue for the municipalities and  
24 the customers in addressing it. Obviously, to the extent  
25 that we should be working with companies and

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2 municipalities to bring good economic vitality to the area  
3 and figure out energy issues, that's really what is  
4 important.

5 The disconnect for me was being aware of  
6 the town of Massena and the issues there and whether or  
7 not there was a disconnect between the petition which  
8 talked about the fact that the cryptocurrency and the  
9 Bitcoin didn't, you know, at least in this petition and  
10 for these towns were not providing any significant jobs  
11 and in the town of Massena, at least that Bitcoin operator  
12 was seeming to have -- seeming to be bringing or  
13 advocating bringing a significant number of jobs and so  
14 for me, the disconnect was making sure that we were  
15 working to make sure that we were working with our sister  
16 agency and also the towns and also what the impact of this  
17 regulation may or may not have.

18 But also, more holistically as state energy  
19 regulators as it may apply not just with hydropower, but  
20 in general to the extent that we may have high load, high  
21 density customers that may only have one or two jobs, but  
22 have potential economic growth opportunities, but have,  
23 you know, huge energy costs. We may need to figure out  
24 some solutions to that. And so to the extent that we have  
25 conversations on what that means and how we address those

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2 issues to the extent that we figure it out, it's  
3 appropriate to know what that is.

4 Obviously in this case, it was a very  
5 discrete issue with the hydropower and the Bitcoin  
6 operator and, you know, we're all still struggling with  
7 the terminology and -- but we really wanted, for me,  
8 wanted to flag the, you know, making sure that we were  
9 doing the right thing and understood that the petition was  
10 correct in terms of the -- the job issue as well as the  
11 hydropower issue and making sure that this would not have  
12 a negative impact for the town of Massena and any other  
13 towns that might be experiencing it so that these  
14 operators didn't necessarily then go to other towns. And  
15 so I just flag it from that perspective so that it does  
16 make me very supportive of doing this, but also knowing  
17 that we are laser focused in working with our sister  
18 agencies as well as working with the towns to make sure  
19 that they are also aware and then whether or not we need  
20 to look at other issues outside of hydropower and other  
21 issues outside of just Bitcoin that may involve high  
22 density customers and how we may need to grapple with  
23 those energy issues, so thank you.

24 CHAIR RHODES: Thank you, Commissioner  
25 Burman.

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2 Commissioner Alesi?

3 COMMISSIONER ALESI: Same as everyone else.

4 CHAIR RHODES: So with that, I will proceed  
5 to call for a vote on item 302. My item is in favor of  
6 the recommendation to approve the New York Municipal Power  
7 Agency's petition to implement Rider A to its generic  
8 tariff schedule as described.

9 Commissioner Sayre, how do you vote?

10 COMMISSIONER SAYRE: Aye.

11 CHAIR RHODES: Commissioner Burman, how do  
12 you vote?

13 COMMISSIONER BURMAN: Aye.

14 CHAIR RHODES: Commissioner Alesi, how do  
15 you vote?

16 COMMISSIONER ALESI: Aye.

17 CHAIR RHODES: The item is approved, and  
18 the recommendation is adopted. If I may now interrupt the  
19 normal course of the session and give the floor I guess to  
20 Commissioner Burman for a few moments.

21 COMMISSIONER BURMAN: Thank you. It is  
22 with a sad heart that I share that Gene Zeltmann, our  
23 former PSC Deputy Chair and former President and CEO of  
24 the New York Power Authority, passed away February 24th  
25 following a courageous battle with leukemia. I did speak

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2 yesterday to Susie, his devoted wife of almost forty-four  
3 years, who asked that I let folks know that Saturday,  
4 April 21st at eleven a.m. at the First Reformed Church in  
5 Schenectady, New York will be a memorial service followed  
6 immediately by a small reception across the street.

7 At the Power Authority, Gene was a zealous  
8 advocate for expanded research and development,  
9 implementation of energy efficiency measures,  
10 environmental and economic sustainability regarding power  
11 generation, and the importance of workplace safety.

12 He had also been vice chairman of the board  
13 of EPRI, the Electric Power Research Institute. Prior to  
14 joining NYPA, he was appointed by then governor George E.  
15 Pataki to serve as a commissioner of the New York State  
16 Public Service Commission in December 1995. Then  
17 Commissioner Zeltmann was named Deputy Chair of the PSC on  
18 May 30, 1996.

19 Gene had more than twenty years of  
20 international trade and government relations experience as  
21 an executive with GE. He joined the company in 1967  
22 serving in many senior management positions related to  
23 energy and environmental trade issues, market development  
24 and communication programs, and operational and  
25 environmental planning. Gene graduated with honors from

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2 Beloit College earning a Bachelor of Arts degree in  
3 chemistry and political science. He later received a  
4 Master of Arts degree and Doctorate from Johns Hopkins  
5 University in physical chemistry.

6 During his professional career, he was  
7 active in a number of civic and educational organizations  
8 including the board of the Boys and Girls Club of  
9 Schenectady, the Schenectady Symphony Orchestra, the  
10 Adirondack Scenic Railroad, the Albany Chamber of  
11 Commerce, the Westchester County Association, the Advisory  
12 Board to the Johns Hopkins University Krieger School of  
13 Arts and Science, and the Board of Westchester Community  
14 College Foundation.

15 When he retired, he became just as active,  
16 frankly if not more active in numerous civic, educational,  
17 and community organizations and became even more one with  
18 the outdoors. He became an avid hiker and rural traveler  
19 and his passion was with Lake Placid and the Adirondacks.

20 He was a big kid at heart, showing off his  
21 extensive train collections, and his favorite foods he  
22 liked to prepare, chocolate chip cookies and waffles. His  
23 wife Susie raised two amazing children, Laura and John.  
24 Gene was poppa to three beloved grandchildren, Grant, Ben,  
25 and Abby. Gene had an amazing professional career and was

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2 by all accounts brilliant, but for Gene the crown Joule in  
3 his life was his family.

4 Gene was my friend. I first met him when I  
5 was a staffer at DPS and he was a greeter as part of my  
6 first official DPS tour of the Robert Moses Niagara  
7 Hydroelectric Power Station. He was smart, engaging,  
8 detailed oriented, wonky as they could be, kind, generous,  
9 funny, fiscally sound, and frankly all that you want in a  
10 state energy leader and humanitarian.

11 We connected over the years and he often  
12 was there in a leadership role to seamlessly guide the  
13 focus to what needs to be thoughtfully done to keep the  
14 system together. He was a dedicated public servant and a  
15 classically decent gentleman who was focused on fighting  
16 for the public.

17 During his time in NYPA, he was most proud  
18 in the role NYPA played in a diverse energy portfolio  
19 including the unanticipated role NYPA's generation fleet  
20 played helping with resiliency issues during the aftermath  
21 of the World Trade Center attacks. His focus at NYPA was  
22 striving to deliver essential and reliable energy service  
23 to the people of New York in an environmentally  
24 responsible way. As I said, Gene was a vigorous supporter  
25

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2 of workplace safety and the valuable role and talents the  
3 energy workforce plays.

4 I think for those of us fortunate enough to  
5 have known him, the words he often said to staff whether  
6 at DPS or NYPA are as true today as they were then and  
7 fitting to close with. Be proud of what you're doing and  
8 recognize that what you're doing really counts. These are  
9 difficult times and we happen to be fortunate enough to be  
10 in the position where what we do matters and counts.

11 It's terribly important even more so than  
12 before that we keep this energy flowing, keep it flowing  
13 at low prices, and we keep it flowing in the most reliable  
14 way we know possible.

15 Gene, you're missed, and we thank you for  
16 your service. Thank you.

17 CHAIR RHODES: Thank you, Commissioner  
18 Burman, for that moving tribute to a remarkable career, a  
19 remarkable colleague and predecessor, and clearly a  
20 remarkable human being. Thank you.

21 We will now move to -- back to business.  
22 We move to the consent agenda. Do any of my fellow  
23 commissioners wish to recuse from voting or comment on any  
24 items on the consent agenda?

25 COMMISSIONER BURMAN: I'm going to be on

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2 261, 262, 263 and 264 voting no on those items.

3 CHAIR RHODES: Thank you. With -- with  
4 that notification, I will now call for a vote. My vote is  
5 in favor of the recommendations on the consent agenda.

6 Commissioner Sayre, how do you vote?

7 COMMISSIONER SAYRE: Aye.

8 CHAIR RHODES: Commissioner Burman, how do  
9 you vote?

10 COMMISSIONER BURMAN: No. Yes, but no.

11 CHAIR RHODES: Yes, but no. I understand.

12 Commissioner Alesi, how do you vote?

13 COMMISSIONER ALESI: Yes.

14 CHAIR RHODES: The items are approved, and  
15 the recommendations are adopted.

16 Secretary Burgess, is there anything  
17 further to come before us today?

18 MS. BURGESS: Nothing further for today.

19 The next commission meeting is April 19th.

20 CHAIR RHODES: Thank you. We are  
21 adjourned.

22

23

24

25

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2 STATE OF NEW YORK

3 I, HOWARD HUBBARD, do hereby certify that the foregoing  
4 was reported by me, in the cause, at the time and place,  
5 as stated in the caption hereto, at Page 1 hereof; that  
6 the foregoing typewritten transcription consisting of  
7 pages 1 through 67, is a true record of all proceedings  
8 had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 22nd day of March, 2018.

11

12

13 HOWARD HUBBARD, Reporter

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