

Monthly meeting PSC - 9-14-2017

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, September 14, 2017
12:32 p.m.

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

COMMISSIONERS

JOHN RHODES, Chair

GREGG C. SAYRE
DIANE X. BURMAN
JAMES ALESI

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2 (The session commenced at 12:32 p.m.)

3 CHAIR RHODES: Good afternoon. It's a
4 couple minutes past, so let's begin the session. I'd like
5 to note for the record that we have four commissioners in
6 attendance. Commissioner Alesi is in Buffalo. The rest
7 of us, Commissioner Burman, Commissioner Sayre, and
8 myself, are here in Albany.

9 And further, before we begin our regular
10 agenda today, I'd like to ask Mike Worden, our director of
11 the Office of Electric Gas and Water, to provide an update
12 on New York's response to the hurricanes. I'm afraid we
13 all know their names. Harvey and Irma; right?

14 MR. WORDEN: And Katia and Jose.

15 So thank you. Good afternoon, Chair Rhodes
16 and Commissioners. As you all probably know, Hurricane
17 Irma struck Florida this past weekend. It moved in late
18 Saturday night and into Sunday morning into Key West and
19 then moved its way up on the western part of Florida, but
20 it had some impacts on -- on many parts of Florida
21 throughout the state, eventually making its way into
22 Georgia sometime on Monday, September 11th.

23 All told, there were about 6 million
24 customers that were affected, had power loss from Irma.
25 As of this morning, the latest indications we have is

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2 there's about 2.6 million customers, in Florida alone,
3 still without service. A couple hundred thousand in
4 Georgia as well.

5 Florida has been requesting assistance
6 since Sunday from a wide variety of entities. They have a
7 mutual system -- assistance group down there. It's called
8 the Southeast Electric Exchange. It's part of the --
9 what's referred to as the RMAG system, the Regional Mutual
10 Assistance Group that was formed after Hurricane Sandy.
11 New York belongs to that RMAG as part of their mutual
12 assistance package with the North Atlantic Mutual
13 Assistance Group.

14 Florida requested something on the order of
15 50,000 FTEs to assist with restoration. We've heard
16 numbers reported around as -- as much and as high as
17 60,000 FTEs they're looking for. And when I talk about
18 those FTEs, we're predominantly talking about skilled
19 linemen, skilled tree removal people, and skilled
20 contractors that can actually do the work.

21 The resources tend to be significantly
22 higher than, you know, what's reported.

23 New York, on Monday, started putting
24 together a series of crews to send down to -- to the
25 Florida area predominantly. All told, the New York

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2 utilities are sending approximately a little over a
3 thousand FTEs down to -- to assist with restoration. So
4 all told, New York utilities are probably sending 12-1300
5 people down to the area to assist. They're going to a
6 wide variety of areas. Probably the biggest contingent
7 that we have reports on is in the Tampa -- Tampa Electric
8 area.

9 So they'll likely be down there for a
10 period of up to two weeks. Typically, that's what
11 happens. Then sometimes, depending on where restoration
12 is, they -- they might continue for a short period longer;
13 they might come back and other crews might go in their
14 place. So we continue to monitor that.

15 Obviously, what happens in -- in New York
16 State is important to us and, you know, it's important
17 that to the extent any significant weather event were to
18 impact New York State, we'd want to pay attention to that.

19 I did want to mention -- I did want to
20 mention Harvey, as well. I know people wonder, you know,
21 whether we sent resources to Harvey or whether, you know,
22 we had people down there and what the impact was there.

23 Harvey wasn't as big of an effect on -- on
24 electric or gas customers as was Irma. Harvey was more of
25 a flooding event. And I think we've all seen the pictures

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2 down there of the devastation that has been caused by
3 flooding down there.

4 So at peak with Harvey, there was just over
5 four hundred thousand electric customers without service.
6 So you can get a sense of why there wasn't this massive
7 call for additional FTE assistance from around the country
8 for that. Those customers had largely been restored
9 likely in the areas where there is houses that are able --
10 and -- and businesses that are able to receive service.

11 I do mention Hurricane Jose. I mention it
12 only in case someone is wondering. Currently, that's out
13 in the Atlantic Ocean. It's about five hundred miles
14 southwest of Bermuda. And as of this point, it's not
15 expected to make landfall to the -- to the U.S. islands.

16 So with that, if you have any questions I'm
17 happy to answer them. Otherwise, I'll let you get on with
18 session.

19 CHAIR RHODES: Thank you very much, Mike.
20 Obviously, it's a very serious situation. Obviously, it's
21 good that we're doing what we can. Obviously, we're glad
22 that the regional mutual assistance regimes work. And
23 obviously, we're expecting that someday we'll issue a
24 call, as well.

25 So with that, let's proceed to the regular

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2 agenda. And I'd like to notice one late development,
3 which is we're going to pull Item 201 if we -- if we can,
4 which is the matter related to Direct Energy.

5 Secretary Burgess, can we do that?

6 SECRETARY BURGESS: We could certainly do
7 that. We'll pull Item 201.

8 CHAIR RHODES: Thank you very much.

9 SECRETARY BURGESS: And we're going to add
10 an item?

11 CHAIR RHODES: And we have an add -- we
12 have an item, Item 205.

13 SECRETARY BURGESS: 205, Case 12-M-0476,
14 which is a Proceeding on the Motion of the Commission to
15 Assess Certain Aspects of the Residential and Small
16 Nonresidential Retail Energy Markets in New York State.
17 It's Item 205.

18 CHAIR RHODES: So thank you. So precisely,
19 with respect to Item 205, 12-M-0476, a procedural matter
20 in the ESCO proceedings, I'm going to ask Paul Agresta,
21 our general counsel, to please begin to present this item.

22 MR. AGRESTA: Thank you, Mr. Chairman.

23 And greetings to Commissioner Alesi in
24 Buffalo. I hope it's not snowing today.

25 In -- in December, the Commission issued an

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2 order prohibiting ESCOs from enrolling new low-income
3 customers and requiring ESCOs to de-enroll their existing
4 low-income customers. The order included 11 ordering
5 clauses establishing various implementation deadlines.
6 The order also established a waiver process for ESCOs that
7 want to offer low-income customers a guaranteed savings
8 product.

9 Implementation of the December order was
10 delayed by litigation, but a recent decision by the
11 Appellate Division denying a stay on implementation
12 cleared the way for the December order to now be fully
13 implemented.

14 Today's session item proposes that the
15 Commission issue a procedural order revising the deadlines
16 to ensure a deliberate but orderly implementation process.
17 That proposal is to generally give the same time intervals
18 for procedural steps as in the original December order.

19 The proposal is purely procedural and it
20 does not address the substance of the order. Being
21 procedural, it also doesn't require a SAPA notice. And
22 finally, the proposal does not affect the ESCOs that filed
23 for waivers consistent with the December order. Those
24 ESCOs do not need to de-enroll customers from their
25 guaranteed savings products until their waivers are acted

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2 upon by the Commission.

3 So I'm available for any questions you may
4 have.

5 CHAIR RHODES: Thank you.

6 My own comments are simple. I think this
7 order is extremely useful. It addresses any possibility
8 of confusion and it brings clarity to the implementation
9 and to timing of the implementation of the order. I
10 support this order. It is well done, it's important, and
11 it's correct.

12 And before I turn to my fellow
13 commissioners for questions and comments, let me
14 acknowledge Commissioner Burman, thanking you for your
15 attentive role in making sure we got this one right. So
16 thank you.

17 Commissioner Burman, do you have any
18 questions or comments?

19 COMMISSIONER BURMAN: Yeah, I -- I do have
20 a -- a couple of questions. The letters that went out --
21 or the letter that went out, telling folks -- from Staff,
22 telling folks that they were now the -- expected to do
23 this in conformance with the low-income order, what were
24 the deadlines that were given in that letter? Are they
25 the same as this?

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2 MR. AGRESTA: They're not the same as this,
3 but I don't have the letter.

4 MS. SCHERER: The deadlines were consistent
5 in the -- with the -- this -- these dates, but for we
6 deducted the amount of time that had transpired before the
7 TRO So they were somewhat different. These -- these are
8 much more generous.

9 COMMISSIONER BURMAN: Okay. I just want to
10 take a pause because I'm looking at the -- the deadlines.
11 And my only confusion now, since we just got this this
12 morning, is mapping out what this means from the next
13 steps, and to address the letters that came that said that
14 they were concerned about the timelines. I'm not looking
15 to throw a monkey wrench into this. I'm just trying to
16 process it.

17 So what I really am looking for is clarity
18 in ensuring that everyone is on the same page, whether
19 it's after this session today, having some kind of
20 technical call with the utilities and with the affected
21 ESCOs, so that if they're -- I'm not saying that there are
22 any technical issues. I'm not saying that there aren't
23 any. Just to the extent that we clearly map out -- and it
24 doesn't have to be everybody all on the call at the same
25 time.

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2 But each utility, with their ESCOs, should
3 be making sure that if there are any potential glitches,
4 if there are any potential problems, that we're all on the
5 same page, so that if there are some timeline constraints,
6 especially because the letter that was filed in response
7 to the Staff raised some potential inability to do so.

8 And I -- I don't know, you know, what that
9 is. But I don't want us -- to me, the primary and most
10 important thing is that there is no customer confusion and
11 that this is done seamlessly in a way that protects the
12 customers' interest and make sure that we're not causing
13 any other undue issues. So to the extent that I'm
14 comfortable in that we are trying to identify a better
15 process, obviously, my original no to the original order
16 on substance still stays the same, but to the extent that
17 all along my concern has been process, that is what I am
18 trying to make sure that we are clearly understanding the
19 pathway forward and that we are not creating more
20 obstacles because we're giving them such a short deadline
21 that we're not going to be able to meet it and manage it.

22 And also, keep in mind this order was
23 written long ago, so much long ago that I actually have to
24 keep saying wait, let me have that order and look to see
25 what was done. So that's me and I took personal interest,

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2 as did the other commissioners, in it that I don't want it
3 to be causing more customer confusion, especially because,
4 you know, we are trying to make sure that we are
5 protecting customers, not only in their choices, but in
6 their -- the -- the focus of this order.

7 Does that make sense?

8 MR. AGRESTA: Okay. So the -- the ESCOs
9 asked for two things that were important. One, they were
10 concerned that the list they had from the utilities were
11 stale. And the order has the utilities providing them
12 with a current list by September 22.

13 And the second thing they were asked about
14 was that the original intervals be for the deadlines that
15 apply to the ESCOs be restored, which this order does.

16 COMMISSIONER BURMAN: So have we --?

17 MR. AGRESTA: There's also the clause at
18 the end that allows people to get extensions from the
19 secretary if they can show a good reason why they need an
20 individual extension. So we're basically --

21 COMMISSIONER BURMAN: And will we be
22 reasonable --?

23 MR. AGRESTA: -- we're basically giving the
24 ESCOs what they've asked for, so --

25 COMMISSIONER BURMAN: Okay. So I --.

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2 MR. AGRESTA: -- hopefully, they can say --
3 when we say yes, hopefully they can say thank you.

4 COMMISSIONER BURMAN: Again, I have no
5 knowledge -- I have no knowledge if any of this --

6 MR. AGRESTA: Rather than we disagree but
7 yes.

8 COMMISSIONER BURMAN: -- from a technical
9 perspective. I am not looking to do anything except make
10 sure that the rollout is done in a way that is extremely
11 professional, as well as ensures that there is no customer
12 confusion, and that any technical glitches or -- you know,
13 I'm saying technical -- it's not just, you know, flipping
14 a -- a switch. There are many different things that
15 possibly could be of concern, especially to the consumer
16 advocates in terms of, you know, privacy, in terms of what
17 this means for the customer, in terms of the customer
18 being confused.

19 I just want to make sure that we are -- are
20 looking forward -- pathway forward that's reasonable that
21 just gives us the process that we are going to be giving a
22 nod to the secretary here that if these deadlines are --
23 are not reasonable, that there is flexibility, and that
24 everyone comes to the table trying to come up with a
25 process that works.

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2 Does that make sense?

3 MS. SCHERER: Yes.

4 COMMISSIONER BURMAN: Okay.

5 CHAIR RHODES: Thank you.

6 Commissioner Sayre?

7 COMMISSIONER SAYRE: The proposed
8 procedural order makes sense to me and I support it.

9 CHAIR RHODES: Commissioner Alesi, any
10 comments or questions?

11 UNIDENTIFIED SPEAKER: His mic isn't on.
12 His mic's not on.

13 CHAIR RHODES: All right. His mic is not
14 on?

15 COMMISSIONER ALESI: Yes, my mic is
16 working.

17 All set. Sorry.

18 CHAIR RHODES: Thank you.

19 So with that I call for a vote on Item 205.

20 My vote is in favor of the recommendations
21 as described.

22 Commissioner Sayre, how do you vote?

23 COMMISSIONER SAYRE: Aye.

24 CHAIR RHODES: Commissioner Burman?

25 COMMISSIONER BURMAN: I vote yes with the

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2 caveat that my original rationale for the no vote on the
3 original order still stands, as well as the caveat that I
4 am looking forward to making sure that we have a very good
5 process that works with all of the affected parties,
6 utilities, ESCOs, and customers, and that the primary
7 focus is to look for a favorable resolution that helps us
8 get to a better outcome, and also understanding that a lot
9 of the substantive issues are still being resolved,
10 whether it's in the administrative hearing or the
11 litigation so that this is really on the technical
12 process, and that I -- I want everyone to try to focus on
13 making sure that we're all working together on this aspect
14 of it that works, and that the secretary should understand
15 the need for reasonable flexibility if it's appropriate.

16 CHAIR RHODES: Thank you.

17 Commissioner Alesi?

18 COMMISSIONER ALESI: I vote yes.

19 CHAIR RHODES: Thank you.

20 The item is approved and the recommendation
21 is adopted.

22 Second item for discussion is a suite of
23 three items, Items 202, 203, and 204, Cases 12-M-0476 et
24 al, which are petitions for waiver to serve low-income
25 customers, presented by Bruce Alch, Chief Retail Access

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2 and Economic Development; Luann Scherer, Director Office
3 and Consumer Services; and Tom Dwyer, Assistant Counsel,
4 are available for questions.

5 Bruce, please begin.

6 MR. ALCH: Good afternoon, Chairman Rhodes
7 and Commissioners. I'm going to present a relatively
8 short summary on the three petitions for waiver of the
9 Commission's December 2016 order on low-income customers.
10 202 relates to Drift Marketplace. Item 203 is M and R.
11 And 204 relates to Ambit energy.

12 As background, in the order adopting a
13 prohibition on service to low-income customers by energy
14 service companies, or ESCOs, issued in December 16th,
15 2016, the Commission directed a prohibition on ESCO
16 enrollments and renewals of customers who are participants
17 in utility low-income assistance programs, customers we
18 referred to as assistance program participants, or APPs.

19 The December order provided that any ESCOs
20 that believe that they are able to provide a guaranteed
21 savings to APPs could petition the Commission for a waiver
22 within 30 days of the December order by demonstrating, A,
23 an ability to calculate that the customer would have the -
24 - would have paid the utility -- what the customer would
25 have paid the utility, a willingness to ensure that the

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2 customers would be paying no more than they would have
3 paid the utility, an appropriate reporting to verify and
4 demonstrate compliance with these assurances.

5 Petitions we received from 12 ESCOs prior
6 to the January 16th deadline, established in the order,
7 and each of the petitions were SAPA'd. Comments were
8 received from the Utility Intervention Unit, UIU, of the
9 New York State Department of the State's Division of
10 Consumer Protection, the City of New York, and the Public
11 Utility Law Project of New York, and the New York Attorney
12 General's office.

13 UIU requested that, among other things, a
14 uniform methodology for the ESCOs utility price comparison
15 be adopted to ensure that all customers have adequate
16 protection from potential overcharges, and that a
17 condition be imposed that any waiver is effective for only
18 one year and renewable annually upon proof of compliance.
19 In addition, UIU requested that if the ESCOs failed to
20 meet these guaranteed saving program requirements, that
21 the waiver applications be denied.

22 Finally, UIU suggested that the
23 commissioners should impose certain reporting requirements
24 on ESCOs who are granted a waiver. PULP, the A.G., and
25 the City agreed with UIU's comments.

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2 Each of the three petitions discussed today
3 was deficient in some respect or required clarification.
4 Staff, therefore, requested additional information from
5 each of these ESCOs and had discussions with each of them
6 during its review of the petition and supporting
7 materials.

8 We are recommending that the Commission
9 issue a waiver to Ambit Energy to allow Ambit to serve
10 low-income customers. And unlike the other ESCOs, the
11 only product Ambit sells in New York State is a guaranteed
12 savings product. In support of its petition, Ambit
13 produced -- provided models which replicate the utility
14 tariffs and enables it to closely bill the customer what
15 the utility would have billed the customer.

16 In its petition, Ambit explains that it
17 currently serves thousands of customers in New York State
18 and has been offering a guaranteed -- a similar guaranteed
19 savings program for years.

20 In its multiple responses, Ambit provided
21 clarifications and very detailed information on the
22 calculations used to determine what the customer's monthly
23 bill for bundled utility service would have been to
24 determine what the customers should have -- should be
25 billed for Ambit service to achieve the guaranteed

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2 savings.

3 Moreover, Ambit provided sample reports
4 demonstrating the actual refunds and savings that Ambit
5 customers have received over the past year under their
6 other programs. In supplemental responses, Ambit also
7 clarified that if a low-income customer cancelled before
8 their 12-month guaranteed savings program term expired,
9 that customer would pay no more for service than they
10 would have paid as a full-service customer of the utility
11 for that period.

12 As part of its program, Ambit will provide
13 credits to be reflected on the consolidated utility bill
14 for customers who paid more than they would have paid as a
15 full-service utility customer. The draft order requires
16 that Ambit report semiannually on the status of its
17 guaranteed savings product as it pertains to the low-
18 income customers. The report should include the number of
19 customers served, the monthly calculated amounts billed,
20 and the alternative amounts that the utility would have
21 charged, and the amount of any refunds issued to meet that
22 savings guarantee.

23 Finally, while the draft order grants
24 Ambit's petition for a waiver, we believe it appropriate
25 that the Commission place a time limit on this waiver. We

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2 recommend that the waiver expire 24 months from the date
3 of the order, that during that time Staff will review
4 Ambit's compliance with the 2016 order, and Ambit will, of
5 course, also have the opportunity to petition for an
6 extension of that waiver. That concludes Ambit.

7 Otherwise, after careful review of the
8 information filed by Drift Marketplace and M and R Energy,
9 Staff recommends denying these petitions. We determined
10 that these ESCOs have not complied with the Commission
11 2016 order which required them to be able to demonstrate
12 that they can provide, A, a guarantee of savings compared
13 to what the utility would have -- the customer would have
14 paid the utility, and the appropriate reporting to verify
15 compliance with these assurances.

16 More specifically, Drift Energy's software
17 platform model is unique, but it requires that each
18 customer have an Internet connection and pay an
19 undisclosed subscriber fee. Further, Drift failed to
20 provide details on how it would refund -- provide refunds
21 to the customers if the customer did not see savings under
22 the -- for any given month.

23 M and R's waiver request describes their
24 guaranteed service plan as a monthly savings with a
25 variable price that would be less than a utility price or

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2 a fixed price with an annual true-up. M and R's petition
3 did not provide details of the actual rate calculations,
4 methodologies or the proposed compliance reporting of
5 guaranteed savings.

6 While M and R responded to Staff's
7 additional inquiries, it failed to provide the details of
8 the current method for calculation of its monthly price,
9 absent a discount from the -- provided by the utilities.
10 And M and R also failed to provide information to satisfy
11 their reporting requirements or the post period
12 reconciliation true-up process.

13 That concludes my summary of these items
14 and I'd be happy to answer any questions.

15 CHAIR RHODES: Thank you, Bruce.

16 The Commission has taken a stand to
17 prohibit ESCOs from enrolling and renewing customers who
18 are participants in utility low-income program unless the
19 ESCO can provide guaranteed savings to these customers.
20 This order focuses on that point, the point of guaranteed
21 savings to low-income customers.

22 Ambit was definitively able to establish
23 that it could provide these guaranteed savings to these
24 customers. The other ESCOs that are the subject of today,
25 Drift, M and R, were not able to definitively establish

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2 this ability. So I -- I'm going to support the order.

3 And I'm also going to note that with this
4 order we also begin to lay out the standards for what it
5 means to definitively establish the ability to provide
6 guaranteed savings. That clarity is important. It's
7 helpful to the industry and it's helpful to customers. I
8 support this order. It's well done, it's important, and
9 it's correct.

10 Commissioner Sayre?

11 COMMISSIONER SAYRE: I concur with Staff
12 and the Chair that only Ambit sufficiently demonstrated
13 that they can comply with our low-income protection order
14 and I support the orders in front of us today.

15 And as I've said before, I look forward to
16 the opportunity to rule on larger ESCO issues in the case
17 that's now before the administrative law judges.

18 CHAIR RHODES: Thank you.

19 Commissioner Burman?

20 COMMISSIONER BURMAN: Thank you.

21 So I look at this a -- a little
22 differently. For -- at the outset, I'd like to say that
23 I'm voting no on all of them even the one that is approved
24 to go forward. My rationale is this. I think that when
25 we take a step back, that the process has been confusing.

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2 If we had back in 2015, I believe, it might
3 even be back in 2014 -- I apologize for not knowing
4 specifically. If we had, at that time, after the low-
5 income report was issued that -- that the order that we
6 then adopted, which I did not agree with, said that there
7 was no ability for coming up with a -- no interest in a
8 low-income program. And the parties were adamant that
9 they thought that we were throwing in the towel too soon.

10 I do believe that if we had, at that time,
11 taken a pause and tried to come together in the way
12 historically it's been done to great success, working with
13 everyone in focusing on number of different issues, but,
14 in particular, the low income, we might have been able to
15 have Staff issue -- or the parties jointly issue a straw
16 proposal that then could have been SAPA'd and looked at.

17 So where I see it, now we are -- we are
18 focused on looking at only those that have submitted a
19 waiver. It's been 12, I believe. One withdrew so there
20 are 11. I believe that those 11 may set the standard
21 roadmap on the -- the -- you know, the next level for what
22 may or may not be done to allow a low-income program such
23 as this.

24 I am not sure that doing it in a
25 standalone, by looking at Ambit, without having looked at

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2 all of the different 11, as well as having it done in a
3 way that has all parties laser-focused on this is what
4 we're thinking, we're identifying Ambit -- in this case,
5 Ambit as a successful, potential successful model, tell us
6 what you think, tell us how this may impact your
7 customers, what does this mean, and how does it impact
8 even in the community choice aggregation programs?

9 So I am not comfortable, from where I sit,
10 in saying that we are going to only look at these four --
11 now these three today, without having addressed the
12 others, but would also, without having the benefit of
13 folks having been laser focused on now what our thinking
14 is.

15 I'm also troubled that where we look at it,
16 some of the -- and I'll -- I'll speak to -- I think it's
17 202, Drift -- Drift Marketplace -- I wasn't necessarily
18 familiar with that ESCO, beforehand. They're relatively
19 new in New York. They have a relatively innovative sort
20 of REV-like focus and we actually do have REV demos in
21 energy marketplace.

22 So to the extent that there may be a
23 disconnect and what does that mean, what are some of the
24 lessons that are learned or being learned currently in the
25 REV demos that are addressing the marketplaces may

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2 actually be -- be something that so where I sit we could
3 actually have a more cohesive analysis in determining how
4 it might fit, whether you're on an ESCO side or a DER
5 side. So I was left with more questions.

6 I understand that the petition was limited,
7 so it's not a reflection on Staff not doing due -- their
8 due diligence. In fact, I think Staff did do the due
9 diligence from the sort of what I call the silo of what we
10 were looking at, rather than looking at the broader
11 perspective as how it fits and what are the lessons
12 learned.

13 As to M and R ESCO, that also, I believe,
14 is a relatively new one in New York. I know that when we
15 talk on the REV side outside of, you know, the mass
16 marketplace for ESCOs, when we talk about new providers
17 and new interest, we seem to be excited by it and seeing
18 it as a positive thing that we're having people come in
19 with innovative ideas.

20 So to the extent that here, M and R, you
21 know, identified and -- and actually late in the game
22 because there had already been some disruption on the ESCO
23 issues, but they were seeing it as a potential opportunity
24 that they thought they could address. Not saying that on
25 -- on the get-go, their petition met the threshold.

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2 However, I wonder if we may need to have more dialogue to
3 actually help come up with solutions for having what we
4 see as successful models or potentially successful models
5 being able to be used in a way that helps all customers
6 across the state.

7 I know that in the Long Island footprint,
8 there's been a generic proceeding in looking at the mass
9 market there. I'm not privy to any information that's
10 happened through that, but to the extent that that also
11 may be able to help facilitate.

12 I do think the pathway is here, but I'm
13 just uncomfortable with our deciding it without looking at
14 it from a holistic perspective, and am worried because the
15 remaining -- so if the three are decided today, two of the
16 three are denials. So they will have to de-enroll their
17 customers and not -- low-income customers and not enroll
18 new customers. Is that correct?

19 MR. DWYER: That is correct.

20 COMMISSIONER BURMAN: Okay.

21 MS. SCHERER: So it's noteworthy that M and
22 R currently doesn't have any low-income customers. And I
23 think Drift is a relatively new player, as well --

24 COMMISSIONER BURMAN: Okay.

25 MS. SCHERER: -- and may only have a

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2 handful of low-income customers.

3 COMMISSIONER BURMAN: Okay. Thank you.

4 That's helpful information.

5 As to the other -- the other ones -- forget
6 about Ambit for a minute because that's being decided, but
7 then the other -- my math is not good -- the other -- what
8 do we have -- eight left then, right? Those eight, their
9 customers -- their low-income customers will continue to
10 be able to be under them; correct?

11 MR. DWYER: That is correct, also.

12 COMMISSIONER BURMAN: Okay. All right. I
13 -- I just think there's some fundamental unfairness of
14 deciding two, without deciding all of them. But, you
15 know, it's not like -- I -- I mean I understand you're
16 trying to resolve them as they come. I just think that in
17 some way sets it up that you're better if we don't decide
18 it.

19 Now what if the petitioners look at what we
20 say and say you know what, we will give you more clarity
21 or we will now look to do what Ambit is doing? How does
22 that work?

23 MR. ALCH: That was -- that was the process
24 we used during the review of each of these. We had
25 several of the ESCOs in at the same time. We had a

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2 conference call with them and physically they were here.

3 We communicated with each of these ESCOs throughout this

4 process and we told them what we were looking for.

5 And it's -- it's a high hurdle to guarantee

6 savings and be able to verify it to Staff that you're

7 actually going to be able to do that. It's -- it's not

8 just the words; you have to show us the math calculations

9 to verify that that process is going to be there and that

10 it's going to be consistently followed.

11 MS. SCHERER: But nonetheless, there is a

12 process for petitions for rehearing if we miss something.

13 COMMISSIONER BURMAN: What about a denial

14 without prejudice in case they have any other information?

15 So that they don't have to then go through sort of a

16 petition for rehearing process which delays? Again, my

17 issue is focused on, you know, animating the marketplace,

18 as well as making sure that customers have the choice that

19 they may wish to have.

20 MR. AGRESTA: On a going-forward basis, I

21 believe the ESCOs are allowed to apply any time they want

22 to. The only difference here is that they will have to

23 de-enroll their customers. And if they come back six

24 months from now with a product that they think complies,

25 they can then apply for it. And if you grant it, then

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2 they can enroll new customers.

3 COMMISSIONER BURMAN: Okay.

4 MR. AGRESTA: But I don't think we want to
5 leave everybody in limbo.

6 COMMISSIONER BURMAN: Okay. I do hope that
7 we do have a -- a better process going forward. I do hope
8 that -- that we do look at now lessons learned from this.
9 I -- I personally don't necessarily agree that the -- the
10 be all and end all is to look at the Ambit model as the
11 right one. It may be one to follow, but it doesn't
12 necessarily mean that if there is alternatives, that they
13 are bad because they don't follow this model.

14 And, in fact, what is important to me is
15 that we continue to have or we have a more robust
16 enforcement process where we are looking at, you know,
17 what is going on and make sure that folks are following
18 the rules and that people understand.

19 So thank you.

20 CHAIR RHODES: Thank you, Commissioner
21 Burman.

22 Commissioner?

23 Thank you, Commissioner Burman.

24 COMMISSIONER ALESI: Yes. I -- I see this
25 -- I see this as the outcome of a lot of dedicated effort.

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2 I think that it will serve the people well and I'm fully
3 supportive.

4 CHAIR RHODES: Thank you.

5 So I will now proceed to call for votes on
6 individual items.

7 I call for a vote on Item 202.

8 My vote is in favor of the recommendation
9 to deny the petition by Drift Marketplace for waiver to
10 serve low-income customers as described.

11 Commissioner Sayre, how do you vote?

12 COMMISSIONER SAYRE: Aye.

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

15 COMMISSIONER BURMAN: No.

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

18 COMMISSIONER ALESI: I vote yes.

19 CHAIR RHODES: The item is approved and the
20 recommendation is adopted.

21 I now call for a vote on Item 203.

22 My vote is in favor of the recommendation
23 to deny the petition by M and R Energy Resources Corp. for
24 waiver to serve low-income customers as described.

25 Commissioner Sayre, how do you vote?

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2 COMMISSIONER SAYRE: Aye.

3 CHAIR RHODES: Commissioner Burman, how do
4 you vote?

5 COMMISSIONER BURMAN: No.

6 CHAIR RHODES: Commissioner Alesi, how do
7 you vote?

8 COMMISSIONER ALESI: I vote yes.

9 CHAIR RHODES: The item is approved and the
10 recommendation is adopted.

11 Item 204, my vote is in favor of the
12 recommendation to grant the petition by Ambit New York,
13 L.L.C., for waiver to serve low-income customers as
14 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.

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

22 COMMISSIONER ALESI: I vote yes.

23 CHAIR RHODES: Thank you.

24 The vote -- the item is approved and the
25 recommendation is adopted.

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2 We now move to the third item for
3 discussion, Item 301, Cases 15-E-0751 et al, which is in
4 the Matter of the Value of Distributed Energy Resources,
5 presented by Scott Weiner, Deputy for Markets Innovation.
6 Ted Kelly, Assistant Counsel; Warren Myers, Director
7 Office of Market and Regulatory Economics; and Marco
8 Padula, Deputy Director for Market Structure, are
9 available for questions.

10 Scott, please begin.

11 MR. WEINER: Thank you, Chair Rhodes.

12 And good afternoon -- and good afternoon,
13 Commissioners.

14 This Item Number 301 addresses the
15 implementation issues that were raised in the Commission's
16 March 9th order, which initiated the transition to the
17 value of distributed energy resources methodology.

18 This order, if adopted, will enable
19 implementation of the VDR methodology to value and
20 compensate distributed energy resources.

21 At the outset, I just want to take a brief
22 moment to acknowledge the contribution of all the
23 stakeholders in what has been a truly collaborative
24 process. The work leading to today reflects the spirit
25 that the Commission voiced in its March 9th order that

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2 this first phase of VDR is intended to and limited to
3 taking appropriate, reasonable and expeditious initial
4 steps to provide more accurate valuation and compensation
5 for distributed energy resources.

6 And although, as in any process, there were
7 differences of opinion, agreement about the policy themes
8 and the shared recognition of the limits of phase one, and
9 that it marks the beginning of what will be an ongoing
10 process to continuously improve the accuracy of valuation
11 that is essential to enabling the transition to the
12 distributed transacted and integrated electric system
13 envisioned by REV.

14 The context and collaboration exhibited
15 here distinguishes New York from other states and enabled
16 the situation that is replacing net metering methodology
17 that begins the path forward to ever increasing accuracy
18 in valuation and compensation. The draft order that's
19 before you is an affirmation of this collaborative process
20 and the outcome is literally years' worth of work.

21 While the draft order contains details
22 about the methodology and the valuation addresses
23 compensation issues raised by the Commission's order on
24 March 9th, I will focus my remarks to the policies and
25 themes that underlie the major issues addressed by this

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2 order. My colleagues and I are available to answer
3 specific questions following my presentation.

4 I want to highlight two foundational themes
5 that are reflected in the draft. The first is that the
6 heart of phase, as I mentioned, is that a recognition that
7 this is a first step. It's enabling the first step of
8 more accurate pricing, valuation, and compensation, while
9 all stakeholders and the Staff work together to achieve
10 the next generation of enhancements and increased
11 accuracy.

12 The second foundational theme is that cost
13 and bill impacts matter. This order, combined with the
14 prior March 9th policy order, protects nonparticipating
15 ratepayers in two very significant ways. First, it
16 assigns the cost recovery for the value stack payments to
17 those who benefit from that production. And secondly, the
18 market transition credit payments, which are on top of or
19 exceed the value stack payments, are provided through a
20 tranche system that's designed to keep bill impacts within
21 the targeted 2% limit established by the Commission in its
22 March 9th order.

23 Turning to the substance of the order,
24 March 9th, the Commission required utilities to file
25 implementation proposals. Those proposals were then

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2 subject to comment -- extensive comment and many technical
3 conferences participated in by stakeholders. These
4 implementation plans, again, provide for this first
5 rudimentary method to value and compensate, in this case,
6 the various elements of the value stack. And one of them,
7 of course, is locational value, which is provided through
8 two mechanisms which bear the acronym DRV and SLRV

9 What's important about that is that it
10 distinguishes and begins to provide some differentiation
11 among locational values and the elements of locational
12 values. It also illustrates the relationship between
13 system enhancements that come through and system benefits
14 that come through non-wires alternatives and benefits that
15 are provided by distributed energy resource deployment
16 responding to general market conditions.

17 These two market drivers need, of course,
18 to exist side by side. And during the ongoing phase of
19 VDR, their relationship and the ability to provide greater
20 specificity with terms of location value is -- is an
21 important and priority issue.

22 In approaching the methodologies to
23 compensate for capacity value, the order distinguishes
24 between intermittent and non-intermittent resources. And
25 for intermittent resources, it provides alternative

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2 methodologies. These alternative methodologies were
3 developed in conjunction with stakeholders. They
4 recognize that, for intermittent resources, there are
5 different ways to value it. Again, in keeping with the
6 spirit and intent of phase one, it's the first step to be
7 able to calculate these values and further work will be
8 ongoing in the VDR proceeding.

9 Another issue that was discussed is utility
10 billing and credit procedures. And there is a universal
11 recognition that the timely posting of credits is
12 essential to customers receiving the value of their
13 participation in a CDG program. The draft order
14 establishes a standard that credit should be posted within
15 two months of their being earned and that utilities should
16 be able to achieve that standard within 12 months. The
17 articulation of the standard is recommended in response to
18 comments that were received both from the utilities, as
19 well as other active stakeholders. And the utilities are
20 required to file a report in 30 days addressing how and
21 when they will be able to meet that standard.

22 In terms of CDG reporting itself, the draft
23 order requires utilities to consider appropriate ways of
24 communicating information to sponsors and to enable
25 sponsors to provide information to members. This could be

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2 through online portals, it could be through automation.
3 Feasibility has to be considered in an evaluation port
4 that will be filed.

5 Significantly, again, the order is turning
6 to the community to go through an evaluation, rather than
7 dictating a specific outcome. In the interim, the draft
8 order does require that utilities use a standardized form
9 of report that is incorporated into the order for both
10 community DG and remote net metering project hosts in
11 order to provide information to them, and similarly, that
12 sponsors of community DG projects provide annual reports
13 to customers that summarize the value of their
14 participation, including each member's share of kilowatt
15 hours produced and the total bill credits received.

16 There were other issues related to the
17 value stack, which is the heart of the compensation
18 methodology. But the one I want to call out deals with
19 storage, a very important issue for our state and for our
20 REV vision.

21 The phase one VDR order of March 9th
22 determined that storage should be eligible for value stack
23 compensation when paired with eligible generation. And
24 that order -- through that order the Commission asked for
25 comment addressing the issue of avoiding E and MTC

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2 compensation where non-clean energy -- nonrenewable energy
3 was the source of -- of the storage.

4 The draft order recognizes that a number of
5 issues remain that need to be addressed, including the
6 treatment of projects that include storage in the utility
7 interconnection process associated with the utility
8 proposal. Accordingly, the draft order directs Staff to
9 work with utilities, developers, and other stakeholders to
10 develop a proposal for integrating storage into the
11 interconnection process.

12 Among the topics that will be considered is
13 establishing appropriate mechanisms in the SIR for
14 treatment of such projects in the interconnection process
15 and defining technical performance and production
16 requirements.

17 To that end, the draft order directs Staff
18 to work with NYSERDA, utilities, developers, and all
19 interested stakeholders through the interconnection policy
20 working group to develop a proposal for meeting the
21 specific technology needs related to the compensation
22 methods contained in the order, and that that report be
23 presented to the Commission by December 20th of this year.

24 Lastly, I want to touch upon issues
25 involving project cost mitigation that was discussed in

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2 the Commission's March 9th order that were raised there
3 and were identified as priority topics for consideration
4 by stakeholders and Staff. One of those issues was a
5 question of whether or not the cap on project size should
6 be increased from two megawatts to five megawatts.

7 The draft order before you concludes that
8 while the Commission would be inclined and is inclined to
9 support an increase in five megawatts, an actual increase
10 in the cap needs to be deferred pending further
11 consideration of a few key issues. These are
12 implementation issues such as whether a larger project
13 size should be subject to modified rules concerning the
14 calculation and the order of a market transition credit,
15 or MTC, as well as consideration of potential distribution
16 level impacts that will result as a -- because of a larger
17 project size.

18 In order to expedite consideration of these
19 issues and to allow the Commission to -- to consider this
20 question on an expedited basis, the draft order includes a
21 set of questions related to the aforementioned
22 implementation issues for comment. Other formal notices
23 will be provided and responses are due on November 20th,
24 all to the end of enabling Staff to present
25 recommendations to the Commission that would enable you,

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2 the Commission, to consider these issues in very early
3 2018.

4 In addition, Staff will be considering
5 issues associated, again, with integrating these larger
6 projects into the interconnection process. And again,
7 recommendations for those issues will also be presented by
8 December 20th.

9 The last issue is that of consolidated
10 billing, which would enable CDG project sponsors to
11 collect membership fees through their inclusion on the
12 customer's utility bill thereby reducing the project's
13 operating expenses.

14 I think any discussion of consolidated
15 billing needs to just take a moment to point out that
16 consolidated billing for a CDG project is not envisioned
17 to include either purchase or receivables, nor could
18 utility service be interrupted for nonpayment of these
19 membership fees.

20 Here, the draft order reflects a view that
21 a consolidated billing system can reduce both upfront
22 project development cost and ongoing operating expenses.
23 However, here too further evaluation of costs and
24 operational issues needs to occur before a recommendation
25 to the Commission, ultimately to the utilities, can be

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2 made.

3 Accordingly, the draft order provides that
4 the utilities further research these issues and provide a
5 report within 60 days of the date of the order. I want to
6 point out that the end of the text of the order,
7 consistent with an approach that was incorporated in the
8 March 9th order, a timeline has been included giving some
9 sense of the pacing of these issues both in terms of the
10 filing of comments and when Commission consideration might
11 occur.

12 That ends my presentation and my colleagues
13 and I are available to answer any specific questions the
14 commissioners may have.

15 CHAIR RHODES: Thank you, Scott, for the
16 presentation.

17 This is an important order expanding access
18 to cost effective clean energy. It is a primary goal of
19 New York's Clean Energy Standard, which will create enough
20 renewable energy to meet half of the state's electricity
21 needs by 2030. And the new compensation mechanism will
22 spur the development of solar power, energy storage, and
23 other localized forms of electric generation.

24 This is a concrete first step that creates
25 more active and more value reflective pricing to spur

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2 development of projects that -- those projects that are
3 most valuable to the grid. I support this order. It is
4 well done, it's important, and it's correct.

5 Commissioner Sayre?

6 COMMISSIONER SAYRE: I also support the
7 item. Nobody claims that we have perfect answers to these
8 thorny issues, but this item offers good answers and moves
9 us forward one more step in the REV process.

10 Once again, as Scott said, this item
11 demonstrates that our working group process has helped us
12 and continues to help us get to better results,
13 preferably, in many cases, results that market
14 participants cannot only live with, but can also buy into.

15 We need all of the stakeholders to help
16 make these REV markets work and I think this order keeps
17 us on the right path. Of course, there will be situations
18 where there is not going to be a consensus, and that's
19 fine, too. That's what we're here for at the Commission,
20 to balance the difficult competing public interest
21 considerations.

22 CHAIR RHODES: Thank you, Commissioner
23 Sayre.

24 Commissioner Burman?

25 COMMISSIONER BURMAN: (Shakes head

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2 negatively).

3 CHAIR RHODES: Commissioner Alesi?

4 COMMISSIONER ALESI: Thank you very much.

5 Nothing further. Thank you.

6 CHAIR RHODES: We will then move to a vote

7 on Item 301.

8 My vote is in favor of the recommendations

9 as described. Commissioner Sayre, how do you vote?

10 COMMISSIONER SAYRE: Aye.

11 CHAIR RHODES: Commissioner Burman, how do

12 you vote?

13 COMMISSIONER BURMAN: No.

14 CHAIR RHODES: Commissioner Alesi, how do

15 you vote?

16 COMMISSIONER ALESI: I vote yes.

17 CHAIR RHODES: The item is approved and the

18 recommendations are adopted. Thank you.

19 We move now to the fourth item for

20 discussion, Item 501, Case 15-M-0388, which is the

21 settlement agreement with the Charter Communications,

22 Inc., presented by Graham Jesmer, Assistant counsel. Joe

23 Yakel, Utility Supervisor, is available for questions.

24 We'll let Graham arrive and Joe.

25 Thank you very much. Graham, please begin.

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2 MR. JESMER: Thank you, Chair.

3 Good afternoon, Chairman Rhodes and
4 Commissioners.

5 Before you is Item 501, an order adopting
6 the settlement agreement reached between DPS Staff and
7 Charter Communications in connection with Charter's
8 failure to extend its network to pass 36,250 homes and
9 businesses between May 2016 and May 2017.

10 By way of background, on January 8th, 2016,
11 the Commission approved Charter's acquisition of Time
12 Warner Cable. In that order, the Commission placed a
13 number of conditions on its approval. This included a
14 requirement that Charter extend its network to pass an
15 additional 145,000 homes and businesses in existing Time
16 Warner and Charter franchise areas within four years of
17 the close of the transaction.

18 That 145,000 was to be completed in four
19 increments of 36,250, with the first increment to be
20 completed between May 2016 and May 2017. Department Staff
21 monitored Charter's compliance with this condition
22 throughout the latter half of 2016 and into early 2017 via
23 a series of compliance filings and meetings.

24 In early 2017, it became clear that Charter
25 would not meet its May 2017 obligation. In lieu of

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2 pursuing a penalty action for this violation of the
3 Commission's order, Department Staff entered into
4 negotiations with Charter to settle the issue. The
5 settlement agreement before you is the culmination of that
6 process.

7 The settlement agreement, itself, includes
8 five major pieces and I'll discuss each of them briefly
9 here. First, the settlement agreement requires Charter to
10 place in escrow \$1 million which will ultimately be
11 allocated to pay for computers and Internet access for
12 low-income New Yorkers. This investment must be
13 incremental to any other investment Charter is required to
14 make.

15 Second, the settlement agreement modifies
16 the schedule for Charter's buildout and imposes financial
17 consequences for Charter's failure to meet the modified
18 obligations. While the ultimate completion date of the
19 buildout remains May 18, 2020, a series of interim six-
20 month targets are put in place with the first being in
21 December 2017.

22 Third, Charter will be required to submit a
23 letter of credit in the amount of \$12 million, \$1 million
24 for each interim target to secure these obligations. If
25 Charter fails to meet any interim target, it would forfeit

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2 the right to earn back up to \$1 million.

3 Fourth, Charter is required to implement a
4 communications plan, including launching a website and new
5 customer service scripts to inform potential customers
6 whether their address is part of Charter's buildout plan.
7 This has already been implemented under the terms of the
8 settlement agreement.

9 Fifth and finally, the agreement requires
10 the formation of a project management team to monitor
11 Charter's overall progress. DPS Staff as well as Empire
12 State Development's Broadband Program office have formed
13 this team and have already begun regular meetings with the
14 company.

15 It's important to note that this settlement
16 agreement relates only to Charter's failure to meet its
17 buildout obligation. Its performance in meeting other
18 conditions imposed in the Commission's approval order for
19 the transaction, including those related to customer
20 service quality, are being separately monitored by DPS
21 Staff. Pursuant to the Commission's approval order,
22 Charter must achieve a 17.5% reduction in its PSC
23 complaint rate by the end of 2018, and 35% by the end of
24 2020, as well as invest \$50 million in, quote, service
25 quality improvements, which may include customer facing

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2 training and customer facing diagnostic system -- systems
3 tools for the New York market within two years of the
4 closing of the transaction, end quote.

5 If Charter fails to meet the complaint rate
6 reduction targets in 2018 or 2020, it will be required to
7 invest an additional \$2.5 million over two years for each
8 miss.

9 Finally, with respect to comments received
10 from labor groups regarding the settlement agreement,
11 neither DPS nor the Commission have any jurisdiction
12 regarding labor agreements and respect the contract
13 negotiating process. Department Staff is, however, aware
14 of the ongoing labor dispute between Charter and some of
15 its unionized employees and is monitoring Charter's
16 service quality during this time.

17 Thank you, and I'm happy to answer any
18 questions you may have regarding this item.

19 CHAIR RHODES: Thank you, Graham.

20 In -- in its approval of the merger, the
21 Commission required Charter to undertake several types of
22 investments in other activities. While Charter is
23 delivering on many of them, it has failed to expand its
24 network to unserved and underserved customers at the pace
25 it has committed.

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2 We need to be vigilant about ensuring full
3 and complete compliance. And by taking these additional
4 steps, I think we do that. I support this order. It is
5 well done, it's important, and it's correct.

6 Commissioner Sayre?

7 COMMISSIONER SAYRE: This is a fair
8 settlement and, in my view, is far better for customers
9 and for the state than simply pursuing penalties. I look
10 forward to seeing not only Charter meeting its targeted
11 broadband expansion requirements, but also a statewide
12 improvement in the pole attachment process to which Staff
13 is devoting enormous efforts that will help us with other
14 broadband expansions under Governor Cuomo's and the FCC's
15 broadband programs.

16 Staff is doing a great job in moving an
17 unprecedented number of pole attachments through the
18 process. And the result is going to be a faster broadband
19 rollout for New York's underserved and unserved
20 communities.

21 CHAIR RHODES: Thank you, Commissioner
22 Sayre.

23 Commissioner Burman?

24 COMMISSIONER BURMAN: I have no comments.

25 CHAIR RHODES: Commissioner Alesi?

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2 COMMISSIONER ALESI: Nothing more to add.

3 Thank you.

4 CHAIR RHODES: Thank you very much.

5 With that, we move to calling for a vote on

6 Item 501. My vote is in favor of the recommendation to

7 adopt the terms of the settlement agreement as described.

8 Commissioner Sayre?

9 COMMISSIONER SAYRE: Aye.

10 CHAIR RHODES: Commissioner Burman?

11 COMMISSIONER BURMAN: Yes.

12 CHAIR RHODES: Commissioner Alesi?

13 COMMISSIONER ALESI: I vote yes.

14 CHAIR RHODES: The item is approved and the

15 recommendations are adopted.

16 We will now move to the consent agenda. Do

17 any of my fellow commissioners wish to recuse from voting

18 or comment on any items on the consent agenda?

19 Commissioner Burman?

20 COMMISSIONER BURMAN: I will be abstaining

21 from voting on Items 268 and 387.

22 CHAIR RHODES: Thank you.

23 Commissioner Alesi?

24 COMMISSIONER ALESI: All set from here.

25 Thank you.

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2 CHAIR RHODES: My vote is in favor of the
3 recommendations on the consent agenda.

4 Commissioner Sayre, how do you vote?

5 COMMISSIONER SAYRE: Aye, or have we
6 started changing that to yes?

7 CHAIR RHODES: I have been open-minded.

8 COMMISSIONER SAYRE: I vote aye.

9 CHAIR RHODES: Okay. Commissioner Burman,
10 obviously in cognizance of the two abstentions?

11 COMMISSIONER BURMAN: Yes.

12 CHAIR RHODES: Commissioner Alesi?

13 COMMISSIONER ALESI: I vote yes.

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

16 Secretary Burgess, are there any other
17 items to come before us today?

18 SECRETARY BURGESS: There are no other
19 items today. The next Commission meeting is October 19th
20 at 10:30.

21 CHAIR RHODES: With that, I adjourn this
22 meeting.

23 (The meeting adjourned at 1:38 p.m.)

24

25

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2 STATE OF NEW YORK

3 I, HANNAH ALLEN, do hereby certify that the foregoing was
4 reported by me, in the cause, at the time and place, as
5 stated in the caption hereto, at Page 1 hereof; that the
6 foregoing typewritten transcription consisting of pages 1
7 through 49, is a true record of all proceedings had at the
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 21st day of September, 2017.

11

12

13 HANNAH ALLEN, Reporter

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