

1 Public Service Commission monthly meeting - 8-8-19

2 STATE OF NEW YORK
3 PUBLIC SERVICE COMMISSION

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MONTHLY MEETING OF THE PUBLIC SERVICE COMMISSION

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Thursday, August 8, 2019

10:32 a.m.

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Three Empire State Plaza
Agency Building 3, 19th Floor

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Albany, New York

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21 COMMISSIONERS:

22 JOHN B. RHODES, Chair

DIANE X. BURMAN

23

JAMES S. ALESI

TRACEY A. EDWARDS

24

JOHN B. HOWARD

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2 (On the record 10:32 a.m.)

3 CHAIRMAN RHODES: Good morning. I
4 call this session of the Public Service Commission to
5 order. Secretary Burgess, are there any changes to
6 the final agenda?

7 SECRETARY BURGESS: Good morning Chair
8 and Commissioners. There are no changes to this
9 morning's agenda.

10 CHAIRMAN RHODES: Okay. Thank you.
11 We'll to the regular agenda in just a minute, but
12 before then I'd like to welcome our -- our
13 commissioner colleague John Howard. This is his
14 first session. We're supposed to treat him nicely.
15 Or maybe just treat him as we expect to treat him all
16 the time. Either one. But thank you for joining us.
17 Glad to have you. And with that we'll -- we'll get
18 down to business.

19 The first and only item for discussion
20 is Item 301, Case 19-E-0530 which is the matter to
21 consider resource -- resource adequacy matters
22 presented by David Drexler, managing attorney, Warren
23 Myers, director of Office of Market and Regulatory
24 Economics and Tom Paynter, supervisor of Regulatory
25 Economics are available for questions. David, please

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2 begin.

3 MR. DREXLER: Yes, good -- hello.
4 Hello. Good. Good morning, Chair and Commissioners.
5 Item 301 proposes to commence a proceeding whereby
6 the commission would examine resource adequacy
7 matters given the states renewable and clean energy
8 objectives as part of its ongoing responsibilities to
9 ensure safe and adequate service at just and
10 reasonable rates.

11 As background, the commission has been
12 interested in resource adequacy matters since prior
13 to the restructuring of the electric industry in the
14 1990s when the focus was on ensuring that the state's
15 investor owned utilities had sufficient amounts of
16 electric generation resources available to serve New
17 York's customers in a reliable manner.

18 As part of restructuring, this
19 responsibility was undertaken by the New York
20 Independent System Operator or NYISO. However, the
21 commission has continued to oversee resource adequacy
22 matters by ensuring sufficient quantities of
23 resources are available, and has also identified
24 certain types of resources that are needed to serve
25 customers, namely, renewable generation.

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2 In 2004 the commission implemented the
3 renewable portfolio standard to meet a state
4 objective whereby at least 25 percent of electric
5 needs were provided from renewable generation
6 resources by the year 2013. The commission
7 subsequently expanded that objective in December of
8 2009 to 30 percent by the year 2015. In August of
9 2016, the commission adopted a transition from the
10 renewable portfolio standard to the clean energy
11 standard to meet a 50 percent renewable goal by 2030.

12 The clean energy standard includes
13 several regulatory mechanisms such as a tier one
14 component whereby the New York State Energy Research
15 and Development Authority procures new, large scale
16 renewable resources, and jurisdictional load serving
17 entities are obligated to serve their retail
18 customers through the purchase of qualifying
19 renewable energy credits for such resources.

20 The clean energy standard also
21 includes a tier two maintenance program to provide
22 necessary funding to preserve existing zero emission
23 facilities and a tier three requirement for load
24 serving entities to purchase zero emission credits to
25 maintain the zero emission attributes of qualifying

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2 nuclear zero carbon electric generation facilities
3 through the year 2029.

4 In July 2018 the commission adopted a
5 supplementary goal to contribute toward the overall
6 objective of the clean energy standard whereby load
7 serving entities are obligated to obtain, on behalf
8 of their retail customers, the offshore wind
9 renewable energy credits associated with the output
10 of 2,400 megawatts of new offshore wind generation
11 facilities. Separately, in December of 2018 the
12 commission adopted a statewide energy storage goal of
13 installing up to 3,000 megawatts of qualified energy
14 storage systems by 2030 with an interim objective of
15 deploying 1,500 megawatts of energy storage systems
16 by 2025.

17 Most recently, New York's commitment
18 and support for renewable energy resources and
19 reduced environmental emissions has been advanced
20 through the statutory enactment of the Climate
21 Leadership and Community Production Act or C.L.C.P.A.
22 The C.L.C.P.A. seeks to significantly build upon the
23 commission's clean energy standard by establishing
24 programs to ensure a minimum of 70 percent of loads
25 served by jurisdiction load serving entities is from

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2 eligible renewable technologies by the year 2030.

3 Also included are specific goals for
4 the procurement of at least 9,000 megawatts of
5 offshore wind generation, 6,000 megawatts of
6 photovoltaic solar generation, and 3,000 megawatts of
7 energy stored resources. Moreover, the commission is
8 to establish a program to require that there are zero
9 statewide emissions in 2040 associated with electric
10 demand.

11 Currently, the NYISO is responsible
12 for certain aspects of resource adequacy which it
13 defines as the ability of the electric system to
14 supply and deliver the total quantity of electricity
15 demanded at any given time taking into account
16 scheduled and unscheduled outages of system elements.
17 In doing so, the NYISO considers the transmission
18 system, generation resources and other resources such
19 as demand response.

20 The NYISO effectuates this
21 responsibility by requiring all load serving entities
22 to purchase adequate amounts of generation and demand
23 response capacity to satisfy their capacity
24 obligations which are based on the installed reserve
25 margin, or I.R.M., and locational capacity

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2 requirements where applicable. The I.R.M. is adopted
3 annually by the Public Service Commission as a
4 resource adequacy and reliability measure and is
5 overseen by the Federal Energy Regulatory Commission
6 as an input in the NYISO's installed capacity market.

7 Load serving entities are required to
8 procure through NYISO auctions, by lateral contracts
9 or by self-supplying, the requisite capacity needed
10 to ensure their retail customer load can be served in
11 a reliable manner. The installed capacity market, as
12 designed by the NYISO however, is an incomplete
13 resource adequacy instrument because it does not
14 recognize the value of many important factors such as
15 environmental benefits, local reliability benefits
16 and fuel diversity.

17 Because of this, there is no guarantee
18 that the resources that clear the installed capacity
19 auctions are the same ones needed to meet the state's
20 clean energy and other mandates. Further, the NYISO
21 may impose mitigation on resources that are the
22 subject of state policy support by intervening and
23 raising their minimum bid levels into the NYISO
24 administered auctions and thereby potentially causing
25 them to not clear the auction and therefore to not be

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2 counted as eligible capacity to resources.

3 As a result, customers may pay higher
4 costs than necessary raising questions about the
5 compatibility of the market mechanisms with the
6 state's energy policies and ongoing foundational
7 responsibilities to ensure safe and adequate service
8 at just and reasonable rates. Accordingly, this
9 order would commence a proceeding on how best to
10 ensure that the commission fulfills its statutory
11 obligations under the Public Service Law to ensure
12 the provision of safe and adequate service at just
13 and reasonable rates.

14 The order poses a set of initial
15 questions designed to consider how to reconcile
16 existing resources -- resource adequacy programs and
17 the state's renewable energy and environmental
18 emission reduction goals. A sufficient opportunity
19 would be provided for initial public comment within
20 90 days and a period for reply comments would be
21 established thereafter.

22 Staff anticipates these comments would
23 be informative as to what additional procedural steps
24 are needed, and expects to make recommendations to
25 the commission after careful consideration of the

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2 record. It is premature to predict the potential
3 next steps or outcome of this proceeding at this
4 time. This concludes staff's presentation for Item
5 301. I'm available to answer any questions you may
6 have. And with me are Warren Myers and Tom Paynter
7 of the Office of Regulatory Economics.

8 CHAIRMAN RHODES: Thank you, David.
9 This item to launch an inquiry is important and
10 timely. As -- as David has noted, we at the
11 commission have -- have a duty to ensure safe and
12 adequate, and safe means safe. And adequate means,
13 in this case, that there's power when New Yorkers
14 need it. Just and reasonable, which means New
15 Yorkers and we should pay what is needed to have that
16 power but not a nickel more and we should ensure
17 that, while complying with the state policies like
18 clean.

19 It's becoming clear that all three --
20 ensuring all three is potentially difficult. And
21 it's becoming questionable whether the answers that
22 were organized at least 20 years ago are, in fact,
23 the best answers for the situation we face today.
24 When we recognize that we have a duty and when we
25 have also reason to believe that delay won't make the

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2 issue go away, we then also have a duty to get to
3 work. And work in this case means to me an
4 examination of the issues and an open and transparent
5 examination with all stakeholders having an ability
6 to comment of the issues and of the options that
7 address those issues in ways that make sense for New
8 York's electricity customers. I am going to support
9 the opening of this inquiry. Commissioner Burman?

10 COMMISSIONER BURMAN: I'm going to
11 just ask a few questions right now and I'm really
12 trying to grapple with what exactly we're doing. So
13 I guess my first question is what are we really
14 trying to accomplish by this proceeding? I
15 understand the examination of issues. I do find it
16 disingenuous to say that we have an obligation to do
17 this when there are many other issues that we have an
18 obligation to examine, and delay won't make the
19 issues go away.

20 We are waiting on a number of
21 different reports. One coming from the Westchester
22 moratorium issue as well as other issues. So I guess
23 for me trying to grapple with this is really trying
24 to understand the threshold of ultimately what are we
25 trying to accomplish in a real way.

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2 MR. DREXLER: So this proceeding would
3 merely start an inquiry into a number of matters that
4 have been existing for many, many years. However,
5 there has been an evolution of the state's energy
6 policies and goals. And most recently the climate
7 leadership and Community Protection Act raises the
8 question about the sustainability of the existing
9 market mechanisms with the state's policies. So we
10 feel that staff believes that this is an appropriate
11 time to launch an inquiry and at least ask the hard
12 questions that should be looked at further.

13 COMMISSIONER BURMAN: Thank you. So
14 it's the impetus of the Climate Leadership and
15 Community Protection Act that has made us look at
16 opening this resource adequacy proceeding? Or
17 wouldn't that have -- or are there other issues that
18 predate that?

19 MR. DREXLER: I would say that the
20 C.L.C.P.A. is a large part of the impetus. But a lot
21 of these issues would exist probably without it. But
22 I -- but as I mentioned, I think the -- the 70 by 30
23 goal, the zero emissions by 2040 raise some
24 significant questions about the continued
25 sustainability.

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2 COMMISSIONER BURMAN: Okay.

3 MR. MYERS: And I -- I'd just add, I
4 thought the chairman nailed it when he said that this
5 approach that we currently have was set 15 to 20
6 years ago, and it's based on the cost and attributes
7 of a fossil generator at the bottom line.

8 COMMISSIONER BURMAN: And who are we
9 hoping participates in this proceeding?

10 MR. DREXLER: So actually this
11 proceeding would be open to all interested entities,
12 particularly market participants, the independent
13 power producers, the renewable community, affected
14 consumers. I know I'm missing a whole bunch of other
15 affected stakeholders, but this is supposed to be a
16 broad inquiry. And any interested entities would be
17 invited to seek -- provide comments.

18 COMMISSIONER BURMAN: You worded a
19 sentence that is also in the draft order which is
20 that the New York Independent System Operator is
21 currently, and I underscore the word currently,
22 responsible for certain aspects of resource adequacy.
23 And then it goes on to define resource adequacy.

24 I guess my question to you is why
25 currently? Is there a -- are the four corners of

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2 this order keeping in mind the current role of the
3 I.S.O. and that in and of itself is remaining stable
4 even if the issues that are around it evolve?

5 MR. DREXLER: The word currently is
6 merely intended to connote that it's -- it's a state
7 of the existing affairs and how the resource adequacy
8 matters are addressed.

9 COMMISSIONER BURMAN: So is it fair
10 then to say that the existence of the I.S.O. and its
11 role is not being -- is not a part of this
12 proceeding?

13 MR. MYERS: Commissioner, if you look
14 at the 8 questions that we're asking all stakeholders
15 to comment on on pages 11 through 13, I think that
16 answers your -- your question fairly thoroughly.
17 What we're asking stakeholders to provide input on
18 including is the existing approach to resource
19 adequacy appropriate given all the changes --

20 COMMISSIONER BURMAN: I'm actually
21 asking --.

22 MR. MYERS: -- that Mr. Drexler --.

23 COMMISSIONER BURMAN: With all due
24 respect, there's seven questions now. One got
25 dropped.

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2 MR. MYERS: Okay.

3 COMMISSIONER BURMAN: And I'm asking
4 the elephant in the room question which is the I.S.O.
5 has a significant role. They participate in many
6 different proceedings at the federal level, at the
7 state level. They're our technical resource.
8 They're our technical resource for the state energy
9 plan, so I just want to be clear from what we're
10 doing that this is not seeking to undo the role and
11 the existence of the I.S.O. but, in fact, is looking
12 at how can we work on these issues. So the issues
13 themselves --.

14 MR. MYERS: That -- that elephant is
15 prematurely in the room.

16 MR. DREXLER: Well, actually, from a
17 staff perspective, we -- we're not prejudging any of
18 the issues at this point. This is merely designed to
19 start the inquiry. And so there is no -- there is no
20 preconceived outcome that we have that we're trying
21 to achieve.

22 CHAIRMAN RHODES: If I may so could
23 you I guess remind us, first of all, what the seven
24 questions are? And also could you remind us of some
25 of the activities that the ISO undertakes today

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2 which, of course, include managing the capacity
3 markets which go to the resource adequacy function?
4 But do they not also do a lot of other work and
5 manage other markets? And maybe to give a -- a quick
6 summary of the full panoply or a sense of -- of the
7 full panoply of what they do?

8 MR. DREXLER: Right. So currently the
9 NYISO administers in -- in broad terms three markets.
10 One is for energy. The other is for capacity, and
11 the other is for ancillary services. The resource
12 adequacy matters are dealt with in the capacity
13 market. The I.S.O. coordinates with the New York
14 State Reliability Council, the New York -- this
15 commission in establishing I.R.M. on an annual basis.
16 That I.R.M. is then translated into a demand curve
17 that's used for administering auctions. And those
18 auctions are then run for -- for eligible generation
19 resources to bid in. And if they're selected,
20 they're counted towards meeting the installed reserve
21 margin.

22 That's kind of what the I.S.O. does in
23 general terms. I'm happy to read into the record the
24 questions that are before -- that are part of the
25 proposed item if you'd like me to do so.

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2 COMMISSIONER BURMAN: I think that's
3 helpful because I think --

4 MR. DREXLER: Sure.

5 COMMISSIONER BURMAN: -- those in the
6 room and those listening probably are looking for
7 what those questions are. And I think that shows
8 sort of the framework of what's the next steps are.
9 And then we can talk about why those questions and
10 what this means. But at least then it gives people
11 an idea of where I'm coming from with some of my
12 concerns on this.

13 MR. DREXLER: So the first question
14 that will be -- that would be proposed for comment is
15 are the state's energy policies and mandates such as
16 -- such as those related to offshore wind,
17 photovoltaics and other renewables and energy storage
18 compatible with the NYISO's resource adequacy
19 mechanisms? If not, what issues are manifested?
20 Also, if not, how could they be aligned?

21 Question two, does the interaction of
22 policies and market structure mechanisms result in
23 safe and adequate service at just and reasonable
24 rates for customers?

25 Three, is an ICAP product an

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2 effective, long term solution for resources adequacy
3 given the required future generating resource mix
4 which may have lower marginal costs or different
5 available profiles the many current generation
6 resources in operation? What are the salient
7 attributes of such long term solutions?

8 Question four, is there a preferred
9 mechanism for ensuring resource adequacy? What are
10 the cost impacts and benefits to consumers under the
11 various potential resource adequacy mechanisms?

12 Question five, should alternative
13 approaches be considered to ensure the procurement of
14 generation resources is aligned with state policy
15 goals? If so, which ones? Are there existing or
16 proposed models which might be instructive such as
17 the state overseeing L.S.E.'s resource adequacy
18 portfolios? For example, an approach similar to
19 those -- to the one used by California or
20 restructuring NYISO rules to accommodate state policy
21 -- state public policies. For example, a fixed
22 resource requirement alternative as proposed by FERC
23 order issued on June 29th, 2018 and Docket Number
24 EL16-49, paragraph 160 et sequiter.

25 Question six, what is the state role

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2 with respect to resource adequacy matters that best
3 serves New York's electricity customers with safe,
4 adequate and reliable service at just and reasonable
5 rates in the context of state policies?

6 And question seven, what if any next
7 steps should the commission take with respect to
8 resource adequacy matters? And I've omitted
9 footnotes from -- a few footnotes in reading those.

10 COMMISSIONER BURMAN: Thank you. I'm
11 going to save the rest of my questions and comments.

12 CHAIRMAN RHODES: Thank you. I'm
13 sorry, thank you. Commissioner Alesi?

14 COMMISSIONER ALESI: Thank you. I --
15 I think as you adequately pointed out that this is
16 really something that we cannot speak on with any
17 great deal of detail. That's the nature of an
18 inquiry, and I think that it's important for us to
19 take this step, obviously. As I see it, New York is
20 already on the road to goals of cleaner energy
21 consumption. And for the NYISO which operates solely
22 within the state in a unique way, should also be in a
23 position where we're not at a crossroads or if we are
24 at a crossroads at some point we're traveling in a
25 parallel direction so that we can meet those goals

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2 without stymieing the ability of NYISO to produce and
3 to deliver. So I'll be supportive of this inquiry
4 and the public input that hopefully will come as a
5 result of it.

6 CHAIRMAN RHODES: Thank you.
7 Commissioner Edwards?

8 COMMISSIONER EDWARDS: Yes, I mean, I
9 think we have to like pull the band aid off, right,
10 because it's -- this climate action is really
11 important. This enactment for the leadership and
12 community protection plan is important. But we still
13 have to make sure that we have adequate capacity. We
14 have to be able to do both.

15 So if I look at this as if we don't
16 start asking the question then we will be doing this
17 in a defensive posture versus asking the hard
18 questions now. And customers should not have to pay
19 twice. So if we don't start asking these questions
20 then we will not be able to proactively make any
21 adjustments. So I'm very interested in moving
22 forward to do this in a proactive way. So I -- I
23 will be supporting it.

24 CHAIRMAN RHODES: Thank you.
25 Commissioner Howard?

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2 COMMISSIONER HOWARD: Thank you.

3 First of all, I've been somewhat of an observer of
4 the I.S.O. formation and its growth and life for
5 several decades now. But at best we could call it an
6 organic process without too many rules before things
7 were done. And we've also seen during this last
8 decades, enormous change not only in public policy
9 but technology and -- and learning.

10 The truth is, the ISO and its markets
11 work today. The lights stay on. People get paid and
12 if you're an incumbent, things seems to be pretty
13 well ensconced. However, that doesn't mean that
14 there are holes that need to be examined. And, like
15 I said, in any process, particularly an organic one,
16 constant vigilance needs to be done. I believe this
17 will be the first of many inquiries as we move
18 forward into a new world of -- with some of the first
19 statutory directions this state has had on this issue
20 in decades.

21 The fact that there are statutory
22 goals doesn't mean there are statutory rules to get
23 there. And I believe this process will be critical
24 going into the future. It's my personal opinion that
25 only more information can only help any outcome. And

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2 -- and the truth is the clock is ticking and it
3 started ticking a long time ago. And maybe some of
4 this is some catch up. Maybe it's not.

5 And in talking to staff and, in
6 particular, I've been assured that this inquiry is
7 done without prejudice which is really critical to me
8 because if this was some predetermined outcome and a
9 process that is designed to fill it because I
10 actually believe that much in the past that was the
11 case. So the concept of an open outcome without
12 prejudice is very important to me.

13 So I will be supporting this
14 initiative, and -- and look forward to it. And, as I
15 said, I also look forward to the many other inquiries
16 that will be necessary to get us to these new
17 statutory goals. Thank you.

18 CHAIRMAN RHODES: So I guess two
19 things before we go to the vote. One is I do want to
20 affirm what the assurance that you have received,
21 Commissioner Howard. This is an open process without
22 prejudice as to the final outcome. The second is a
23 little bit analogous to the process that we are
24 proposing to kick off which is comments and then
25 reply comments.

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2 I know that you, Commissioner Burman,
3 signal that you might have some further questions
4 having heard from your fellow commissioners, so why
5 don't we -- somewhat unusually but I think
6 appropriately in this case, ask commissioners if they
7 want to -- in the same order that we just went
8 through, add to their comments or questions.

9 COMMISSIONER BURMAN: Thank you.

10 CHAIRMAN RHODES: Beginning with you,
11 Commissioner Burman.

12 COMMISSIONER BURMAN: Thank you. So I
13 -- I guess I want to make clear, I'm not afraid or
14 thinking that we shouldn't ask hard questions and
15 look at the issues. My concern is how does this fit.
16 We've been talking since REV and this feels very much
17 like déjà vu of opening the REV proceeding except
18 even here at least the REV proceeding had a lot more
19 meat on the bones. This is a very short order with
20 seven questions.

21 It feels déjà vu from REV and there
22 were challenges and there continue to be challenges
23 with the REV proceeding that became many, many
24 proceedings. And we've been talking even as most
25 recently as last session about the need to pare down

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2 the proceedings. Help to give some context of where
3 things will fall, and to have an overall sort of
4 direction.

5 And this proceeding, while we're
6 talking about it and we talk about it from a general
7 way of -- and I want to commencing a proceeding to
8 examine how to reconcile resource adequacy programs
9 and the state's renewable energy environmental
10 emissions reduction goals. And ultimately this very
11 much feels like all we're really addressing is the
12 capacity markets and buyer side mitigation. And then
13 taking a look at, in some fashion, whether or not we
14 want to change those rules and a wholesale market
15 perspective.

16 Question is not inappropriate. The
17 question is not one that is novel. We had a full day
18 proceeding, conference, technical conference in
19 November that's 2014. It was a joint technical
20 conference with the P.S.C. and FERC. Many questions
21 were asked. Many more than these. Some very similar
22 to these and people spent a lot of time and resources
23 in that technical conference preparing for it
24 beforehand, showcasing and what their positions were.
25 And it was left that there would be follow up. That

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2 was in 2014.

3 Now that does not mean that this is
4 the first follow up because since that time, the day
5 after on November 6th, we had another full-scale
6 technical conference. NYSERDA participated. Chair
7 Rhodes, you were I believe at NYSERDA at that time.

8 COMMISSIONER BURMAN: Right?

9 CHAIRMAN RHODES: Yes.

10 COMMISSIONER BURMAN: Okay. So and
11 all the different market participants, all the
12 different folks were there. And many of these same
13 questions were raised. And throughout our REV
14 proceeding, even in the clean energy standard, which
15 I did not vote for the majority opinion but did
16 concur, there were issues raised on the capacity
17 markets. There were issue raised on power purchase
18 agreements. So these aren't unique. It just feels
19 wrong on how it's now smack opening as a proceeding
20 without having even in the order acknowledged all the
21 work that had done. And the questions to me while
22 they may be valid questions, it -- it seems wrong for
23 us to not have had a diligent, a very put together
24 document on what is the current construct, what is
25 the history, and where do these things fall because

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2 we have today many FERC proceedings that address
3 these issues and go beyond.

4 We have many REV proceedings, and I
5 don't know if we're calling it REV anymore. Clean
6 energy standard, climate leadership focus, and
7 they're all in there. So my fear is that if I bless
8 this a movement of this proceeding, like I did when
9 we started the REV proceeding, without challenging
10 what does it really mean, where does it fit, and what
11 will be potentially the next steps. Not just we
12 don't know, give us your thoughts. It's our
13 obligation not to shirk our responsibility on what
14 that looks like.

15 Commissioner Howard eloquently spoke.
16 He talked about the fact that there would be many
17 inquiries. That to me is similar to the REV
18 proceeding which took on a life of its own. And,
19 frankly, my concern is that it wound up costing a lot
20 of people money in hiring consultants, lawyers. Not
21 just, you know, NYSEDA and the -- and -- and D.P.S.
22 hiring consultants, but a lot of other people. And
23 there were still people whose voices were left out.

24 We're still struggling with how does
25 it actually impact the end use consumer. So I am

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2 thinking that from me, before we start this next
3 inquiry in the wholesale markets, we do need to take
4 a look in the mirror and talk about how does this
5 impact the distribution system. How from the
6 perspective of the stuff that we own? What are we
7 doing? Are we adequately measuring the cost savings
8 aspects of REV?

9 There's a criticism that we've
10 increased costs, and so I understand now on the
11 wholesale markets looking at it, focused on -- I'm
12 happy to hear that we're focused on the economics.
13 But we need to apply that across the board. When we
14 talk about resource adequacy, yes, the state has a
15 role, a very direct role in that. But it's not just
16 the commission. We have many, many different folks
17 whose roles are reliability and resiliency. And we
18 need to be mindful of that.

19 It's very important that any decisions
20 that are impacting the markets need to be based on a
21 true risk based assessment of our vulnerabilities.
22 And we need to understand that there are entities
23 that exist now, NERC, New York I.S.O., New York
24 Reliability Council that do incorporate conservative
25 planning principles in designing the system because

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2 they care and that's their job directly on the
3 reliability and resiliency of the system.

4 So when we talk and we talk about how
5 do we now integrate D.E.R.s into that system, we need
6 to be really mindful of the impact on markets and
7 reliability. We started REV and we talked
8 consistently, consistently at every level that
9 competitive markets was very much a driver and was
10 doing well and we wanted to work together on that.

11 At the November 2014 conference they -
12 - everyone talked, everyone about the need to
13 collaborate and work in coordinated fashion. This
14 doesn't feel coordinated and this doesn't feel like
15 collaboration, and that's my concern. My concern is
16 how does this impact Wall Street? There was many
17 different machinations -- I don't even know if that's
18 a word so I apologize --

19 CHAIRMAN RHODES: It is. It is.

20 COMMISSIONER BURMAN: -- on whether or
21 not what we were doing on the REV proceeding was a
22 helpful signal to the markets and at times it was and
23 at other times it was not. And I am very concerned
24 about when we look at it and our next steps. We
25 cannot just say we don't know what those next steps

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2 are, we're open to hearing what they are. We need to
3 be able to give some definitive answer.

4 This order has no end date. It has
5 time for comments and reply comments. But it says
6 what David said, which is that we may have other next
7 actions and next steps. There's even a question what
8 should the next steps be. We need to know when it's
9 going to come back, and we also need to know that
10 it's the commission itself as a body that is going to
11 be able to make the determination because too many
12 times this -- these proceedings are then used to
13 launch other inquiries and other things. And it's
14 away from the commission as a body, and it falls
15 everywhere.

16 In the November 2014 conference, we
17 were very diligent to provide a list of all ongoing
18 FERC proceedings that would be impacted. I think
19 it's incumbent upon us, if we're going to put out a
20 proceeding and start it, to be very careful in where
21 there are already ongoing proceedings where we've
22 weighed in, where others have weighed in that
23 directly or indirect impact this because there are
24 numerous ones as well the New York P.S.C. proceedings
25 as well other state ones.

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2 Why do I care so much about that? We
3 can take care of it in the comments and the reply
4 comments. I care because history of the REV
5 proceeding has shown me that we ourselves do not have
6 -- do a good job in the follow-through and the
7 diligent putting it all together. And while there's
8 been many positives, there have not been many --
9 there have also been many negatives. And we're
10 supposed to be taking the lessons learned and helping
11 to fix that.

12 This to me seems way complicated
13 because everyone is trying to read the tea leaves on
14 what it means. And we're saying we don't know, it's
15 too early to determine that. I think that's
16 disingenuous.

17 MR. MYERS: So, Commissioner, I heard
18 a question in there that I can answer. I'm not going
19 to address your comments. They're yours. But you
20 asked where does this really fit especially with
21 respect to the inquiries we've done in the past and
22 the FERC pleadings we've made in the past about the
23 ICAP mechanism.

24 And where I see this as being very
25 different from all of that is we shouldn't conflate

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2 one tool, the ICAP mechanism we currently have, for
3 addressing an important concept and portion or
4 reliability which is resource adequacy. This takes a
5 step back and says instead of addressing in a
6 piecemeal fashion and in a band aid fashion all of
7 the band aids we've had to address as the current
8 ICAP tool has had to be retrofitted to a changing
9 world and a changing policy environment.

10 This says let's take a step back and
11 look at the concept of resource adequacy and see what
12 alternatives are out there and how they compare to
13 where New York is going especially now with this new
14 part of the Public Service Law 66P. That's
15 different.

16 COMMISSIONER BURMAN: So I just want
17 to address something. Fact, the federal power act
18 gives FERC the sole authority and responsibility for
19 the wholesale energy markets. Fact, the New York
20 I.S.O. operates a transmission grid in New York and
21 is tasked with implementing FERC regulations while
22 ensuring a safe, reliable and fair wholesale energy
23 market. Fact, the mission of the New York State
24 Reliability Council is to promote and preserve the
25 reliability of the New York State Power System.

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2 Fact, the New York P.S.C. is
3 responsible for siting transmission, siting
4 generation, retail sales, sales directly to end user
5 and the distribution of electricity. The New York
6 P.S.C., like other state commissions, is obligated to
7 ensure safe, reliable and adequate electric service
8 at just and reasonable rates within our state. Fact,
9 the Climate Leadership and Community Protection Act
10 was signed by the governor. Fact, we're still
11 waiting for other aspects and other legislation that
12 will showcase to us when the effective dates are.

13 Fact, we're still waiting for the
14 climate leadership community protection act council
15 and all the other groups that are aligned with that
16 to be set up and to go forward. Fact, the state
17 energy plan, which is supposed to be done every four
18 years, is late. We could have been addressing a lot
19 of this. When we talk about delay, the delay for me
20 is that we have allowed other mandated legislatively
21 processes on energy planning to fall by the wayside.
22 Now we're using the climate leadership and community
23 protection act as the mantra for what we're doing.
24 Fact, we need more details, we need more information.
25 Fact, this proceeding is trying to get at that in a

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2 limited fashion. And, fact, it's still unclear on
3 exactly what the next steps are.

4 I'm not opposed to a true drilling
5 down and going forward on things. In fact, I do
6 believe that something that can be helpful is to look
7 at other things. The New York I.S.O. has a study.
8 They put out some preliminary results August 2nd on
9 enhancing fuel and energy security. It's directly
10 tied to this. The enhancing fuel and energy security
11 project is supposed to examine fuel and energy
12 security for the bulk power system looking over a 10
13 year horizon in order to assess potential grid
14 resilience concerns.

15 The New York I.S.O. has said they
16 appreciate stack holder -- stakeholder concerns
17 related to a wide range of potential grid resilience
18 risk including extreme weather scenarios and climate
19 change impacts. The New York I.S.O. stated they were
20 concerned that future changes to New York's fuel
21 supply mix as well as the expected increase demands
22 for natural gas may challenge the ability to meet
23 electric system demands under certain stress system
24 conditions such as a prolonged cold weather event and
25 our natural gas supply, transportation disruptions.

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2 The study was also to report of
3 similar fuel and energy security studies and
4 initiatives underway by other I.S.O.s and R.T.O.s.
5 Depending on the results of the study, the New York
6 I.S.O. would then facilitate the subsequent
7 development of recommendations for potential
8 operational and or capacity and energy mark
9 enhancements necessary to achieve desired
10 improvements in grid resilience as related to fuel
11 and energy security.

12 To me that report can be very helpful.
13 To me that report gets at a lot of the different
14 issues and also is on the critical aspect of keeping
15 the lights on and what we need. So I just have to
16 then say why are we not giving more context to this
17 proceeding and how it fits with others? It feels
18 like we don't like where things are going potentially
19 and we want to control it more so we're opening up
20 this proceeding. But I still don't know how it fits
21 with the others.

22 The New York State Reliability Council
23 has been -- they just celebrated their 20 year
24 anniversary. We have -- think since 2007 approved
25 the I.R.M. every year. Is that correct, David, since

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2 2007?

3 MR. DREXLER: Yes, that's correct.

4 COMMISSIONER BURMAN: Okay. Every
5 year we approve it. Every year we do a diligent
6 search, go through it. And in that -- in those
7 orders, for the most part, we have also recognized
8 the expertise of the New York State Reliability
9 Council. They don't operate in a vacuum. They work
10 with the I.S.O. and also it's through FERC tariffs as
11 well. So when we go through this, to the extent that
12 we think this is appropriate, we have to ask how is
13 it disrupting other systems and other proceedings,
14 and how are we going to align that to make sure that
15 those folks operate seamlessly with the right
16 information. And aren't chilled by this proceeding
17 in a way that spends too much time in focusing on
18 where is this going, what's it going to look like
19 rather than what we need which is true system energy
20 planning.

21 CHAIRMAN RHODES: May I? I'm not sure
22 if you were issuing a challenge or assigning us
23 homework. But, yes, absolutely we will run this
24 process to the extent that we can, that we have
25 control, in such a way as to discover ways to work

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2 with existing institutions and pathways in order to
3 get to the outcome that makes sense for New Yorkers.

4 If there's -- and I'll just be a
5 little bit impersonal, but if they're -- and maybe
6 think about parts of the ISO where the New York State
7 Reliability Council as a tool. If there's a tool out
8 there that can help us get to where we need to get,
9 in a way that makes sense for New Yorkers, we want to
10 be open minded to it and we don't want to just sit
11 back and wait for it to show up as an idea. We want
12 to go out and find it. This -- I can -- I can commit
13 to that kind of a process.

14 COMMISSIONER BURMAN: Thank you.

15 MR. MYERS: Mr. Chairman?

16 CHAIRMAN RHODES: Warren?

17 MR. MYERS: I -- I know this is your
18 forum but I have a duty and a responsibility. I've
19 been a leader on staff for 30 years, and I just want
20 to assure the commissioner and the rest of the
21 commission. I've heard the word disingenuous a
22 number of times. Staff is presenting this draft
23 order genuinely because we believe it is in the
24 public interest. There is not a disingenuous word,
25 comma or period in this draft order.

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2 COMMISSIONER BURMAN: Are you
3 addressing that?

4 CHAIRMAN RHODES: I -- I can confirm
5 that what you say, from what I know of your work and
6 your colleagues work, is absolutely true. This is a
7 high integrity order. This is a high integrity
8 process we're trying to kick off, and I'm happy to
9 confirm that.

10 COMMISSIONER BURMAN: So couple of
11 things. You asked about things to put -- to keep in
12 context. The New York I.S.O. performance metric
13 support, the comprehensive reliability plan, the
14 congested assessment and resource integrity study,
15 the reliability needs assessment, the fuel security
16 study, the resource adequacy study, the New York
17 State Reliability Council's reliability rules,
18 ongoing proceedings at FERC, ongoing proceedings at
19 NERC. The role of the Northeast Power Coordinating
20 Council, the New York State Reliability Council, the
21 State Energy Planning Board, the I.S.O. Market
22 monitor all relevant and important.

23 A list of FERC cases, a list of
24 ongoing New York matters. A list of items of when
25 we're starting proceedings looking at things such as

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2 other open proceedings like the ESCO proceeding.
3 Like waiting for the very important report on market
4 concerns that for fuel adequacy, resource adequacy.
5 Those things are helpful to this proceeding. It is
6 disingenuous for us to ask people to put out answers
7 to questions without telling them where it will go
8 and giving them the tools and the resources.

9 If we are trying to have a transparent
10 and open process, we should at least list out all of
11 the different things and have a summary of those
12 items, otherwise it is disingenuous. It's very
13 important to me that when we look at the significant
14 challenges of implementing New York's renewable and
15 clean energy goals, we continue to require close
16 coordination and planning not only at the local
17 state, interregional and federal level. This is to
18 ensure the deliverability of clean energy resources
19 while maintaining reliability. While maintaining
20 resiliency and fair economic prices for consumers.

21 It is very important that we look at
22 not only ongoing FERC proceedings but also how this
23 impacts others. Order 888, Order 2,000, Order 1,000,
24 all of these things matter because if we start to do
25 something and change one piece of the puzzle, it does

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2 sometimes affect others. We need to understand that.
3 We should be looking. When we're looking at things
4 we said that we're -- this is important because we're
5 a single state I.S.O. so we can do it potentially
6 better than others.

7 That may or may not be true, but we
8 need to be very mindful of the fact that there is --
9 we have -- we have a duty to be good neighbors to
10 others. And what we're doing can, in fact, cause
11 disruption. We need to be very careful about that.
12 We need economic certainty, we need economic
13 stability. We need regulatory certainty and
14 regulatory stability. I will have a question for
15 Doris. What do you think will impact us from
16 financial consideration with Wall Street that we need
17 to be mindful of as we go forward to give the right
18 signals?

19 MS. STOUT: I mean, Commissioner
20 Burman, I think it's really very early in the
21 process. I mean, from our perspective we often look
22 at the impacts on our jurisdictional utilities, so I
23 think that's one of our concerns is their abilities
24 to raise capital in the markets.

25 COMMISSIONER BURMAN: Okay. Thank

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2 you. I also think that it's important that we look
3 at how this impacts directly on customers. At the
4 end of the day, that's what we should be caring
5 about. I do understand that there are major changes
6 that are taking place across the U.S. energy
7 landscape. New York has been blessed with fuel
8 diversity. Even, David, you acknowledged that we
9 need to look at this to see about fuel diversity.

10 It's not lost on me that in October
11 2014, right before the November 2014 technical
12 conference, then Chair Zibelman attended a FERC
13 conference addressing many market issues including
14 resource adequacy. And at that time she spoke on a
15 number of different things. But she did talk about
16 expediting like there was an expediting transmission
17 in New York. She talked about the need for us to
18 look about expediting pipelines.

19 And we might need to look at that
20 process partly because the transmission and electric
21 transmission and gas were directly tied to our
22 integration with renewables. And so there was a
23 focus on that fuel diversity and what we needed to
24 do. To the extent that we're talking about R and R,
25 not rest and relaxation but reliability and

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2 resiliency, it is very important that when we're
3 talking about keeping the lights on, which the I.S.O.
4 does -- is very helpful to us on that that we need to
5 be very mindful of what we're doing that could trip
6 us up.

7 To the extent that when we talk about
8 resource adequacy it also means looking and
9 addressing the elephant in the room and the delays
10 that we've made on those issues as it relates to our
11 gas infrastructure and the needs there. I am very
12 much concerned about the fact that there is a grey
13 area on what the next steps are. I would like to ask
14 and have a commitment that before -- after the
15 comments and the reply comments that before the next
16 steps are taken that it comes back to the full
17 commission for discussion on what those next steps
18 are.

19 CHAIRMAN RHODES: That was always the
20 intention and we can commit to that.

21 COMMISSIONER BURMAN: Okay. Thank
22 you. That's very helpful to me.

23 COMMISSIONER EDWARDS: Can -- can I
24 speak now? Oh, it's not my turn. No, go ahead.
25 Just --.

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2 CHAIRMAN RHODES: Mr. Alesi?

3 COMMISSIONER ALESI: I have nothing to
4 say.

5 COMMISSIONER EDWARDS: You know, this
6 feels like way too personal for me. I -- I -- I
7 wasn't here in 2014. I can't speak for what
8 happened, where's the report and -- and I don't even
9 want to speak to it to be quite honest. But, you
10 know, I don't care about the feelings of Wall Street
11 and people having to answer questions again. I -- I
12 -- I can't answer the question honestly if we have
13 enough capacity and our responsibility is to provide
14 safe and reasonable service at just and reasonable
15 rates.

16 And there's been outages. We have new
17 policies in place. I don't see this as a bad thing.
18 I just -- if we're asking questions about do we have
19 enough capacity, that's a good question to ask. So I
20 -- on behalf of myself, I can only speak for myself,
21 I'm glad you're asking the question. It helps me as
22 a new commissioner. I respect what has happened with
23 all of you since the years that I haven't been here.
24 I will read everything from 2014, whatever you have.

25 CHAIRMAN RHODES: We're not going to

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2 hold you to that.

3 COMMISSIONER EDWARDS: Whatever you
4 have I will read it and if they're answering the same
5 question again, so be it. You know, we have a
6 responsibility to make sure that we're doing
7 everything the right way. I get it. I'm a process
8 person too, Commissioner. I -- I get -- I get it.
9 But at the end of the day we have to do something,
10 right? So, you know, let's move forward. But like
11 you're in pain right now and you should be. This is
12 -- this is -- I look at this as it's a good thing to
13 do. And if we're shaking up Wall Street, okay,
14 they'll get over it. You know, whatever.

15 COMMISSIONER EDWARDS: Let's ask the
16 question. Let's get the responses and let's -- and
17 let's move forward. This is just -- it's -- it's --
18 I know everybody's coming at this from a, you know,
19 from a -- from a good place. But at the end of the
20 day we have to do something. I believe that we have
21 to do something. And if this is something -- might
22 not be perfect, but if this is something then let's
23 go.

24 CHAIRMAN RHODES: Thank you.
25 Commissioner Howard?

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2 COMMISSIONER HOWARD: First of all,
3 having been observed this process for decades, as I
4 said earlier, a lot has been asked of staff through
5 various incarnations of this commission. I won't say
6 that they were at times conflicting, but I think an
7 observer could say possibly once in a while they
8 were. So moving toward a new consensus on how best
9 to move forward under new statutory obligations I
10 think is essential.

11 And the integrity of staff's work, I
12 don't -- I have been critical of it in the '90s and
13 whatever and maybe critical going forward. But we
14 are asking a lot out of this staff. And
15 circumstances and policy changes. I think it's also
16 very important in this process and all processes
17 relating going forward as we plan for the future is
18 how we disseminate information to stakeholders.

19 Not all stakeholders in this case will
20 have the sophistication of those that will probably
21 be driving this process. However, some of those
22 stakeholders will come back and have opinions that
23 will be important and essential for us to figure out
24 what's best going forward, particularly as members of
25 the legislature have to understand this.

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2 This is an enormously complex system.

3 It is not something that most state legislators have
4 a -- a background in how they do well, so to the
5 extent that this information flows back to those
6 authors of new statutory -- I think is -- is really,
7 really important going forward. And timeliness.

8 As I said earlier in my earlier
9 remarks, this train is going fast and is -- will
10 start going faster. And the more critical
11 information and information is digestible, not just
12 at a high level but at a medium and -- and low level
13 will be important to those -- those at all levels
14 from the -- the small consumer to the large producer.
15 So, again, I just also want to, you know, I haven't
16 been there that long but my respect for staff
17 precedes me. Thank you.

18 CHAIRMAN RHODES: Thank you. With
19 that we will proceed to call for a vote. My vote is
20 in favor of the recommendation to institute a
21 proceeding and solicit comments as discussed.
22 Commissioner Burman, how do you vote?

23 COMMISSIONER BURMAN: I vote no
24 without prejudice with -- when we have more
25 information.

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2 CHAIRMAN RHODES: Okay. Thank you.

3 Commissioner Alesi?

4 COMMISSIONER ALESI: I vote yes.

5 CHAIRMAN RHODES: Commissioner

6 Edwards?

7 COMMISSIONER EDWARDS: I vote in

8 favor.

9 CHAIRMAN RHODES: Commissioner Howard?

10 COMMISSIONER HOWARD: I vote yes.

11 CHAIRMAN RHODES: The item is approved

12 and the recommendations are adopted. And if I may

13 just make a comment to staff. What you've done here

14 and through the course of this thing has been

15 serious, thoughtful, high integrity work. And I

16 apologize for the fact that the way I had expressed

17 my gratitude for that is by asking for more of that

18 in the future. But thank you very much.

19 We will move to the consent agenda.

20 Do any commissioners wish to comment on or recuse

21 from voting on any items on the consent agenda?

22 Commissioner Burman?

23 COMMISSIONER BURMAN: Thank you. Item

24 -- sorry. Item 167, the Orange and Rockland and Con

25 Ed -- excuse me, petition for approval of the smart

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2 solutions for natural gas customer programs, recovery
3 of certain costs associated with trucked and stored
4 compressed natural gas and liquefied natural gas
5 through the gas supplied charge and balancing service
6 program.

7 I'm going to vote no. My concern here
8 is that we have a petition for a rehearing that's
9 still outstanding as well as the fact that we're
10 waiting for a very critical report. And I'm dismayed
11 that we are moving forward without addressing that in
12 fashion -- quicker fashion.

13 Item 369, Village of Sherburne. While
14 I'm going to be voting for it, I do just note that
15 it's another high load factor and addressing a high
16 load issue. We've had several of them and I am
17 concerned about the one off tariff making and
18 addressing these things. So I do note that.

19 Item 461, Terrel Hills Water Company.
20 It is a minor rate filing and we are, with some
21 modifications, granting the request for the increased
22 rates. I do want to thank the staff that worked on
23 this. I think they did a very, very good job and the
24 thing that I want to point out in particular is that
25 they went through and very carefully looked at the

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2 Department of Health report that had been issued I
3 think about two years before that and identified that
4 the Department of Health recommendations that were
5 made, that were critical to addressing their
6 infrastructure issues were not done.

7 It would not have been brought to our
8 attention but for someone coming in for a rate
9 filing. It's a credit to the staff who did a very
10 diligent job and carefully analyzed and helped to
11 look at how to fix that, which also impacts the need
12 for the rate increase.

13 However, to the extent that since the
14 Department of Health report didn't find violations
15 but rather recommendations, there is an opportunity
16 for system improvement in terms of how to look at
17 things. It would have been on a three-year cycle so
18 we would have found it next year or Department of
19 Health would. But it didn't necessarily mean that it
20 fixes the issue. So to the extent that there are
21 opportunities for systems improvement when those
22 things are done from the Department of Health
23 perspective so that it could be on a track for us, I
24 think is important.

25 Item 562 which I believe is an

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2 information only item, I do want to point out that I
3 had raised internally to staff there had been two
4 matters from Frontier and Verizon. I believe there
5 was a call by the governor for an investigation on
6 911. My understanding is those investigations have
7 been completed. I do believe though we haven't found
8 them yet, I do believe that there are two matter
9 numbers -- matter numbers not case numbers on there.
10 And there were filings in those. I flag it because I
11 am glad to see that those matters have potentially
12 been resolved. But to the extent that --.

13 CHAIRMAN RHODES: May I -- Secretary
14 Burgess, do we know the matter number?

15 SECRETARY BURGESS: No.

16 COMMISSIONER BURMAN: No, we don't.
17 We haven't found them.

18 CHAIRMAN RHODES: We haven't found
19 them yet. Okay. I thought --

20 COMMISSIONER BURMAN: So, yeah.

21 CHAIRMAN RHODES: -- I was hoping
22 within the hour.

23 COMMISSIONER BURMAN: I am 99.99 -- I
24 would say I'm 100 percent sure that there are two
25 matter numbers. One for Verizon and one for

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2 Frontier. However, staff has done a diligent search
3 and they can't find the matter numbers. I will after
4 session find those matter numbers. It's neither here
5 nor there except it does show a system improvement in
6 terms of if we do have investigations that are opened
7 and we have -- and we need to have more due diligence
8 in closing that getting back to the commission on
9 that. And then also making sure that the public is
10 aware in some fashion. So I think that would be very
11 helpful.

12 There's no controversy over the
13 issues. My understanding is they've been resolved.
14 But I raise it only because but for this matter it
15 wouldn't have triggered me on asking about those
16 underlying matters, so. And then the other thing is,
17 I do just want to remind folks that Dig Safe -- Dig
18 Safely Day is August 11th and please call before you
19 dig and do everything you can to make sure that those
20 folks who need to know are doing so. And I
21 appreciate and I really want to thank our partners,
22 Dig Safely New York and Call 811 New York. They're
23 doing a fantastic job.

24 And I want to thank the hardworking
25 gas safety folks not only at the utilities and in the

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2 commission itself but also all of those partners and
3 municipalities and others and contractors, et cetera,
4 who are also truly helping to spread the word on the
5 importance of calling before you dig. Thank you.

6 CHAIRMAN RHODES: Do any other
7 commissioners have comments or -- or reservations
8 about the consent agenda? Hearing none, we'll move
9 to vote. My vote is in favor of the recommendations
10 on the consent agenda. Commissioner Burman,
11 recognizing your comments, how do you vote?

12 COMMISSIONER BURMAN: Yes, thank you.

13 CHAIRMAN RHODES: Thank you.

14 Commissioner Alesi?

15 COMMISSIONER ALESI: Yes.

16 CHAIRMAN RHODES: Commissioner

17 Edwards?

18 COMMISSIONER EDWARDS: Yes.

19 CHAIRMAN RHODES: Commissioner Howard?

20 COMMISSIONER HOWARD: Yes.

21 CHAIRMAN RHODES: Thank you. The
22 items are approved and the recommendations are
23 adopted. Secretary Burgess, is there anything
24 further to come before us today?

25 SECRETARY BURGESS: Nothing further

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2 today.

3 CHAIRMAN RHODES: Then we are
4 adjourned and I echo Commissioner Burman's comments.
5 Dig safely, report, call it in. Thank you.

6 (Off the record 11:42 a.m.)

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2 STATE OF NEW YORK
3 I, JANET AXTON, 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 51, 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 15th day of August 2019.

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13 JANET AXTON, Reporter

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