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Monthly meeting of PSC - 3-14-19

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MONTHLY MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, March 14, 2019
10:32 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor

Albany, New York

COMMISSIONERS:
JOHN B. RHODES, Chair
GREGG C. SAYRE
DIANE X. BURMAN
JAMES S. ALESI

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

5 MS. BURGESS: Good morning Chair and
6 Commissioners, there are no changes to this morning's
7 agenda.

8 CHAIRMAN RHODES: Thank you. Well,
9 let's get right to it. The first item for discussion
10 is Item 201, Cases 18-E-0067 et al, as they relate to
11 the joint proposal establishing the electric and gas
12 rate plans for Orange and Rockland Utilities,
13 presented by Administrative Law Judge Maureen Leary.
14 Administrative Judge -- Law Judge Dakin Lecakes and
15 Jane Cicerani, managing attorney, are available for
16 questions.

17 Judge Leary, please begin.

18 A.L.J. LEARY: Thank you. Good
19 morning Commissioner -- Chairman Rhodes and
20 Commissioners Burman, Sayre and Alesi. Before the
21 Commission today is a draft order adopting a November
22 9th, 2018 joint proposal, which establishes a three
23 year electric and gas rate plan for Orange and
24 Rockland Utilities.

25 The joint proposal was the culmination

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2 of four months of negotiations begun in June of 2018.
3 It was executed by the Company, Department of Public
4 Service Trial Staff and numerous other parties,
5 representing consumer, environmental, municipal,
6 industry, governmental and individual interests.
7 These included the Department of State Utility
8 Intervention Unit, the New York Power Authority, the
9 PACE Energy and Climate Center, the Public Utility
10 Law Project of New York, the Environmental Defense
11 Fund, Great Eastern Energy, LLC, the New York
12 Geothermal Energy Organization, Bob Wyman and a
13 municipal coalition, consisting of towns located in O
14 and R's service territory, as well as the Rockland
15 County Solid Waste Management Authority.

16 Notably, only two parties opposed the
17 joint proposal. In its initial filings in January
18 2018, the Company requested a one year 20.3 million
19 dollar electric revenue increase, a 4.5 million
20 dollar gas revenue increase and an overall 9.75
21 return on equity.

22 In April 2018, the Company updated its
23 filings, increasing electric revenues to 22.5 million
24 and lowering gas revenue to 2.7 million. That is a
25 2.7 million increase, with the ROE remaining the

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2 same. In its May 2018 testimony, Trial Staff
3 proposed adjustments to O and R's request asserting
4 that a 10.6 million dollar increase for electric, a
5 6.7 million dollar decrease for gas and an 8.6
6 percent return on equity were appropriate.

7 In its rebuttal testimony filed in
8 June 2018, the Company further updated its revenue
9 request to a 30.4 million dollar increase for
10 electric and a 500 thousand dollar decrease for gas.

11 The joint proposal before you today,
12 provides three year revenue increases for electric of
13 13.38 million dollars in rate year one, 7.99 million
14 dollars in rate year two and 5.78 million dollars in
15 rate year three. For gas, the joint proposal
16 provides for a decrease of 7.52 million dollars in
17 rate year one, followed by increases of 3.56 million
18 dollars in rate year two and 710 thousand dollars in
19 rate year three. To provide for rate stability, the
20 joint proposal recommends shaping of these increases.
21 This shaping results in electric delivery rate
22 increases totaling 8.6 million dollars in rate year
23 one, 12.05 million dollars in rate year two and 12.17
24 million dollars in rate year three. It also proposes
25 an initial decrease in gas delivery rates of 5.92

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2 million dollars in rate year one, followed by modest
3 increases of 990 thousand in both rate years two and
4 four. As shaped, the total system bill impacts over
5 the three year plan, are approximately 0.4 percent,
6 1.9 percent and 1.9 percent for electric. For gas, a
7 2.5 percent decrease, followed by two successive 0.4
8 percent increases in rate years two and three.

9 The average residential electric
10 customer can expect to see bill increases of \$2.90,
11 \$3.07 and \$3.04 for electric over the three year term
12 of the plan, while the average residential gas
13 heating customer, can expect \$1.99 decrease in rate
14 year one, followed by increases of \$.83 in rate year
15 two and \$1.07 in rate year three.

16 The revenue requirements in the joint
17 proposal for the three year rate plan are premised on
18 an allowed return on common equity of 9 percent, with
19 a common equity ratio of 48 percent. Earnings
20 sharing with customers, will be triggered for a
21 return -- any return above 9.6 percent, with three
22 tiers or shared earning spans, each of which
23 progressively provide for increased shares for
24 ratepayers.

25 The major drivers associated with the

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2 rate increases are detailed in the joint proposal.
3 For electric, these include the additional return
4 associated with rate-based growth and increases in
5 depreciation expense; also operations expenses, such
6 as labor and benefits, energy efficiency expenses and
7 decreased revenue -- forecasted revenue.

8 Further, environmental site-
9 remediation costs and storm reserve funding, also
10 were drivers. These are offset primarily by the 2017
11 Federal Income Tax changes and amortization of
12 regulatory deferrals.

13 For gas, the rate year one decrease is
14 the result of the cost reductions associated, again,
15 with the 2017 Federal Income Tax changes and an
16 increase in forecasted revenues. The drivers
17 associated with the modest increases in gas, are --
18 in rate years two and three, are a result of the
19 additional return associated with rate-based growth
20 and increases in depreciation expense; also,
21 operations expenses, such as labor and benefits and
22 projected increases in real property taxes.

23 The joint proposal is consistent with
24 the Commission's availability policy for low income
25 households and effectuates the eli -- eligibility

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2 criteria and discount tiers in that policy, by
3 limiting the cost burden to no more than 6 percent of
4 a residential household's income. About 13 thousand
5 households are expected to receive bill discounts
6 under this joint proposal. It also continues the
7 reconnection fee -- fee waiver program for these
8 customers who receive home energy assistance program
9 benefits and who have had service terminated for non-
10 payment. Additional details of this low income
11 program are set forth in the joint proposal.
12 Significantly, the joint proposal implements
13 progressive REV and climate change related programs.
14 For example, in addition to continuing
15 the implementation of the advanced metering
16 infrastructure program, which provides a platform for
17 REV and other carbon reduction initiatives, the joint
18 proposal continues the development of non-wires
19 alternatives, including the MONSEY NWA Project and
20 the Pomona Distributed Energy Resources Program. It
21 also provides for non-pipe alternatives and a new gas
22 demand response pilot. The Company is required to
23 develop a list of renewable gas providers and to
24 provide its customers with comparative costs
25 associated with gas and non-gas energy choices.

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2 The joint proposal also contains
3 earnings adjustment mechanisms and platform service
4 revenues to reduce coincident peak demand and
5 encourage distributed energy resource
6 interconnections and carbon reduction incentives.
7 This is done through greater penetration of carbon
8 emission reducing technologies, such as ground source
9 heat pumps. It establishes a rate impact credit for
10 ground source heat pumps to adjust for rate
11 inefficiencies and it creates a limited three part
12 demand-based rate PILOT for heat pump technology.

13 Most notably, the joint proposal
14 significantly increases electric energy efficiency
15 budgets by 57 percent and targets by 147 percent,
16 with a three year ramp up. Energy efficiency bu --
17 budgets and targets for gas, are increased by 40
18 percent. These measures are consistent not only with
19 the Commission's REV objectives, but also with the
20 overall energy efficiency object -- objectives, set
21 forth in the Commission's December 2018 energy
22 efficiency order.

23 The joint proposal also includes
24 performance mechanisms for customer service, electric
25 reliability and gas safety. It requires continuation

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2 of upgrades to aging infrastructure, such as a more
3 aggressive replacement of leak prone pipes and
4 enhancement of methane detection measures. It
5 provides for continuation of electric service annual
6 metrics for system average interruption frequency
7 index and customer average interruption duration
8 index, both of which are coupled with potential
9 negative revenue adjustments of up to 20 basis
10 points.

11 The joint proposal also resolves two
12 outstanding matters. The first involves resolution
13 of recoverable environmental remediation costs,
14 arising from what is referred to in the Commission's
15 2015 rate order, as the Traveler's Litigation. Under
16 the joint proposal's terms, the Company agrees to
17 reduce its deferred SIR costs balances by nine
18 million dollars. The second matter resolved in the
19 joint proposal, involves O and R's petition to the
20 Commission for recovery of pre-staging mobilization
21 and other costs related -- related to winter storm
22 Toby in March 2018. The joint proposal provides for
23 O and R to defer 4.5 million dollars of those storm
24 costs over six years, representing recovery of only
25 part of the 5.36 million dollars the Company had

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2 initially requested.

3 As addressed in various rulings issued
4 by the Administrative Law Judges during the
5 proceedings, three of which are being affirmed in
6 this draft order, the bulk of the pre-hearing
7 motions, involved one party's efforts to turn these
8 rate proceedings into a referendum on advanced
9 metering infrastructure. The Commission first
10 determined in its 2015 rate order, to authorize phase
11 one of O and R's AMI program, in most of Rockland
12 County. In its 2017 order, the Commission authorized
13 expansion and enhancement of AMI into O and R's
14 entire service territory.

15 The draft order affirms the A.L.J.'s
16 procedural rulings, which found that these
17 proceedings -- these rate proceedings, involve the
18 mechanics of ratemaking and do not entail a decision
19 by the Commission to revisit issues associated with
20 AMI, including health and safety, privacy and
21 security, cost and benefit and other societal and
22 policy determinations previously made.

23 The two parties opposing the joint
24 proposal, fully participated in these rate
25 proceedings, including settlement negotiations among

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2 the parties. They were given a full and fair
3 opportunity to admit additional evidence and to cross
4 examine witnesses at the daylong hearing on December
5 18th, 2018.

6 O and R's tariff filing and proposed
7 rate increase were -- increases were duly noticed in
8 compliance with the State Administrative Procedure
9 Act. Public statement hearings on the joint proposal
10 were held at various locations in Orange, Rockland
11 and Sullivan County. Very limited public comments
12 were made at those hearings and primarily involved
13 objections to the AMI program and the deployment of
14 smart meters in O and R's service territory.

15 In light of the testimony and exhibits
16 admitted in these proceedings, the joint proposal is
17 both fair and reasonable and represents a balanced
18 collaborative agreement among many signatories with
19 varying interests. It provides the Company with an
20 opportunity to pursue important energy efficiency
21 initiatives, to update aging infrastructure, to
22 implement important gas line -- gas pipeline safety
23 measures and to enhance overall electric and gas
24 system inte -- integrity, safety and reliability,
25 among other things.

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2 At the same time, the j -- the joint
3 proposal minimizes the potential economic impact of
4 the recommended rate increases on ratepayers. This
5 result is rational and well within the range of
6 reasonable outcomes, had these proceedings been fully
7 litigated. The joint proposal is also consistent
8 with New York State's energy goals and with the
9 Commission's policies.

10 In considering adoption of the terms
11 of this joint proposal -- propo -- proposal
12 establishing rates, the Commission's task is to
13 ensure that the Company will provide safe and
14 reliable and adequate service at just and reasonable
15 rates.

16 The Commission must determine, among
17 other things, whether the rate plan in the joint
18 proposal meets this standard and achieves a
19 reasonable balance between the protection of
20 ratepayers on the one hand and the overall fairness
21 to investors, as well as the utilities' long term
22 viability on the other.

23 Based on the evidence presented in
24 this proceeding and with this standard in mind, we
25 recommend approval of this rate plan and adoption of

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2 the terms of the joint proposal, with the exception
3 of Section O paragraphs 5 to 13, on which we -- we
4 recommend the Commission take no position because
5 those sections go to the obligations among the
6 parties and not the proposed rate plan. This is set
7 forth also in the joint proposal more clearly. This
8 concludes my presentation and we are available for
9 any questions.

10 CHAIRMAN RHODES: Thank you Judge
11 Leary. This joint proposal, to me, is the product of
12 serious collective work. It represents good
13 consideration of all important interests. The result
14 is affordable, progressive and invests appropriately
15 in operations, infrastructure and the State and
16 Commission's policy objectives. I am going to be in
17 favor of this item. Commissioner Sayer?

18 MR. SAYRE: As I've said before on a
19 few occasions, I support negotiated rate plans when
20 there are a wide variety of agreeing parties with --
21 with varying interests, a full look at the case
22 through Staff testimony, consideration of the
23 Commission's policy objectives and a result that is
24 ultimately reasonable and fair. This kind of rate
25 plan, allows us to set up innovative ratemaking

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2 mechanisms that might otherwise be hard to achieve in
3 a litigated case, such as incentives for desired
4 results, negative adjustment for failures and
5 earnings sharing. I support the order.

6 CHAIRMAN RHODES: Commissioner Burman?

7 COMMISSIONER BURMAN: Thank you. For
8 me -- first of all I just want to thank Judge Leary.
9 I think you presented that well and I know this is
10 your first time presenting it and it's a credit to
11 the team. We have a well-seasoned A.L.J. and a new
12 but very substantive with a long experience in
13 issues, that you brought to us at the Commission and
14 helped to, I think, make this a very good
15 collaborative process. Not only with the
16 stakeholders but just the way the A.L.J.'s work
17 together, I -- I thought was a credit to coming up
18 with a -- a very well-rounded decision -- draft order
19 that you put forth to us, so thank you for that.

20 I do when I look at it from a rate
21 case, I always go back to, for me, the legal standard
22 of review and, you know, just make sure from my
23 perspective, that the four prongs and thoughtfulness,
24 especially when we look at a joint proposal, are met.
25 And so, you know, the first one is the consistency

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2 with the law of regulatory, economic, social,
3 environmental, State and Commission policies. I do
4 know that we are noting that this is consistent with
5 the State energy policies, as well as Commission
6 policies but I think it is worth noting that those
7 policies at the State level, as well as at the
8 Commission, are many times fluid and the devils are
9 in the details and it is important for us to
10 carefully look at what that means for our regulated
11 entities and the customers that are subject to that.

12 Looking at the -- determining the
13 public interest, the second issue is whether the
14 terms of the joint proposal compare favorably with
15 the likely results of a fully litigated case and
16 produces a result within the range of reasonable
17 outcomes. The third is whether the joint proposal
18 fairly balances the interests of ratepayers,
19 investors and the long term soundness of the utility.
20 And, then the fourth is, whether the joint proposal
21 provides a rational basis for the Commission's
22 decision.

23 For me, it was important to really
24 look at the prong on the State energy policies and
25 the Commission and the -- the fourth one then on the

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2 providing the rational basis for the Commission's
3 decision and trying to ensure that this was a -- a --
4 a -- a draft order that I could support. Ensuring
5 the provision of safe and adequate service, is a
6 basic obligation of electric and gas utilities and
7 ensuring prudent and consistent performance is a
8 necessary component of utility regulation.

9 We, as the Commission, evaluate how to
10 compensate utilities in rate cases, to provide safe
11 and adequate service to customers. It's part of our
12 Commission bread and butter oversight. It's
13 important that we monitor how well utilities are
14 meeting their obligations. In fact, a rate case
15 should allow us to get under the hood and review what
16 was done since the last rate case and also use that
17 as a way to plan for the future.

18 It's not just in the rate cases that
19 we do this. For example, every season we hear from
20 Staff on how well the utilities are prepared to
21 provide reliable service for the upcoming season and
22 beyond. We also look in the rearview mirror and
23 discuss how well utilities did in a particular
24 season. And, every year we look at the various
25 metrics on electric reliability gas safety, customer

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2 service, performance metrics. And, all of these
3 performance measures and monitoring, I should note,
4 it's -- it's one regulatory aspect in the tool kit,
5 to ensure that utilities are providing safe and
6 adequate service.

7 We need to ensure the utilities are
8 provided adequate revenues and investment to -- in
9 delivery infrastructure to help them in the provision
10 of safe and adequate service to customers. And,
11 revenue determinations traditionally are made in the
12 context of the rate cases. Now, there are other rate
13 mechanisms that we have employed and there are other
14 policy decisions that we make, outside of the rate
15 case, that we need to take into consideration and
16 make sure are complementary and are helping from
17 bridging the gap. And, really the intent of
18 exploring sufficient funding to invest, for example,
19 in infrastructure to enable the utilities to provide
20 safe and adequate services, one we must look at -- we
21 have to ensure in our revenue adjustments and our
22 evaluating that utilities don't cut corners in
23 providing quality customer service, we have certain
24 metrics for that and we go through that.

25 It's really incumbent upon us to

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2 really, again, get under that hood and make sure that
3 we are doing the right thing, as we go forward. And,
4 for me, I take pause and note that a challenge was in
5 looking back at the 2015 rate case to now, there have
6 been different changes to that. That's not unusual
7 if there are changes that -- that may happen but
8 there needs to be, for me, an acknowledgement of what
9 from one rate case to another, may have changed and
10 why and are -- is the record sufficient enough for
11 that.

12 It's also important to note that, not
13 only the financial community but others, really look
14 carefully at the rate cases. The financial
15 community, in particular, looks at the positive
16 regulatory environment and part of the positive
17 regulatory environment is really the certainty that
18 we provide. So, when we are looking at our rate
19 cases and deciding them, it is important that we have
20 clear guidance and certainty in what we're asking
21 for. That goes across the board, not just in our
22 rate cases but also in our policy determinations.

23 When I looked back at the October 2015
24 rate case, I was struck that the October 15, 2015
25 session, was where I had dissented on the petition

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2 that O and R had brought in lifting the rate cap.
3 They had asked -- at the time, they had brought a
4 July 2015 order, notifying the Commission, by letter,
5 on the status of interconnection applications for net
6 metered facilities under Public Service Law 667.
7 And, they wanted to serve notice on the customers
8 that they were focused on reaching the rate cap and
9 what that would mean. And, we looked and the letter
10 treated the July 2015 letter as a petition and
11 notified the Company that it was going to be SAPA'd
12 and we put it out there. And, the -- the -- the
13 decision that was made, was to lift the rate cap and
14 I dissented, at that time, for some of my concerns
15 with our decision inviting uncertainty and confusion
16 in the implementation of net metering and
17 unintentionally potentially causing long-term harm to
18 the goals we were trying to achieve.

19 I don't bring it up as a way of -- of
20 bringing back my dissent. I bring it up as a way to
21 sort of set the stage for the focus, for me, in terms
22 of changes that have happened from 2015 to now. We
23 are looking now at what to do with Veeder. We are
24 looking at some policy decisions that are -- are
25 happening. But, also recognizing that O and R also

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2 saw its obligation as it took very seriously
3 notification to the customers, looking at what it
4 would mean in penetration on their system and what
5 they needed to do to make sure that they were
6 providing a safe and adequate service and that they
7 were properly planning.

8 And, so from my perspective, that 2015
9 session where we also looked at lifting the caps, we
10 also dealt with the rate case. And, so again, it was
11 sort of two -- two policy -- a policy decision in a
12 rate case, that has had a lot of things happening
13 between 2015 to now. And, for me, it's really
14 important that we examine where we are and make sure
15 that we are focused, just like I was focused back in
16 2015, in -- in focusing on how are we mirroring the
17 two and complementing the two with policy decisions
18 and the financial decisions, as it relates to the
19 rate case and how are we working through that, in
20 allowing our utilities to provide that safe and
21 adequate service, to be focused on innovation and
22 other things that they can do with their customers
23 but also recognizing that we have an obligation to
24 ensure that what we're doing is providing regulatory
25 certainty and making sure that it -- things are truly

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2 reliable and resilient from the grid perspective, so
3 that we don't have any disruption in services.

4 We have policies that have come, most
5 recently the most recent fast tracking -- fast
6 charging on the EV and the load penetration that that
7 may mean. And, so from my perspective, I do want to
8 see that in rate cases we are carefully looking in
9 it, not just in a silo to the rate case but that we
10 are trying to figure out how these things naturally
11 fit.

12 In this rate case, in particular, we
13 have on the electric side, there was a focus in
14 there, in system visibility during a storm and
15 focusing on giving enough tools to -- through -- to
16 the utility, so that they can continue their rollout
17 of AMI, to enhance their system visibility and
18 monitoring; that that will help them to respond to
19 outages and reduced services. And, that is something
20 that I think is very helpful from reliability and
21 resiliency perspective and also, some of the policy
22 decisions that we have made on AMI and how it fits
23 into now, the rate case. And, so mirroring that and
24 seeing how that complements each other, is very
25 important but also, not just doing so without

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2 thoughtfulness, without prudence to that and without
3 looking at how to do it in a -- in a way that rolls
4 it out fairly and in a transparent way and in a cost-
5 effective way. And, also our continually looking at
6 it and checking that it is doing and things are help
7 -- are helping to actually provide that enhancement,
8 that we -- we envisioned with the policy decisions.

9 On the gas side, there is -- there is
10 a cap on O and M spending. It's to improve system
11 reliability through the replacement of aging
12 infrastructure, as well as improving the Company's
13 operations on an expanded training facility, which
14 would be very helpful, as well as also looking at
15 other ways of helping to enhance existing mechanisms
16 and existing policies. So, from my perspective, that
17 is something that is very helpful in here.

18 The RDM and the changes to the RDM,
19 are -- is something that I struggle with and am
20 uncomfortable with. It is not so much the -- the
21 change to the RDM that has -- makes me uncomfortable,
22 it's that the record, while I looked, I did not feel
23 that there was enough analysis or data that got under
24 the hood in -- in -- in a way that I think that we
25 should be focused on to give the tools, not only to

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2 the A.L.J.s who -- can only go with the record but
3 the Commission itself.

4 And, so what gives me comfort, is that
5 the -- the draft order has language in there that I
6 think tries to address some of what, you know, I
7 personally have been speaking about through the
8 different rate cases but I think that is a
9 recognition that -- and the wording is as a general
10 matter, parties should work on developing the record
11 with facts and data. In all cases, they would seek
12 Commission consideration of similar programs and
13 other utility service territories or even to continue
14 or expand existing programs.

15 Now, here this is talking about the
16 voluntary residential three part rate and the
17 inclusion of that but the expansion of that and
18 looking at that, I think is really applicable to, as
19 a general matter as it says, programs in general.
20 And, when we're looking at that and when we're trying
21 to focus on that, parties really do need to work on
22 developing the record with facts and data. Too often
23 when I look at the testimony from the -- the various
24 parties, Staff included, it just has opinion or, you
25 know, statements about this is in -- in compliance

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2 with the State energy goals. This has helped
3 facilitating the -- the Commission policies and it
4 doesn't necessarily have the -- what I think is
5 important, is the true analysis and drill down. That
6 would help us in our deciding whether it is fitting
7 within our Commission policies and whether or not our
8 Commission policies need to be refined and would help
9 us to understand the facts and the data and what
10 those facts and data help to enable us to make
11 reasonable policy decisions.

12 So, moving from the RDM and now
13 changing it under the guise that we need to do so
14 because we want to move away from an incentive on
15 natural gas expansion without actually doing the data
16 analysis to see what that actually looks like and to
17 see whether or not that's something that the
18 community itself, not only needs but wants and then
19 what that may be, it's not lost on me that there was
20 a filing made on February 26th, 2019 in compliance
21 with the October 2015 rate case that was filed by O
22 and R, And, again it's in accordance with the New
23 York State -- New York Public Service Commission's
24 order, issued October 16th, 2015, in its annual
25 reporting to us on the strategic plan related to gas

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2 conversions.

3 And, I note what the strategic plan
4 is, it states beginning January 2019, Orange and
5 Rockland developed a strategic plan for expansion of
6 the Company's natural gas infrastructure. The plan
7 fosters growth for the customer -- the Company's gas
8 customer base, allowing the Company to meet and
9 exceed targeted growth rates and secure future
10 sustainability. In developing the Company's strategy
11 for expansion, the Company categorized expansion
12 opportunities and to define target markets.

13 The approach has allowed the Company
14 to define project specific outreach, marketing and
15 expansion potential. And, then it actually goes into
16 their gas expansion strategic plan guidelines and
17 they get into each rate year, the different projects,
18 the project descriptions, the locations and then
19 where it fits within their one through seven metrics
20 on their gas expansion strategic planned guidelines.

21 It is exactly what we would want in
22 any type of strategic planning, in laying out, very
23 carefully, following what our guidance was in the
24 October 2015 rate plan. How they're going to
25 strategically do something and lay it out for us and

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2 -- and have the reach out that's being done. The
3 survey responses, location, customer existent
4 facilities, looking at construction and planning,
5 location anchor customers, economic feasibility,
6 alternative fuel costs comparisons, historical
7 penetration rates. It's really a blueprint for, in
8 my mind -- you know, making sure that the expansion
9 is appropriate and also, what the community's needs
10 are from an economic perspective but from a customer
11 specific project.

12 So, for me, I just want to make sure
13 when we're going forward in this, is that the RDM
14 while we may be changing the RDM without necessarily,
15 in my mind, having done the true analysis in -- in --
16 at least in -- in the record, that we actually take a
17 step back and make sure that we're not going to have
18 a -- unattended consequences, not only for those
19 specific projects but also for others like them that
20 we don't know about that may be in the future, that
21 would actually provide very necessary, adequate and
22 safe service to customers from an -- that -- that's
23 desired. And, so that these -- this, for me, and
24 this analysis, would be helpful in terms of looking
25 to the future and what that may mean and what it may

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2 look like. So, I just share that with you.

3 From my perspective when we look, I --
4 I am very comfortable that as it relates to the
5 voluntary residential three part rate, I think the
6 Chair has been very focused on helping to ensure that
7 the -- we look at -- at things -- I forget the two
8 things that you always say. Do you remember? You
9 always say -- oh, goodness. I'm trying to be
10 supportive of you here.

11 CHAIRMAN RHODES: I'm failing here.

12 COMMISSIONER BURMAN: You always say
13 there's two things you ask --

14 CHAIRMAN RHODES: But, they're
15 brilliant, those two things, for the record.

16 COMMISSIONER BURMAN: All right. I --
17 I -- they were really good. I just -- you know.

18 CHAIRMAN RHODES: You're just teasing
19 us all. All right.

20 COMMISSIONER BURMAN: But, in fact --
21 sorry. I -- I got my train -- I got confused that I
22 was going to actually compliment you. So --.

23 CHAIRMAN RHODES: That'll teach you.

24 COMMISSIONER BURMAN: But, the focus
25 really is on -- and, I think the wording here, which

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2 I think is helpful, is that we're approving this
3 proposal, this bounded scope and work and the real
4 focus here is it's in a -- it's a limited project.
5 When we did the Central Hudson rate case and I
6 dissented, it was really because of the focus on a
7 geothermal rate credit that I did not think was
8 appropriate in the rate case without a fair, you
9 know, further policy decision that had state-wide
10 implications and there's a recognition that that is
11 an interim step.

12 I think here in the joint proposal,
13 while I would not have necessarily looked to this, I
14 do think that it is something that is done in a way
15 that is limited in scope and also, is asking for --
16 in the order, it says we expect that Staff and the
17 parties will examine the data that comes from the
18 implementation and provide us a critical assessment
19 of its positive or negative effects. So, there's a
20 recognition that we will be looking at that, positive
21 or negative, and that this is an opportunity for us
22 to try to obtain that information, in a way -- and,
23 then again, it -- it asked that O and R consult with
24 Staff and other interested parties in the
25 implementation and file a report on your -- on the

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2 experience for Commission review and a recognition
3 that the Commission, itself, will really be trying to
4 grapple with this, in a way that -- that gives us
5 some information and it -- it -- again, going back to
6 the facts and the data needing to be helping us in
7 making our policy decisions are really, I think,
8 important.

9 So, for that, I am going to be overall
10 supportive. I'm going to concur in the rate case. I
11 do want to give special recognition to the Staff, in
12 particular, for working with me internally on -- on
13 this but also, to the Chair in recognizing some of my
14 concerns in trying to set the stage for future rate
15 cases and the importance of us trying to send the
16 message that we really must allow the facts and the
17 data and we really must also be focused on the -- how
18 this all fits and integrates from our policies, in a
19 way that is helpful at looking at one rate case to
20 another. So, with that, I will concur.

21 CHAIRMAN RHODES: Thank you.
22 Commissioner Alesi?

23 COMMISSIONER ALESI: Thank you Mr.
24 Chairman. I think it's a reasonable and modest
25 approach to continue to focus on assistance for low

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2 income. I support the request for recovering the
3 cost of implementing AMI, although there is some
4 opposition to that and I think we've already taken a
5 position on that as the Commission in the past. But,
6 overall I think it's a fairly negotiated proposal and
7 I'll be supporting it.

8 CHAIRMAN RHODES: Thank you very much.
9 With that, I move to call for a vote. My vote is in
10 favor of the recommendation to adopt the terms of the
11 joint proposal, with the exception of Paragraphs 5
12 through 13 of Section O, as discussed in the draft
13 order. Commissioner Sayer, how do you vote/

14 COMMISSIONER SAYER: Aye.

15 CHAIRMAN RHODES: Commissioner Burman?

16 COMMISSIONER BURMAN: I concur.

17 CHAIRMAN RHODES: Commissioner Alesi?

18 COMMISSIONER ALESI: Aye.

19 CHAIRMAN RHODES: The item is approved
20 and the recommendation is adopted. We'll move now to
21 the second item for discussion, Item 401, Case 16-W-
22 0259, as it relates to the One Commissioner order
23 postponing New York American Water's levelization
24 surcharge mechanism, presented by Mike Rieder, Chief
25 Gas and Water Rates and Supply. Kim Canti, Chief

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2 Water Policy is available for questions. Mike,
3 please begin.

4 MR. RIEDER: Good morning Chair. Good
5 morning Commissioners. Item 401 is a confirming
6 order that confirms the One Commissioner order,
7 issued February 27th, 20 -- 2019, that postponed New
8 York American Water's levelization surcharge
9 mechanism, scheduled to become effective on April 1st
10 of this year.

11 The February 27 order addressed a
12 single discrete aspect of the petition filed by New
13 York American Water on February 25th, in which the
14 Company proposed, among other matters, to postpone
15 the levelization surcharge scheduled to become
16 effective for service area one customers on April 1,
17 which is the beginning of rate year three to April 1,
18 2020.

19 Service Area one is largely comprised
20 of the Lynbrook District and includes several smaller
21 water systems. Under the Company's proposal, New
22 York American Water would not collect from Service
23 Area one customers, revenues of approximately 4.5
24 million dollars in rate year three, as provided for
25 under the current rate plan. Rather, on April 1,

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2 2020, New York American Water would implement a
3 levelization surcharge that would amortize the
4 collection of this revenue over three years instead
5 of two, thus -- thus further spreading out the
6 collection of revenues over a longer time period.

7 In its petition, New York American
8 Water requested approval on an emergency basis under
9 the State Administrative Procedure Act or SAPA,
10 Section 202-6, to further the general welfare of
11 customers by mitigating the rate year three rate
12 increase to service area one customers.

13 Under the Company's original rate plan
14 for service area one, the Company would have
15 recovered 5.5 million dollars in base rates, 700
16 thousand dollars in system improvement charge
17 revenues and 4.5 million dollars through the
18 levelization surcharge, for a total of 10.7 million
19 dollars.

20 The February 27 order only approved
21 the postponement of the service area one levelization
22 surcharge on an emergency basis. This action will
23 allow service are one customers to avoid the rate
24 year three -- to avoid in rate year three, the
25 collection of the service area one levelization

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2 surcharge of 4.5 million dollars, thus affording them
3 an economic benefit in rate year three. The
4 underlying base rate increase of 6.2 million dollars,
5 however, will still go into effect on April 1, as
6 scheduled under the rate plan.

7 Thus, this action decreased the
8 immediate -- immediate impact on customers in service
9 area one from about a 14.8 percent increase to about
10 an 8.5 percent increase. This action was appropriate
11 to take without the advanced notice and opportunity
12 to comment generally afforded by SAPA, Section 202-1
13 because otherwise, the Company would have had to
14 begin on March 1st notifying customers of the rate
15 changes for rate year three provided under the rate
16 plan. This could have resulted in customer confusion
17 if such notification was made while the proposed
18 postponement of the levelization surcharge was
19 subject to the full notice and comment period under
20 SAPA.

21 In light of the economic benefit to
22 service area one customers of the postponement and
23 moreover, the potential for customer confusion, the
24 public interest required action before March 1st.
25 Not doing so, would have sent mixed messages to

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2 customers and would have impeded the implementation
3 of important water conservation concepts. The
4 postponement of the surcharge can be further reviewed
5 and revised by the Commission. The remaining
6 proposals in the February 25th petition, will
7 separately be noticed, pursuant to SAPA and more
8 specifically not addressed in the February 27 order
9 but instead will be brought before the Commission at
10 a future session. Thank you. We are available for
11 any questions you may have.

12 CHAIRMAN RHODES: Thank you Mike. I
13 find this item is timely and pragmatic and
14 appropriate, including under the circumstances, the
15 use of the emergency SAPA. I find that this is a
16 solution that is good for the Company and customers
17 alike and it's narrow, so I am going to support this.
18 Commissioner Sayer.

19 COMMISSIONER SAYER: This is a pretty
20 straightforward matter in my view. The Company filed
21 to postpone and spread out a surcharge. We need to
22 take a full hard look at the Company's total request
23 and it would be very confusing and costly to require
24 ratepayers to pay the surcharge, while we look at
25 that request. I support the order.

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2 CHAIRMAN RHODES: Commissioner Burman.

3 COMMISSIONER BURMAN: I am going to
4 concur at this item. I do want to note, though, that
5 I -- while I am very supportive because customers are
6 -- from the postponement right now, are having some
7 relief and that's a positive for them, I do want to
8 note that while we have and we do have several
9 instances that we can point to where we have taken
10 similar type action in postponing or changing
11 elements of rate plan or levelization surcharge where
12 we can look to, they had been modifying it. Those
13 types have been done not under emergency basis and
14 through SAPA and/or notice from the Secretary, a full
15 comment period. I -- I do think this is a unique
16 situation and I think it is unique in that with the
17 creative petition, in finding a way to do this
18 because of the timing aspect of the notice.

19 But, I -- I do think it's important to
20 note my hesitation in emergency -- use of emergency
21 SAPA and petitions asking for One Commissioner orders
22 and then two days later, it getting done. I think
23 that's something that we need to be very cognizant of
24 and I think from the front end, you -- Companies, as
25 well as others who might be needing to use the SAPA

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2 process and also be coming up with creative solutions
3 for the benefit of customers, that we can have a
4 proper vetting process that would give us the
5 opportunity to have a fuller record and a deep dive
6 in looking at this.

7 Now, here I do think it's worth noting
8 that all we're doing at this very moment, is
9 postponing that and so, it allowed the -- it was not
10 a full endorsement of the petition but rather it was
11 taking note of allowing the -- lifting of the notice
12 requirement that was about to be done. I think the
13 Company saw it as a good opportunity for its
14 customers to take a fresh look and to try to come up
15 with some creative solutions, that's a positive.
16 However, I really do want to emphasize that these
17 types of emergency petitions need to really be
18 thought through in a way that would give them the
19 opportunity to come up with these earlier and that
20 we're also looking -- you know, this is not the first
21 time that we are making modifications to this rate
22 plan. We owe it to not only America Water ratepayers
23 but all ratepayers, to get it right at the outset.
24 And, so we have to ensure that we're properly setting
25 goals, we're looking at the targets, we're looking at

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2 timing of customer notifications in particular and
3 we're looking at funding in our orders that account
4 for real-life design and implementation of whatever
5 programs that we're doing.

6 And so, you know, it's not lost on me
7 that we've a lot of challenges that are ahead of us
8 in this and I don't want this to be the model that we
9 utilize. And, so this is a unique situation but it
10 is not something that I -- I take lightly, in that
11 therefore it's okay because we do need to be looking
12 at it. I do know -- I think at some point in the
13 middle of April, I believe, we -- there should be a
14 report coming from the monitor for American Water, as
15 well -- as well as looking at some -- the
16 conservation education that's going on in the
17 programing. So, I will be looking for that and for
18 further engagement. I do know that the Company has
19 been very active in working with its customers and I
20 -- I know that they have been very engaged in keeping
21 very closely with Commission Staff, as per the order
22 that directs that, as well.

23 So, I just thank you for that because
24 I know you've been doing a very good job, you and
25 your staff, in working with them but I just think

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2 it's very important that this issue is highlighted on
3 the One Commissioner order and the emergency SAPA, so
4 that it is not -- it is a unique situation. Thank
5 you.

6 CHAIRMAN RHODES: Thank you.
7 Commissioner Alesi.

8 COMMISSIONER ALESI: Thank you Mr.
9 Chairman. If nothing else from the standpoint alone
10 that it can help avoid possible economic hardship for
11 customers, I'll be supporting this.

12 CHAIRMAN RHODES: Thank you very much.
13 So, with that, I proceed to call for a vote on this
14 item. My vote is in favor of the recommendation to
15 confirm the One Commissioner order as discussed.
16 Commissioner Sayer?

17 COMMISSIONER SAYER: Aye.

18 CHAIRMAN RHODES: Commissioner Burman?

19 COMMISSIONER BURMAN: I concur.

20 CHAIRMAN RHODES: Commissioner Alesi?

21 COMMISSIONER ALESI: Aye.

22 CHAIRMAN RHODES: The item is approved
23 and the recommendations are adopted. Thank you. So,
24 the third item for discussion is Item 501, Case 16-M-
25 0330, which is the petition of CTIA, the Wireless

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2 Association, to initiate a proceeding to update and
3 clarify wireless pole attachment protections,
4 presented by Michael Rowley, Chief Network
5 Reliability. Christian Bonvin, Chief Electric
6 Distribution Systems and Graham Jesmer, Assistant
7 counsel, are available for questions. Michael,
8 please begin.

9 MR. ROWLEY: Good morning Chairman
10 Rhodes and Commissioners. Item 501 before you,
11 addresses the petition of CTIA, the Wireless
12 Association to update and clarify wireless pole
13 attachment protections filed in Case 16-M-0330. CTIA
14 believes efficient and cost effective pole access is
15 critical to network invest -- is critical to network
16 investment necessary to deliver world class mobile
17 and wireless broadband services to New Yorkers.

18 The petition request action on three
19 major points to allow wireless carriers non-
20 discriminatory access to utility poles on par with
21 that -- with that of wireline attachers, by
22 establishing timelines for access agreements and
23 complete the permitting and make-ready review
24 processes, extending the dispute resolution to
25 wireless attachers and adopting a rate methodology

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2 for wireless attachments and other pro-competitive
3 policies, as necessary.

4 The proposed order addresses these
5 points, granting the petition in part and
6 recommending a continued proceeding. Comments were
7 received from electric utilities, communications
8 providers, two municipalities and one individual.
9 The joint utilities oppose the CTIA petition, arguing
10 generally that the new policy is unnecessary for
11 rapid wireless deployment, specifically in urban
12 areas where -- in urban markets where deployment will
13 occur and that there is a general lack of evidence to
14 support the widespread obstruction of wireless pole
15 attachments. The wireless infrastructure association
16 supports the petition.

17 New York is one of 20 reverse pre --
18 preemptive states that assert jurisdiction over pole
19 attachment rates and terms, as opposed to default
20 Federal regulation and has actively done so for over
21 20 years.

22 In a June 1997 order, the Commission
23 established a specific rate methodology for wireline
24 attachers by adopting the FCC approach, at the time,
25 for the calculation of rates applicable to horizontal

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2 cable and wireline attachments and that is often
3 referred to as the FCC Cable Formula.

4 In 2004, the Commission adopted its
5 order and policy statement on pole attachments, that
6 established timelines for wireline applications and
7 the make-ready and construction process and since
8 then, wireless attachments rates and terms have been
9 generally subject to negotiation. That has been the
10 approach in New York for over 20 years, except that
11 in a tariffed rate -- a tariff rate for wireless
12 antenna and cabinet attachments was approved by the
13 Commission in 2004 for National Grid territories.

14 The draft order grants the CTIA's
15 petition in part by establishing an interim pole
16 attachment rate for wireless attachments. It
17 establishes timelines, with respect to the processing
18 of pole attachment applications and make-ready work
19 and it extends the Commission's existing dispute
20 resolution processes to wireless attachment
21 applications.

22 The draft order also directs that the
23 -- that the proceeding be continued to explore other
24 enhancements to both wired and wireline pole
25 attachment policies, including the establishment of

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2 permanent rates, further streamlining of the make-
3 ready process, including the feasibility and
4 implementation of a one touch make-ready process,
5 revisions to attachment terms for large scale jobs or
6 projects and other revisions to pole attachment rates
7 and terms as necessary.

8 With regards to rates, the draft order
9 provides standardization and transparency by
10 establishing an interim pole attachment rate
11 methodology that is on par with existing cable
12 attachers in New York. The draft order established
13 that wireless attachers will pay a per foot rental
14 rate that is equal to the per foot rental rate that
15 wireline attachers pay. And, like wireline attachers
16 who pay for more space than they actually occupy on
17 the pole to provide for maintenance and operations,
18 the space charge for the wireless attachment for
19 rental purposes will be determined by adding six
20 inches to the actual space of the -- that the
21 attachment occupies and then rounding up to the
22 nearest foot.

23 This methodology produces an average
24 rate of \$117.68 when using seven foot of occupied
25 space and the inputs currently in the National Grid

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2 rate and that falls in the middle of the scale of 14
3 other states, which have capped rates from anywhere
4 between 20 to 175 dollars annually. It also falls
5 within the median and average rates included in a
6 2018 survey by the FCC's Broadband Development
7 Advisory Council and is consistent with -- and is --
8 and falls well below, excuse me, the FCC's pre --
9 presumptive maximum rate of 270 dollars for a
10 wireline -- wireless attachment.

11 With regards to timelines, the CTIA
12 requests that the Commission enforce the FCC's
13 established timelines, which vary from 133 to 208
14 days, depending on the area of the pole where the
15 make-ready is needed and the size of the job.

16 The draft order establishes an interim
17 timeline based on the timelines approved in the New
18 York -- in New York's 2004 pole order and the FCC
19 timelines but is adjusted to provide additional time
20 in both the survey and make-ready steps of the
21 process, for an overall of 215 day timeline.

22 The proposed timeline will provide
23 certainty for wireless attachers going forward but
24 also acknowledges the differences in wireline and
25 wireless attachments.

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2 It also recognizes the current
3 environment in New York, where pole attachment
4 applications have and are expected to continue to
5 increase, due to the broadband expansion efforts and
6 future 5G deployment. With regard to dispute
7 resolution, the draft order extends the existing
8 dispute resolution process to wireline attachment
9 applications.

10 Finally, the draft order determines
11 that a wider -- a wider review of policy for wireline
12 and wireless pole attachments, should be taken to
13 allow for innovative and new approaches and, where
14 appropriate, further streamlining the processes to
15 improve efficient and safe deployment of advance
16 services in New York. The draft order therefore,
17 directs Staff to begin a collaborative process
18 involving all interested stakeholders to conduct this
19 review and create the necessary record for
20 consideration of any new policies applicable to both
21 wired and wireless attachments.

22 This item was produced with extensive
23 cooperation from the Office of Electric Gas and
24 Water, the Office of Accounting Audits and Finance
25 and the Office of Markets and Regulatory Economics.

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2 That concludes my presentation and we would be happy
3 to answer any questions you might have.

4 CHAIRMAN RHODES: Thank you Michael.

5 I find this order represents a set of fair, effective
6 and needed steps to put in place to pre-conditions,
7 namely clarity, access and certainty that are
8 necessary for good statewide deployment of useful
9 wireless service. I also find that the resolution of
10 what is needed and ready now, versus what is needed
11 and ready soon, is well judged. I'm going to support
12 this item. Commissioner Sayer.

13 COMMISSIONER SAYER: This item makes
14 me very happy that this Commission decided many years
15 ago, as Mr. Rowley explained, to regulate pole
16 attachments here, rather than leave it to the FCC as
17 about half the states have done. The FCC has
18 recently adopted new pole attachment rules to
19 accommodate wireless attachments. In this order we
20 take the best of what the FCC has done but we adjust
21 the rates and terms and conditions to meet the
22 specific needs of New York and as Mr. Rowley
23 explained, to -- to recognize the current state of
24 the pole attachment process in New York.

25 This order will make facilities for

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2 wireless voice and broadband services, including 5G,
3 easier and faster to install and much more
4 predictable in cost. The order also beneficially
5 sets up further proceedings to look at additional
6 process and price improvements. I'm pleased to
7 support it.

8 CHAIRMAN RHODES: Thank you.
9 Commissioner Burman.

10 COMMISSIONER BURMAN: I think ditto
11 what Commissioner Sayer said. I think this is a good
12 item for us to move forward on. I do see that it's
13 something that the FCC would be supportive of us
14 moving forward, so I don't see this as -- as anything
15 from a tension perspective, that sometimes trips us
16 up with Federal and State jurisdiction. If anything,
17 I see this as us from a New York perspective, looking
18 carefully at how it works for us and making
19 accommodations with that, within our jurisdiction, as
20 well as helping from a collaborative perspective.
21 So, I'm -- I'm happy with that and we'll note, this
22 has been a long outstanding petition, since 2016.
23 So, to the extent that we have given regulatory
24 certainty on aspects of it and what we are moving
25 forward on, for certainty now but also in what we're

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2 looking at from a collaborative perspective, I would
3 like to see that if there are decisions that need to
4 be made, when that collaborative is together, that
5 we're also doing it in a time sensitive way because
6 it has been a long petition outstanding. So, thank
7 you.

8 CHAIRMAN RHODES: Thank you.
9 Commissioner Alesi.

10 COMMISSIONER ALESI: Thank you Mr.
11 Chairman. I believe that the Commission is
12 obligated, actually, to ensure that there is an
13 adequate and reliable services made available to the
14 general public. This gives us an opportunity to
15 improve the availability of advance services to
16 consumers in an affordable way. So, of course, I'm
17 going to support it on that basis.

18 CHAIRMAN RHODES: Thank you. With
19 that, I will proceed to -- I will proceed to call for
20 a vote. My vote is in favor of the recommendations
21 to grant the petition of CTIA, in part, and being a
22 second phase of the proceeding, to review additional
23 pole attachment issues, as discussed. Commissioner
24 Sayer, how do you vote?

25 COMMISSIONER SAYER: Aye.

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2 CHAIRMAN RHODES: Commissioner Burman,
3 how do you vote?

4 COMMISSIONER BURMAN: Aye.

5 CHAIRMAN RHODES: Commissioner Alesi,
6 how do you vote?

7 COMMISSIONER ALESI: Aye.

8 CHAIRMAN RHODES: The item is approved
9 and the recommendations are adopted. Thank you. We
10 will now move to the consent agenda. Do any
11 Commissioners wish to comment on or recuse from
12 voting on any items on the consent agenda?
13 Commissioner Sayer?

14 COMMISSIONER SAYER: No.

15 CHAIRMAN RHODES: Commissioner Burman?

16 MR. BURMAN: I do, thank you. 261 I'm
17 going to concur on, 368 I will concur on, 370 I just
18 note, again, while I'm okay with this, it is a One
19 Commissioner order and it is -- was done in an
20 emergency SAPA, if I'm correct, emergency SAPA
21 process. I do note that this order does make note of
22 the fact that -- 370, that the -- the Petitioner
23 should do further planning, so that we don't have a
24 emergency petition again. So, I do note that for the
25 record. And, 562, which is the Charter

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2 Communications item, I will be voting for the seventh
3 time but eighth extension, no.

4 CHAIRMAN RHODES: Thank you.
5 Commissioner Alesi?

6 COMMISSIONER ALESI: Nothing at all,
7 thank you.

8 CHAIRMAN RHODES: Thank you. So, with
9 that, I will proceed to call for a vote. My vote is
10 in favor of other recommendations on the consent
11 agenda.

12 Commissioner Sayer?

13 COMMISSIONER SAYER: Aye.

14 CHAIRMAN RHODES: Commissioner Burman,
15 subject to your comments just now?

16 COMMISSIONER BURMAN: Aye.

17 CHAIRMAN RHODES: And, Commissioner
18 Alesi?

19 COMMISSIONER ALESI: Aye.

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

24 MS. BURGESS: I have nothing further
25 for you to come -- for you today but you had -- but

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2 you do.

3 CHAIRMAN RHODES: Oh, but I do. But,
4 I do. We're at one of those bittersweet moments,
5 where a great and esteemed colleague is going off to
6 do exactly what she wants. So, I -- you -- you --
7 you can obviously tell what the bitter and what the
8 sweet is in that. And, it's fitting and fun in those
9 -- in these moments to recognize, you know, what we
10 have benefited from and what we have loved. In this
11 case, our Chief A.L.J., Libby Liebshutz, is -- this
12 is your last session. So, this is where I now really
13 turn it on and -- and embarrass you and I read the
14 full resolution. Whereas, Elizabeth H. Liebshutz has
15 served the Department of Public Service, the Public
16 Service Commission and the citizens of the State of
17 New York, with great distinction since February 25,
18 1993. And, whereas Judge Liebshutz first served in
19 the Office of General Counsel as Assistant Counsel
20 and provided her expertise during her tenure as Staff
21 Counsel, to a range of electric and gas cases,
22 beginning with Case 94-E-0098, the Proceedings of the
23 Commissioner regarding the electric rates of Niagara
24 Mohawk Power Corporation and whereas Judge Liebshutz
25 served as an Administrative Law Judge in the Office

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2 of Hearings and Dispute Resolution beginning in
3 December 2002 and was appointed Chief Administrative
4 Law Judge in September 2008, which is in the position
5 in which she most capably serves.

6 And, whereas Judge Liebshutz brought
7 her dedication and leadership to numerous Commission
8 gas, electric, telephone and water proceedings during
9 this time, as well as to Article 10, generation
10 citing cases that are filed for Siting Board
11 consideration, where she thoughtfully engaged in many
12 complex and thorny issues.

13 And, whereas Judge Liebshutz is an
14 excellent teacher, indeed, in the intricacy of public
15 service law and the State Administrative Procedure
16 Act and a thoughtful and caring manager for the
17 Administrative Law Judges and Staff in the Office of
18 Hearing and Alternative Dispute Resolution.

19 And, whereas Judge Liebshutz worked
20 with her colleagues tirelessly and has earned the
21 admiration and respect of Department and Public
22 Service Staff and of Public Commissioner -- Service
23 Commissioners.

24 And, whereas Judge Liebshutz will now
25 embark on a cross county trip with her daughter;

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2 shades of Jack Kerouac here and will have time to
3 spend with her husband, David, and her daughters,
4 Jennifer and Rebecca, as well as to enjoy her many
5 varied interests, including gardening, biking,
6 skiing, dancing and including time to devote to her
7 Synagogue.

8 It is resolved, that the New York
9 State Public Commission -- Service Commission,
10 expresses its deep appreciation to Elizabeth H.
11 Liebshutz for her leadership in the Department of
12 Public Service and her faithful service to the
13 citizens of New York, as demonstrated by her
14 unwavering commitment to the mission of the
15 Commission, to ensure safe, secure and reliable
16 access to electric, gas, steam, telecommunications
17 and water service for all of New York's residential
18 and commercial -- and business consumers.

19 So, would any of my fellow
20 Commissioners like to say a few words and then we
21 will actually vote the resolution into --

22 COMMISSIONER SAYER: In the good old
23 days, you could take deserters and lock them in the
24 brig and keep them there for as long as you needed
25 them but unfortunately under the current state of

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2 administrative law and agency law, I guess I had to
3 sign the resolution instead. Libby, you've -- you've
4 been a fine leader and a very fierce advocate for
5 your department. It's been a great pleasure working
6 with you.

7 COMMISSIONER BURMAN: Libby, I don't
8 know if you remember this but when I was a staffer
9 first here, you were assigned to review my first
10 draft order that I was going to put forward to the
11 Commission as a staffer and it was marked up
12 incredibly and I complained. It was like, what the
13 heck. And, you told me every word is very important
14 and the process and how we do things is very
15 important. And, it's something that takes time to
16 learn, not only from a procedural perspective but
17 substantively. And, you worked with me a lot and I'm
18 proud to say that I really feel that a lot of what
19 you instilled from that first horrible red line draft
20 -- oh my goodness, I think I have it somewhere still
21 too, what really instilled truly something in terms
22 of your character, in terms of how you educate, how
23 you look out for people but how you truly care, not
24 only about the process but the substance.

25 Also, you know, I -- I -- I know both

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2 you and your husband, David, and my sister met you
3 and him when we went to that mini documentary and
4 bicycling. Do you remember that? And, we were both
5 struck by your zealousness in -- in being together in
6 bicycling trips and being very focused. And, it's
7 not lost on me that sort of the art and the way that
8 you are committed to your cycling and your bicycling
9 with your husband, is really sort of the way you
10 operate as -- as a leader here.

11 You know, a lot of people might think
12 of it as just easy, you know, go down the lane on
13 your bicycle and, you know, with your flowery basket
14 and ring the bell and it's all good, right. But, you
15 -- you know, you're constantly very similarly you hit
16 many different obstacles, even if you've been down
17 this road before. Every case is a little different,
18 just like every street is a little different. You
19 can go down it a million times but all of a sudden,
20 there's that pothole you didn't know about, there's
21 new people that come onto the neighborhood and you've
22 been very diplomatic in working through that in those
23 unknown territories and new sort of decisions and
24 stakeholders that come to the process, both internal
25 and external and working through it to get us to a

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2 lot of -- of very good and productive work products,
3 just like with your bicycling and, you know, having
4 to make those high speed -- high speed, split-second
5 decisions and considerations, what next? Where are
6 we going?

7 So, I'm going to end this with an
8 Ernest Hemmingway quote, "It is by riding a bicycle
9 that you learn the contours of a country best because
10 you have to sweat up the hills and coast down them."
11 And, you've done an incredible job here of sweating
12 up the hills and helping us feel comfortable in
13 coasting down. So, thank you.

14 CHAIRMAN RHODES: Thank you.

15 COMMISSIONER ALESI: Always the last.
16 It's -- I'm certain that everybody in the Department
17 and especially those of us here in the Commission
18 that have seen your work firsthand, know what you've
19 given to the people of this State that we're truly
20 appreciative of that. But, I also know that the
21 people of this State who sadly don't know who you are
22 and don't know how much you have given to them, would
23 be greatly thankful to you, as well. And, so I just
24 wish you a good, long, safe journey and pleasant days
25 ahead.

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2 MS. LIEBSHUTZ: Many thanks to -- to
3 all of you and -- and I have to say, it's -- it's a
4 trite phrase but so true that, it has been a great
5 honor and a great pleasure.

6 CHAIRMAN RHODES: Thank you. So, can
7 I call for a vote? Yes.

8 MR. SAYRE: Aye.

9 CHAIRMAN RHODES: Aye.

10 COMMISSIONER BURMAN: Aye.

11 COMMISSIONER ALESI: Aye.

12 CHAIRMAN RHODES: It's unanimous.

13 MS. LIEBSHUTZ: I'm so glad you did it
14 procedurally, properly Chairman.

15 CHAIRMAN RHODES: I'd like to end on
16 that note. We are adjourned.

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1 Monthly meeting of PSC - 3-14-19

2 STATE OF NEW YORK

3 I, KATHERINE WOLLEBEN, do hereby certify that the
4 foregoing was reported by me, in the cause, at the time
5 and place, as stated in the caption hereto, at Page 1
6 hereof; that the foregoing typewritten transcription
7 consisting of pages 1 through 56, is a true record of all
8 proceedings had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 21st day of March 2019.

11

12

13 KATHERINE WOLLEBEN, Reporter

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